NEW CHALLENGES FOR MEXICAN JUDICIAL SYSTEM

SPEECH BY THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS

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It is a pleasure to be back here in Mexico and to join you in the celebrations of your 60th anniversary. Founded by jesuits I understand this university has developed into the most prestigious private university in Mexico. I understand your Law School commemorated its 50th anniversary last year. Moreover, this is the first university in the country which began to provide a post graduate course on Human Rights. I understand last October the Hague Academy of International Law held its 30th external session in the campus of this university. I feel honoured to be invited to deliver this address on the "New Challenges for the Mexican Judicial System".

The 60 years of your university has seen many changes in the world. If in the dark days of 1943, the people of the world could have been informed about what the world would be like today, they would have dismissed it as pure science fiction. The mapping of the human genome, the advent of computers, the internet, globalisation, to name just a few developments, have fundamentally affected the way we live our lives. Some of these changes have not been easy and their benefits have not been evenly spread. However, something has occurred that is of utmost importance. The nations of the world have become closer now than ever before. Humanity is becoming a vast web of interconnected and interrelated lives that transcend local communities, regions or international boundaries, recognising the commonality and unity of the human existence.

This interconnectedness, which is most clearly reflected by the formation of local, regional and international cooperation agreements, would have been unbelievable at the birth of your university, a time dominated by insularity and national interests. An event of singular importance in this process was the creation of the United Nations in 1945. Those that were instrumental in the development of the United Nations realised that the achievement of its primary aim, the maintenance of international peace and security, would not simply come through reactive collective action in times of crisis or war. International stability could only be achieved through a long term strategy focused on eliminating the root causes and fundamental underpinnings of insecurity in the world. This is reflected in the basic purposes and principles of the Charter of the United

Nations, which gives equal priority to the maintenance of security, the promotion of equitable economic, social and cultural development and the promotion and protection of universal human rights and fundamental freedoms.

In the field of human rights, much has changed since the promulgation of the Universal Declaration on Human Rights in 1948. Ensuring the universal recognition of human rights has been a hard and long fought battle. The promulgation of two International Covenants covering civil, political, economic, social and cultural rights was fundamental. The establishment of an elaborate machinery to ensure compliance and enforcement of human rights both regionally and internationally has introduced a degree of legality into international affairs that had been hitherto unheard of. In many ways we are now seeing the fruits of our efforts. Now, more than ever, is the importance of the protection of human rights being given priority by the international community, something I thought I would not see as little as 15 years ago.

The battle is far from over though. Human rights are still systematically and fundamentally violated in many parts of the world and many Governments show little concern for the welfare and well being of their citizens. They are also being more politicised. We must remain vigilant. The importance that your Government is giving to the promotion and the protection of human rights, not only in your country but in the wider international community, is something which you should rightly be proud of.

Where will the next 60 years lead us? In September 2000, the United Nations held a Millennium Assembly to identify the challenges facing the United Nations and the international community. The Millennium Declaration adopted at that assembly set out a series of objectives in the fields of peace and security, development and poverty, the environment and human rights, democracy and good government that illustrate the size of the problems, and they are formidable, that face us. However the declaration illustrates that the nations of the world have an essential responsibility:

> "We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world's people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs."

That responsibility is the achievement of a just society. The principles outlined in the Millennium declaration: human dignity, equality and equity, I believe must be at the core of any system that has the achievement of justice as its aim. In this concept, rests many of the keys to ensuring a peaceful and prosperous world in which legal systems have a crucial role to play. In this respect, the first few years of the 21st century show there is much to be hoped for and unfortunately, much to be concerned about.

A great success has been the establishment of the International Criminal Court. The entry into force of the Rome Statute for the International Criminal Court in July 2002, quicker than anticipated, showed the importance of fighting impunity and the commitment of the international community to the punishment of the most serious

crimes known to man: genocide, crimes against humanity and war crimes. The International Criminal Court is important for the achievement of justice in several respects. The establishment of a permanent independent court removes the taint of "victors justice," or "selective justice" that ad-hoc tribunals suffer from by their very nature. Its permanent nature reinforces its independence, an essential attribute of any court that abides by the principle of the rule of law.

The Statute of the Court makes it clear that the obligation for the punishment of these crimes rests squarely with national justice systems, reaffirming the basic responsibility of states to prosecute crimes committed within its jurisdiction. However, no longer can they cite unwillingness or inability as a justification for permitting the guilty to go free. In those circumstances the jurisdiction of the international court will be enjoined. Further, and this is crucial, that responsibility for the commission of these crimes exists irrespective of the offender's position in society. It will no longer be possible for an individual to use the cloak of authority as a shield against the pursuit of justice. This responsibility to prosecute, which is now becoming a norm of international law, is reaffirmed by the successes of the International Criminal tribunal for the Former Federal Republic of Yugoslavia in punishing those at the highest level responsible for the atrocities committed during that conflict and the more and more frequent attempts by national courts to exercise "universal jurisdiction" and end impunity.

However we live in uncertain times and the quest for justice has been seriously threatened in recent years by the rise of international terrorism. The increasing frequency of terrorist attacks and the massive scale of atrocities that occurred on 11 September 2001 and in Bali in October 2002 represent a fundamental challenge to the liberties and the freedoms that form the basis of our societies. An act of terrorism is first and foremost a denial of the most fundamental and inalienable right, the right to life. It is a crime and needs to be strongly condemned.

Unfortunately the international community has not been found to be adept at fighting international terrorism. The response of many countries to the threat of terrorism has been to remove the protection of some of the fundamental safeguards of their legal systems for terrorist suspects. In some countries they have tried to completely bypass their legal system, making a mockery of the rendering of justice. This has reinforced the threat that terrorism poses for justice and undermined the universality of human rights, rather than contribute to a climate of international justice, an essential foundation for the eradication of terrorism.

The very recent decision of the US Court of Appeals for the District of Columbia Circuit delivered on March 11, 2003 that detainees in Guatanamo Bay cannot invoke the jurisdiction of the US courts for protection of their legal rights of due process because Guatanamo Bay is not in US territory is far reaching and a dangerous precedent. It implies that a government of a sovereign State could lease a piece of land from a neighboring State, set up a detention camp, fully operate and control it, arrest suspects of terrorism from other jurisdictions, send them to this camp, deny them their legal rights –including principles of due process generally granted to its own citizens– on grounds that the camp is physically outside its jurisdiction.

Despite these setbacks, recent years have shown a recognition by many states of the importance of the achievement of justice for the stability and the future of the world, thereby emphasising the importance of the rule of law. This challenge is the most fundamental that any judicial system must face. No longer can judicial systems be unresponsive to the needs of its users, the consumers of justice. They must listen and understand, where necessary adapt to changing circumstances and inform and educate the public about their role. They do not exist in a vacuum and not for the benefit of those that work for them. Although not usually democratically elected in a traditional sense, they have a clear duty to serve the people, to provide objective and impartial justice.

I have discussed the preceding to illustrate the size and importance of the task that all judicial systems around the world, including the Mexican judicial system, face in the pursuit of their fundamental goal: the provision of justice. The problems that the modern world throws up provide continuing challenges for judicial systems, in response to which they must adapt, grow and develop. The provision of justice is a continual process. No system is perfect. No system can eliminate situations where injustice may have been done in an individual instance. But what is most important is firstly, a commitment to the principles of justice and the achievement of it above everything else and secondly, a recognition that it is a work in progress and its delivery is something that must be constantly improved.

As a result of an invitation from the Government I came to Mexico in May 2001 to look at the situation of the judiciary, the legal profession, the prosecutorial service and generally the administration of justice, to listen to the concerned parties and to make suggestions for improvement in light of international human rights standards. This was my 10th mission as Special Rapporteur on the independence of judges and lawyers, a mandate that was created by the United Nations Commission on Human Rights in 1994. I had undertaken missions to various countries such as Peru, Colombia, Guatemala, the United Kingdom, Belgium, South Africa, Belarus and Slovakia. Since Mexico I have been on 3 other missions, to Italy, Indonesia and to Saudi Arabia, the first United Nations Special Rapporteur to go to that country.

United Nations Special Rapporteurs, of which there are now 36, are a diverse group of people each appointed because of their expertise in their respective fields. We are independent in the exercise of our duties and do not receive any income from the United Nations for the performance of our duties. My particular qualifications for this post stemmed from my struggle for, and defence of, the independence of the judiciary, the rule of law and human rights not only in my own country, Malaysia, for which I was persecuted for on several occasions but also in the Asia Pacific region. In one instance my case against the Malaysian State involved a request by the United Nations Secretary General for an advisory opinion of the International Court of Justice.

The task of Special Rapporteurs is to promote and protect the human rights that come within the scope of their mandates, be that a particular theme such as torture, violence against women or a country situation. A Special Rapporteur is an advocate, an adviser, a listener, a policy maker, sometimes a criticiser and sometimes a congratulator. We aim to

give a voice to those who are voiceless. Primarily we are a force and focal point for change. We are sometimes criticised and unfortunately sometimes personally attacked by Government's who dispute the validity of what we say, or who refuse to accept responsibility for their actions.

It was in accordance with the above that I approached my mission to Mexico. I understand that my mission report created a substantial amount of controversy when it was presented to the United Nations Commission on Human Rights in April 2002, unusually the main opposition coming from the Mexican judiciary. It would not be appropriate for me to use this forum to comment in detail on that reaction except so far as to say that I was surprised about the level of criticism, which in some reports I saw, bordered on personal attacks. I was disappointed that disagreement with some of the statements contained in the report overshadowed the fact that the report was meant to contribute to efforts to strengthen the independence and impartiality of administration of justice in Mexico. At one stage I felt that the Mexican judiciary reacted publicly in the way it did because of the media comments on my report.

There are several fundamental areas which need to be focused upon, and represent the basic challenges that face the judicial system in Mexico, which I will generally discuss in a moment. As a preliminary point I would just like to address the issue of federated states. As you are aware as a matter of international law a country cannot invoke the provisions of its domestic law as a justification for its failure to perform an international treaty.[1] Therefore in terms of acting with respect to any violation or alleged violation of a human right, for example the right to a fair trial by an independent and impartial tribunal contained in Article 14 of the International Covenant on Civil and Political Rights, responsibility rests with the Federal authorities irrespective of whether it occurred at the state or federal level.

This does not mean that international law is ignorant of the domestic legal divisions that apportion powers between the federal and state levels. However, it emphasises that a responsibility exists, that action must be taken through legal means or cooperative action to remedy any violations. This also extends to the judiciary. As the third branch of Government, and an indispensable part of ensuring legality within a country, it has a responsibility to actively ensure that the provision of justice, in all areas of the country, meet the international standard. For me, and this is not a question of law, I do not see how anyone who is dedicated to the pursuit of justice can sit by when justice is being denied in any part of the Mexican State.

One System

In this respect I think the greatest challenge that exists for the Mexican judicial system is to ensure the quality of the administration of justice at all levels of the Mexican state. The disparity between the provision of justice at the federal level and the state level that

1 Article 27, 1969 Vienna Convention on the Law of Treaties

I noted during my mission was very troubling. The majority of the Mexican population's initial contact with the judicial system is at state level and the quality and credibility of this contact forms the basis of their perception of the whole judicial system, both at the federal and state level. Any failure of the state judiciary is perceived as, and I think necessarily so, a failure of the whole system.

The question of how to improve the delivery of justice at the state level is not simple. Of course more financial resources will aid and in many ways fundamental change cannot take place without it. Largely it will depend on the particular characteristics of the state, in terms of its legal structures, its population demographics and the specific challenges that face it. Certain crucial areas will be of relevance to all states, particularly in the areas of selection and appointment of judges which must meet the requirements set out in the United Nations Basic Principles on the Independence of the Judiciary; that is transparency, the prohibition of discrimination, and the requirement that individuals can only be appointed on the basis of merit. Other areas such as adequate conditions of service, security of tenure, training and protection from threats, intimidation and interference will also be of fundamental importance to all state systems. In this respect I encourage the Government to implement, and the judiciary to support, my recommendation for the establishment of a pilot project in a few states to strengthen the judiciary and the rule of law. From this initial step appropriate lessons can be learnt, the procedure refined, and then applied to other state judiciaries within the Mexican judicial system.

In this process the federal judiciary I believe will need to play a fundamental role. It needs to lead the whole Mexican judiciary. Not just simply by its actions, by the way it fulfils its duties, by the way it makes decisions, although these are essential, but it needs to be actively engaged as a partner in reform in the strengthening of the judiciary and act as a beacon of independence.

Education

A legal system is based upon people. No matter what function they play, be they lawyers, judges or prosecutors, or other participants in the administration of justice, a fundamental determining factor in the way that they perform their duties will be the education and training that they are given, at both the initial stages of their career and continually throughout their career. Whilst the improvements in judicial and prosecutorial training are encouraging, I believe the whole system would be strengthened by a standardisation of legal education at university level. There are many ways this can be done, for example through Government regulation, or by the various professions in the administration of justice agreeing upon common standards of entry, irrespective of any further training that they may provide to appropriate candidates. Thus university courses and the training must be structured to lay a solid foundation for a sound administration of justice in Mexico.

The Legal Profession

Access to a lawyer is fundamental to the protection of an individual's human rights in the legal process. Not only do they play a role in ensuring an adequate defence of the accused in a court of law, but they are essential to the protection of the rights of the accused before he reaches the court, particularly in the context of his arrest and initial detention. Therefore, it is clear, that the quality of the legal representation provided by the lawyer will play a decisive role in ensuring that the accused receives a fair trial. Similarly in civil disputes and commercial transactions. During my mission I heard many expressions of concern by civil society, judges and even lawyers themselves about the quality of the provision of legal service in Mexico. This I believe has contributed to the ineffective functioning of some parts of the legal system and to the problem of impunity.

The Basic Principles on the Role of Lawyers recognise the vital role that professional associations play in a legal system. They uphold professional standards and ethics, protect their members from persecution and improper restrictions and infringements, provide legal services to all in need of them, and cooperate with governmental and other institutions in furthering the ends of justice and public interest.[2] Presently there exist many bar associations at both the state and federal levels. There is little cooperation and coordination between these associations and this has negatively impacted on the provision of legal service in Mexico. For example, a significant area of concern is that there is nothing to prevent a lawyer suspended or expelled from a bar association for gross professional misconduct from practising as a lawyer, even in the same jurisdiction.

I believe that the purpose of justice would be served by the unification of the many professional associations that exist at the federal and state levels and having a more organised approach to the legal profession. This would facilitate the provision of systematic continuing education programs and the establishment of a disciplinary procedure essential for ensuring the continuing quality of legal service. The issuance of a uniform code of ethics, enforced by the Bar association themselves, is also indispensable to extract accountability from the profession. Lawyers, if they are provided with education in human rights norms, have a catalytic role in ensuring the protection of human rights throughout Mexico and particularly in the institutions of the administration of justice. It is fundamental, however, that in this process the individual independence of lawyers and the institutional independence of the Bar association are guaranteed. They need to be able to pursue their duties free from interference, to fully protect the rights of their clients and to promote the cause of justice.

Impunity

Unfortunately in many parts of the world, the independent and impartial dispensation of justice is opposed by individuals in powerful positions or who seek to remain immune for their actions which are contrary to the law. It is a complex problem stemming from

2 Preamble, Basic Principles on the Role of Lawyers

the absence of a culture of compliance with the law and systemic problems resulting in a failure of the administration of justice. Individuals that engage in actions to subvert the achievement of justice believe in the rule of men not in the rule of law. Frequently they resort to brute force and violence to protect themselves from punishment. All too commonly during the 9 years that I have been Special Rapporteur have I been informed of judges, of prosecutors, of lawyers, of witnesses and of other participants in the administration of justice who have been intimidated, threatened and even killed because of the independent performance of their duties. I myself have been subjected to such harassment, both as a lawyer and as a Special Rapporteur.

It is absolutely essential that vulnerable participants in the administration of justice are provided with an appropriate level of security that enables them to perform their functions freely and independently. Those that are particularly vulnerable should be provided with special protection otherwise the fight against crime, particularly organised crime will be impeded. In this regard the assassination of Serbian Prime Minster Zoran Djindjic last week is a case in point. It is believed that the perpetrators of this cowardly act are connected with organised crimes which the late Prime Minister was committed to wipe out. Over the years, I have received many reports of participants in the administration of justice in Mexico, particularly lawyers in non-governmental organisations working for the defence of human rights, being threatened. During my mission, I was informed of the murder of two judges in the State of Sinaloa, subsequent to which several other judges were provided with protection. In the period since my mission I have been informed of threats made against the lives of several lawyers and the horrible murder of Digna Ocha y Placido in October 2001. These continuing threats represent a fundamental challenge to the judicial system. The failure to investigate, apprehend, bring to justice and punish those responsible for these crimes contributes to a continuing cycle of threats and intimidation, undermining the independent and impartial dispensation of justice and exacerbating the overall problem of impunity. I have said it before and I repeat it. Impunity is the cancer of society; if it is not arrested and excised it will slowly but surely destabilise society.

Another area which contributes to impunity and where I consistently receive reports of violations of human rights is with respect to military authorities. Many NGOs, both national and international, argue that there exists a high level of impunity for crimes committed by the military. The exposure of civilians to military activities is increased by the diversity of roles played by the military, external to their usual defence responsibilities, in Mexico. They are called upon to assist civilian authorities, particularly in the context of areas where there are serious security concerns and are being more frequently called upon to assist in the fight against rampant criminal activity. Prosecutions and trials of members of the military for violations of the military code and other crimes are handled purely by the military justice system. Although recently several members of the military have been indicted for human rights violations, there are still several issues of concern about them being tried by a military court.

International law does not prohibit the use of military tribunals as long as the other essential elements that guarantee a right to a fair trial are respected. The concern expressed by many about military justice in Mexico, relates to the appearance that the tribunal is not being independent and impartial in the discharge of its duties and that it fails to punish appropriately those responsible for human rights violations. The widespread distrust of military authorities is reinforced by this and transparency is damaged by the exclusion of victims from the military justice process. The legal process is also further undermined by the fear of witnesses appearing before the same military authorities who they claim are responsible for the violation in question.

It is my firm opinion that whilst a military tribunal is an appropriate forum for the punishment of violations of the military code or of the rules regarding military service, it is not an appropriate forum for the trial of alleged human rights violations or ordinary crimes. The inherent perception of bias and the problems in gaining the cooperation of witnesses undermines the legitimacy of the process. In a sense it violates the old maxim that you cannot be a judge in your own cause. The failure to achieve justice in these cases reflects negatively on the whole administration of justice and the climate of legality and the rule of law within Mexico.

Access to Justice

Another area of concern which I think represents a challenge to the Mexican judicial system is the issue of access to justice. Of primary importance in any judicial system is that all persons in society are able to use the courts for the resolving of disputes and the enforcement of their rights. For the poor, minorities or otherwise disadvantaged persons in society, or those in rural areas, often the administration of justice remains out of reach or not cognisant of their needs or special situations. It is necessary for judicial systems to be responsive to the problems faced by these groups, and if necessary to adapt their procedures appropriately, in order to better improve the provision of justice.

I was informed during my mission that there are substantial problems for many people in gaining access to the judicial system at the state level. This is caused by a diverse range of factors, including not having courts sufficiently close to hear their cases, lack of availability or poor quality of public defenders, cultural differences that make access to the court not possible and a general lack of information about the law and the operation of the court system. This was exacerbated by the general problems and inefficiencies that exist in the state judicial systems, in particular the lack of sufficient funding.

The problems appear to be the most pressing with respect to indigenous peoples. Mexican law and the legal system do not take sufficient account of the differences in language and traditions of the various groups. Of course remedying this situation is complex and represents another burden on an already over burdened judicial system. However, it is unjustifiable not to take measures to deal with the legitimate grievances of indigenous persons, otherwise their right to be treated equally before the courts, their

right to a fair trial and the right to have a remedy for the violation of their rights will be violated. Of fundamental importance is the provision of interpreters to non-spanish speaking persons who appear before the courts, as they must be able to understand the proceedings to be able to respond to the charges against them.[3] Secondly, they must be provided with their right to have legal representation to defend their interests. I understand that the Federal Institute of Public Defence has started advertising in several indigenous languages to make indigenous persons aware of its services. That is a step in the right direction. Other issues that need to be considered are the translation of Mexican laws into indigenous languages, or the development of community based alternative dispute resolution measures, in agreement with indigenous communities, that may better serve their interests.

I have used the example of indigenous peoples as an illustration of some of the problems that inhibit access to justice in Mexico. While some of these problems are unique to indigenous communities, others affect other disadvantaged groups in society equally as severely. Women and children too are affected groups. It is fundamental public with the ability to inform themselves about the legal system, i.e, having available legal information, to proactive education about the legal system, provision of that the general population is provided with more information about the operation of the judicial system and the rights that it guarantees. That ranges from providing the legal advice and/or defence. Otherwise how can one expect court users to understand the complexities, which are not just unique to Mexico, of the legal system and to have faith in its operation. This is an essential base for enabling them to be able to more actively defend their rights and to stand up to any corruption and inequality that exists in the judicial system. Without this there is no basis for the development of public trust in the judicial system, essential for the continuance of the rule of law in Mexico.

Corruption

The final issue that I would like to address today, is the issue of corruption. One of the reasons for the establishment of the mandate of the Special Rapporteur on the independence of judges and lawyers was the recognition of the increasing threat to judicial systems around the world because of the independent performance of their tasks. These threats came primarily either directly from Government officials, or indirectly in the sense that the Government deliberately failed to take appropriate preventative or investigative action. These threats were particularly damaging for the protection of human rights, not only because of the violation that they themselves constituted, but because of the central role played by the judiciary in the protection of other human rights.

During the period I have been exercising this mandate it progressively became clear to me, that there existed another insidious problem that affected the core of the

3 Article 14(3)(f) International Covenant on Civil and Political Rights

impartiality of the judicial system, that is the problem of judicial corruption. While in some cases, or even many, it may result from a failure by the Government to provide adequate conditions of service for members of the judiciary, it is often perpetuated by a judicial culture that hides and protects those that engage in these illicit practices from prosecution. It represents a fundamental challenge to a judicial system not only because it rots the core of the judiciary, but also because the existence of judicial corruption is used as an excuse to launch large scale attacks on the independence of the judiciary. It is because of this, that every judiciary in the world must not be complacent about the existence of judicial corruption and must be seen to actively condemn, investigate and prosecute those responsible. In my experience, there is generally a substantial hesitation by judges to admit the existence of judicial corruption because of the stain that it leaves on the integrity of the judiciary. However to fail to act leaves an even greater stain. Judges must be accountable for their actions. They are bound by the law as much as the citizens they serve.

I have recently been associated with a group of judges, called the Judicial Group on Strengthening Judicial Integrity. They have been working to strengthen the accountability of the judiciary and in connection with that have developed a code of judicial conduct, named the Bangalore Principles of Judicial Conduct. After the first meeting in Vienna in 2000 the Principles were drafted in Bangalore, India in 2001 and fine tuned at a further meeting in the Hague in November 2002. Some Chief Justices and senior judges from Asia, Africa, Europe and Latin America participated in the elaboration of the principles. At the Hague meeting your Chief Justice Genaro David Gongora Pimentel too participated. I am seeking the endorsement of these principles by the United Nations Commission on Human Rights at its forthcoming session. The adoption of an enforceable set of principles on judicial conduct, I believe, is an indispensable aspect of the promotion of judicial accountability. It serves a twofold purpose. Firstly it provides judges with clearly enumerated standards of conduct to help guide them in the performance of their duties. Breaches of the code should be appropriately sanctioned. Secondly, it provides a reference point, a benchmark, for the public in analysing judicial conduct. It is one tool, that enables court users to ensure that the judicial process in their case is proceeding appropriately in accordance with acceptable standards. Most importantly it demonstrates that the judiciary is engaged in ensuring the quality, independence and impartiality of the judicial process. It is essential for the building of public confidence in the judiciary.

However, it must be made clear here that corruption in the legal system does not result solely from the inappropriate conduct of judges. In all cases of corruption there is a giver and a taker. In many countries lawyers are responsible for a substantial amount of corruption. In other countries the problem of corruption results more from court officials, such as those who are responsible for the processing of cases that are submitted for adjudication. In addressing corruption in the judiciary, therefore, it is important to have appropriate standards of conduct and sanctions for other players in the administration of justice.

In my report I said that I received estimates of judicial corruption in Mexico during the course of the mission. I also said that no Federal judge was sanctioned for corruption. However, I did not draw any conclusions on the level of corruption in the Mexican judiciary. For me there is another question more important than arguments over the level of corruption. What is going to be done about judicial corruption when it is alleged? The perception that the judiciary is corrupt undermines its authority in dispensing justice and must be addressed if it is going to have the continuing support of the public. Claims must be thoroughly investigated, and incentives for corruption removed. A single corrupt judge remaining in the system without action being taken can tarnish the image of the entire institution including the image of other individual judges in the system. It maybe for this reason that the American Bar Association in its Model Code of Judicial Conduct (1990) has the following rule:

> "3(D)(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this code should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority".

The public must be educated about the judicial system to enable them to distinguish fiction from fact. The development of public confidence in the Mexican judicial system is the most significant challenge that faces the Mexican judicial system today.

I have tried to identify some of the more pressing challenges to the Mexican judiciary. Time does not permit me to address some of the other aspects of the administration of justice which need reform. I have in my mission report referred to most of them reasonably and comprehensively.

Judicial reforms are complex processes particularly when the system remained not only neglected, but politicised and undermined. Though Mexico was constitutionally a democracy prior to 1994 there was no culture of judicial independence in the country. As I said in my report, the rule of law was in shambles. Power was concentrated in the executive. The judicial power was seen as an extension of the executive power, compounded by incompetence, inefficiency, indifference and a disregard for the basic values and principles of democracy and the rule of law within the system. Impunity and corruption became endemic.

All that were yesteryears and generally prior to 1994. The present government, as I have been following is committed to reforms including reforms of the justice sector. It is pursuant to that commitment that I was invited two years ago and given every access and co-operation by all concerned to carry out my mandate here. That I did to the best of my ability without fear or favour. I hope my report is contributing in a small way to accelerate the reform of the judicial process. Public participation in the process is essential. Therefore public debate should be encouraged throughout the process. That itself is public education of the mysteries of the judicial system. Often public ignorance is the cause of most of society's evils and leads to exploitation of the weak.

The fact that Universidad Iberoamericana adopted the "New Challenges for the Mexican Judicial System" as the theme to commemorate its 60th anniversary is testimony to the importance the intelligentsia of Mexico is attaching to judicial reform in this culturally, socially and historically rich country with an incredible diversity of life and experience. In a democracy it is the intelligentsia the people look for guidance, advice and leadership. Your proactive role is commendable. It is a privilege for me to be associated with this momentous occasion.