

ARTICLE

SOCIAL COHESION AS THE FIRST ITEM IN THE HUMAN RIGHTS AGENDA: MEXICO'S PERFORMANCE

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FOREWORD

Most countries' national and international agendas include two fundamental topics: human rights and social cohesion. In some cases, the term "social cohesion" refers mainly to the reduction of poverty and inequality.¹ Both topics have become increasingly important in bilateral agreements between countries or regions in clauses that address democracy, human rights, or cooperation for social development.² They both also play a predominant role within political dialogue involving international relations between countries. The dialogues between Mexico and the rest of Latin America with the European Union illustrate this point—human rights and social cohesion are of utmost importance for strengthening the strategic biregional and bilateral relationship.³ In the various summit conferences, from Rio de Janeiro in 1999, to Vienna in 2006, to Lima in 2008, both topics surfaced—heads of state and government discussed and debated regional efforts, challenges, internal policies, and opportunities for cooperation to achieve progress in these areas.

Since the beginning of this century, Mexico has encouraged a vigorous human rights promotion and defense policy, which is evident in various domestic actions and commitments made within the framework of international organizations, such as the signing of relevant treaties and the development of cooperative actions with other countries. However, on the social cohesion theme, poverty continues to be a great national and international

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1. See ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN, SOCIAL COHESION: INCLUSION AND A SENSE OF BELONGING IN LATIN AMERICA AND THE CARIBBEAN 15–17 (2007), available at http://www.eclac.org/publicaciones/xml/0/29030/2007-219Social_Cohesion-web.pdf [hereinafter SOCIAL COHESION].

2. *Id.* at 27.

3. See *id.* at 156.

concern—it is a key element within the UN Millennium Development Goals, and the UN designed and implemented a variety of strategies in order to combat it.⁴ During the 1990s, the Mexican government, through the Ministry of Social Development, designed new social programs with distinct variations to reduce poverty. In addition, new poverty indicators for tracking the evolution and success of these programs were specified.

The term “social cohesion” came into use in large part during the dialogue between Mexico and the European Union starting with the signing of the Economic Partnership, Political Coordination and Cooperation Agreement in 2000.⁵ The concept of social cohesion, however, has not been frequently employed in Mexico’s public policy design and application.

The purpose of this paper is, first, to describe the recent evolution in the handling of human rights in Mexico, and second, to examine the recent behavior of social cohesion indicators, as well as that of public policies directed at promoting both human rights and social cohesion. A comprehensive definition of social cohesion will be provided, considering its close relationship to human rights, and therefore will include an individual’s social, economic, and cultural rights as well as the indicators, objectives, and public policies aimed at improving social cohesion.

The main tenet of this paper is that human rights promotion and social cohesion improvements are intimately related—they overlap, and one is imbedded in the other, so that they cannot be viewed as separate issues. Hence, public policy that addresses them must be designed in complete coordination; it should be one challenge of public policy to encompass both and to evaluate the achievements on human rights as well as on social cohesion as a joint issue. Furthermore, when discussing human rights issues in national or international debate, the first item in the agenda should be the advancement of social cohesion.

Section A includes a description of Mexico’s human rights policy and the role of foreign policy in this area. Section B defines the concept of social cohesion and establishes its relationship with an individual’s fundamental human rights. Section C examines indicators of Latin America’s and Mexico’s behavior in the area of social cohesion. This paper concludes that there must be an indissoluble link between human rights and social cohesion policies, something that is not happening in Mexico at present. Specifically, it urges that if a society wants to promote, safeguard, and respect human rights, the appropriate mechanisms to assure social cohesion must be established and implemented.

4. United Nations Development Programme (2000), *Millenium Development Goal One: Eradicate Extreme Poverty and Hunger*, <http://www.undp.org/mdg/goal1.shtml> (last visited Jan. 24, 2009) [hereinafter UNDP I].

5. 2000 O.J. (L 276) 45, available at <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=872>.

A. *Evolution of the Issue of Human Rights in Mexico's Political Agenda*

A.1 *Introduction*

Mexico's relations with other countries or groups of countries center on three areas: economic-commercial associations, political dialogue, and international cooperation.⁶ In the area of political dialogue, two main themes of fundamental interest to Mexico's strategic partners have repeatedly emerged: (1) the promotion and protection of human rights (HR) and (2) advances in social cohesion (SC). Mexico has demonstrated its willingness to promote and protect respect for HR through its involvement in various international agreements, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.⁷ Both of these agreements fall under the aegis of the United Nations. At the same time, Mexico has been a part of the American Convention on Human Rights and the American Declaration of the Rights and Duties of Man, which fall under the aegis of the Organization of American States.⁸ Mexico's HR foreign policy has changed significantly in the last decade, and this has also influenced its domestic policies. This topic has consequently been a priority on Mexico's international agenda since the beginning of the twenty-first century and has therefore been included in dialogue on bilateral and biregional agreements between Mexico and the rest of Latin America.

The policy of protection and respect for HR in Mexico gathered strength in the second half of the 1980s. The current National Human Rights Commission, Mexico's leading human rights protection authority, was preceded by the Mexican State Department's General Office of Human Rights, founded during the same decade. This office was in charge of the research and formulation of judicial norms to protect the most fundamental HR in line with Mexico's Constitution. Gradually, the office was decentralized until 1990 when it became the National Human Rights Commission (CNDH, for its title in Spanish), whose judicial status went through several stages before obtaining management and budget autonomy.⁹

Despite conforming to requests such as those set forth by the CNDH, Mexico's HR policy before 2000 was reactive. Since the end of the 1990s,

6. Secretary of Exterior Relations, Mexico, *Política Exterior en materia de Derechos Humanos*, <http://www.sre.gob.mx/derechoshumanos/> (last visited Jan. 24, 2009).

7. Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948), available at <http://www.un.org/Overview/rights.html>; International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. Doc. A/6316 (Dec. 16, 1966), available at <http://www2.ohchr.org/english/law/ccpr.htm>.

8. Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, available at <http://www.oas.org/juridico/english/treaties/>; American Declaration of the Rights and Duties of Man, G.A. Res. 1591, U.N. GAOR, 3d Sess., U.N. Doc. XXVIII-O/98 (June 2, 1998).

9. See HUMAN RIGHTS WATCH, MEXICO'S NATIONAL HUMAN RIGHTS COMMISSION § 2 (2008), available at <http://www.hrw.org/en/node/62433/section/3>.

however, Mexico has invited international HR protection teams to visit the country anonymously to improve conditions in this area. In December 2000, the Mexican government signed an agreement for the project “Technical Cooperation in the Field of Human Rights” with the United Nations Office of the High Commissioner for Human Rights (UNOHCHR).¹⁰ This office later gave birth to an office of the High Commissioner in Mexico, with the understanding that this office, in conjunction with non-profit organizations, would diagnose HR conditions in Mexico.¹¹ The first phase of an agreement with the UNOHCHR consisted of training activities pertaining to medical and forensic documentation of torture and workshops for indigenous organizations that dealt with protection mechanisms for indigenous peoples.

In April 2002, the Mexican government signed the second phase of this agreement, whose primary objective was a diagnostic study of Mexico’s HR situation, which would be the basis for creating the National Human Rights Program.¹² Two months later, the government signed a venue agreement that established an office of the UNOHCHR in Mexico.¹³

Since that time, United Nations task forces and reporters on HR-related areas have made numerous visits to Mexico. Their diagnosis has included a series of almost four hundred recommendations that have been published for analysis, so that they could subsequently be put into practice. In addition, the recommendations have become the basis for the creation of a national HR program.

Today, there is no doubt that this topic is of utmost importance on the national and international agenda. Mexico has become an active promoter of strengthening HR in the international arena; internally, the federal government has been advocating legislative and institutional changes to overcome the deficiencies that persist.

Mexico’s recent foreign HR policy attempts to focus on transparency and cooperation with international organizations. Furthermore, the Mexican government makes every effort to follow up the evolution of international commitments. Current objectives include improving HR in the country through structural changes and strengthening the legal and institutional settings for HR protection and promotion.¹⁴

10. See Office of the High Commissioner for Human Rights [OHCHR], *Human Rights Field Presence in Mexico* § 2, para. 4, <http://www.unhcr.ch/html/menu2/5/mexico.htm> (last visited Nov. 22, 2008).

11. See Oficina en México del Alto Comisionado de las Naciones Unidas para los Derechos Humanos [OACNUDH], <http://www.hchr.org.mx/> (last visited Jan. 24, 2009).

12. See HUMAN RIGHTS WATCH, *supra* note 9, n.341.

13. OACNUDH, *supra* note 11.

14. For a list of the forty-five international human rights agreements that Mexico has signed, and which include gender, political, civil, economic, social, cultural, and humanitarian rights, see the website of the *Dirección General de Derechos Humanos*, a department of the *Secretaría de*

A.2 *Diagnosis on Human Rights in Mexico*

In 2003, the UNOHCHR presented the Diagnosis on Human Rights in Mexico (the Diagnosis), which was conducted by representatives of non-profit organizations and governmental entities in the framework of an open and independent process.¹⁵

The Diagnosis reviewed the status of many areas of national life using a participative methodology based on consultations, forums, and field work.¹⁶ However, the field work studies had limited time and resources.¹⁷ Thus, during the months of July and August of 2003, the Ministry of Foreign Affairs held a series of seminars in four regions of the country to obtain information regarding the different problems concerning HR.¹⁸ These seminars created ample opportunities for societal participation (via their dialogue with authorities through round tables and such) that contributed to the Diagnosis.¹⁹ Finally, a series of proposals and recommendations comprised the different chapters of the Diagnosis, which was turned over to the Mexican government under the aegis of the UNOHCHR.²⁰

Once the Diagnosis was ready, the UNOHCHR in Mexico proposed to the President of Mexico that Mexico's National Human Rights Program follow the Diagnosis' general recommendations below to move towards compliance with international HR standards:

1. Reform the Constitution to incorporate the concept of HR as its fundamental core, recognizing that HR treaties have preeminence over federal and local regulations.
2. Enact general rules of law for major HR.
3. Incorporate transparency mechanisms in the constitutional procedures for the designation of high-level public servants who are not elected by the branches of government, and those who belong to autonomous bodies.
4. Develop subsidiary intervention mechanisms of federal powers in the states in the case of serious or systematic violations of HR perpetrated by local authorities.
5. Confer autonomy on all public HR commissions and grant them the power to endorse legal initiatives.

Relaciones Exteriores, http://www.sre.gob.mx/derechoshumanos/coop_inter/instru_inter.html (last visited Jan. 24, 2009).

15. U.N. OFFICE OF THE HIGH COMMISSION FOR HUMAN RIGHTS, *THE DIAGNOSIS ON HUMAN RIGHTS IN MEXICO 5* (2003), available at <http://www.hchr.org.mx/documentos/libros/diagnosticoCompleto.pdf> [hereinafter *DIAGNOSIS*].

16. *Id.* at 6.

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.* at 7.

6. Guarantee means for consulting citizens to select who should lead and participate in citizen councils.
7. Define and apply a comprehensive plan of action with respect to HR defenders (e.g., NGOs, public officials, community organizers and such).
8. Conduct a permanent national campaign for raising consciousness about HR, tolerance, and respect for diversity.
9. Eliminate the use of stereotypes, prejudices, and stigmas.
10. Strengthen the investigation on the paradigmatic case of the murders and disappearances of women and children in Ciudad Juárez.²¹

These were the recommendations of a general nature in addition to others specifically related to the judicial system and to public safety concerning other civil rights; the human rights of women; the rights of indigenous people; economic, social, and cultural rights; and political rights.²²

A.3 National Program of Human Rights

Following the UN diagnosis, the Mexican government created the National Program of Human Rights (NPHR) in December of 2004 to establish respect for fundamental rights as a priority for Mexico's overall development and recognize that success requires the coordinated efforts of the three levels of government: federal, state, and municipal.²³ It pursued *four central objectives*:

1. to establish public policy in the area of HR;
2. to stimulate the consolidation of a culture that advocates the full effect of HR through the respect, promotion, and protection of these rights;
3. to comply with international commitments; and
4. to strengthen civic participation in the area of HR.²⁴

Some results from NPHR in public policy and action are noteworthy:

1. Thirty-two states, the Department of State, and the Office of the United Nations High Commissioner signed the National Human Rights Agreement on December 9, 2005, which led to the implementation of diagnostic actions to determine the state of HR.²⁵

21. DIAGNOSIS, *supra* note 15, at 7.

22. *See id.* at 7–8.

23. GOVERNMENT OF MEXICO, NATIONAL PROGRAM OF HUMAN RIGHTS 6 (2005), available at <http://www.sre.gob.mx/derechoshumanos/docs/Programa%20Nacional.pdf>.

24. *Id.* at 1.

25. *See generally* Office of the High Commissioner for Human Rights, OHCHR in Mexico (2008–09), <http://www.ohchr.org/EN/Countries/LACRegion/Pages/MXSummary0809.aspx> (last visited Jan. 24, 2009).

2. The University Declaration in Favor of a Culture of Human Rights was signed in March 2006.²⁶
3. Training courses in HR for public employees in several areas of government were created.²⁷
4. The Coordinating Committee for the Follow-up and Evaluation of the National Program of Human Rights was established.²⁸
5. The Rome Statute of the International Criminal Court was ratified before the Senate and presented before the United Nations.²⁹
6. The Mexican Government actively participated in international HR forums, opening itself to international cooperation in this area.

The NPHR also led to a series of actions that apply to the three levels of government (i.e., federal, state, and municipalities). These measures have three primary aims: (1) to train public servants in the different means of promoting and protecting HR, (2) to diagnose HR in each state, and (3) to make agreements for HR education at the university level. Committees to participate in non-governmental organizations for dialogue and program effectiveness have developed, and there has been participation in international forums and conventions, the ratification of international statutes, and governmental participation in international discussions about protecting the HR of indigenous peoples, migrant workers, and others. In addition, the federal and state governments took specific actions in regions affected by HR violations towards women and within families (e.g., the Ciudad Juárez case). Finally, the Mexican government formed councils and committees for social groups with special needs (i.e., the handicapped, indigenous peoples, and the poor).

A.4 Conclusion

Mexico currently participates in diverse international programs committed to the advancement of, protection of, and respect for HR. Since 2000, there has been clear evidence of a change in foreign and domestic policy in this area and, above all, the creation of a federal HR policy.³⁰ This change has led to a series of governmental actions, notably the signing of an Agreement of Technical Cooperation between the UNOHCHR and the Mexican government, which resulted in the establishment of an Office of the High Commissioner in Mexico, and the 2003 publication of a diagno-

26. The University Declaration in Favor of a Culture of Human Rights promotes human rights education through collaboration between public and private higher learning institutions.

27. See generally Office of the High Commissioner for Human Rights, *supra* note 25.

28. GOVERNMENT OF MEXICO, *supra* note 23, at 7.1.

29. See Press Release, International Criminal Court, Mexico Ratifies Rome Statute (Oct. 31, 2005), <http://www.icc-cpi.int/press/pressreleases/117.html>.

30. See Secretary of Exterior Relations of Mexico, Programs of Cooperation, http://www.sre.gob.mx/derechoshumanos/coop_inter/programas.html (last visited Nov. 6, 2008) [hereinafter Programs of Cooperation].

sis of the state of HR in Mexico.³¹ This diagnosis led to the establishment of the Mexican government's National Program of Human Rights in 2004, which has spawned important initiatives and programs aimed at promoting and protecting citizens' HR and basic liberties.³²

There have been other outcomes, such as the programs of Cooperation Agreement in Human Rights between Mexico and the European Union and the Cooperation Agreement with UNESCO.³³ Above all, Mexico's participation as an elected member and president of the United Nations Human Rights Council for the years 2006 and 2007 is noteworthy.³⁴

Mexico has strengthened its commitment to protecting and promoting HR since 2000, but the future holds great challenges. Mexican society and international observers will now expect greater actions and results. The numerous actions resulting from the 2004 NPHR cover a wide range of areas related to the protection and promotion of HR.³⁵ However, many of these initiatives are just the beginning—they include legislation, analysis teams, forums, etc., whose impact will have to be evaluated in the future. The implementation and evaluation of the results of actions deriving from these initiatives will determine the effectiveness of their impact.

B. *Definition of Social Cohesion*

B.1 *Towards a Concept of Social Cohesion*

The topic of social cohesion (SC) appears on the agendas of international dialogue between different countries and regions as a matter of special national and regional interest and has earned the attention of our nations' representatives. It is leading the way to increasing collaborative actions in the international arena. There is no unique, internationally accepted definition of SC, but any definition tends to be subsumed or substituted by concepts such as equality, social inclusion, and well-being. As a result, it is important to establish a common, rational, and workable definition.

Within the European Union framework, agreements on SC have been translated principally as an aggregate of policies and indicators conducive to reducing income gaps and guaranteeing greater access to jobs, education, and health services for the inhabitants of a certain region or country.³⁶ In Europe, SC unites the mechanisms of integration and well-being with an

31. *Id.*; DIAGNOSIS, *supra* note 15.

32. *Id.*; *see also* GOVERNMENT OF MEXICO, *supra* note 23.

33. Programs of Cooperation, *supra* note 30.

34. Luis Alfonso de Alba, Mexico's representative to the U.N., served as president of the Human Rights Council from June 2006 to June 2007. *See Annan Inaugurates UN Strengthened Human Rights Council with Appeal for 'New Era'*, UN NEWS CENTRE, June 19, 2006, para. 17, available at <http://www.un.org/apps/news/story.asp?NewsID=18909&Cr=Human&Cr1=Right>.

35. *See* GOVERNMENT OF MEXICO, *supra* note 23.

36. SOCIAL COHESION, *supra* note 1, at 33–34.

individual's sense of full social belonging.³⁷ Inclusion and belonging, or equality and belonging, are the axes on which the notion of SC is sustained in Europe. The European Council of 1997 stipulated that SC was an essential need of all Europe, and its improvement should be a complement to the promotion of HR and human dignity.³⁸

SC refers to the effectiveness of established inclusion mechanisms and to the behaviors and judgments of the people who make up society. The mechanisms of social inclusion would include employment, education, entitlement of rights, and policies that promote equality, well-being and social protection, among others. An individual's behavior and judgment ranges from confidence in public institutions, social capital, and a sense of belonging and solidarity, to the acceptance of norms of living as a member of society and a willingness to participate in public deliberations and collective projects with fellow citizens.

The Economic Commission for Latin American and the Caribbean [ECLAC] study concludes that SC is comprised of three fundamental elements:

1. *Social integration*, the process that allows individuals to participate in a minimal level of well-being consistent with their country's development. This concept is intimately related to social inclusion, which implies access to well-being and the possibility of self-determination.
2. *Social capital*, which refers to the ability to interact with trustworthy norms, networks and social links, thereby reinforcing collective action and generating a sense of "society."
3. *Social ethics*, which refers to a common sense of values, and to a consensus—at least in terms of legal and social ethics—of solidarity as a practical and ethical value and of the principle of reciprocal treatment.³⁹

The following are prevalent notions in the literature and in the discussions about this topic:

1. SC implies reducing poverty and inequality and increasing the sense of belonging and social solidarity.⁴⁰
2. SC is an end (governments want every member of society to feel they *belong* in it) and a means (governments want to offer a better institutional framework for economic growth and attract investment by establishing confidence and clear rules at the same time).⁴¹

37. *Id.*

38. *Id.*

39. *Id.* at 18.

40. *See id.*

41. *See id.*; see also JOSE ANTONIO OCAMPO, RECONSTRUIR EL FUTURO: GLOBALIZACIÓN, DESARROLLO Y DEMOCRACIA EN AMÉRICA LATINA (2004).

Thus, SC is itself a public policy goal because it entails a society that is fair, educated, firmly established, supportive, and shares the same values and social ethic. At the same time, it is a means of achieving higher levels of well-being and economic growth because of the advantages it offers in terms of attracting greater rates of investment and employment. The concept of SC could therefore be thought of as a virtuous circle where cohesion leads to investment, which leads to jobs, which in turn results in greater well-being and more cohesion.

Today, however, there are clear manifestations of a lack of SC as evidenced by the existing social gaps in their varying dimensions, whether income levels or economic opportunities, such as extreme poverty, or a very limited sense of belonging to society due to the discrimination of certain groups caused by cultural, ethnic, and racial factors. Changes in the workplace that lead to increasing unemployment, a widening salary gap, an expansion of informal employment, and different forms of instability are also direct manifestations of a lack of SC.⁴²

The existence of a persistent denial of full rights to groups marked by racial, ethnic, and cultural differences is another example of a lack of cohesion.⁴³ In addition to having a more limited access to education, employment, and monetary resources, the groups that suffer from discrimination also feel excluded by the lack of political and cultural recognition of their values, aspirations, and lifestyles. Socioeconomic exclusion and cultural discrimination are mutually reinforcing. SC problems are multifaceted and demand the application of mechanisms that foster socioeconomic inclusion, diversity recognition, and the institutions which sanction and guarantee due process. These mechanisms would reinforce civic culture and solidarity in order to restore social ties.

Advancement in the area of SC implies greater promotion and respect for universal civil, political, economic, social, and cultural rights, which requires combining the rule of law, respect for individual liberties, political representation, and greater access to opportunities for social and economic well-being. Hence, it is short-sighted to talk about betterment in the status of HR in a country if SC has not improved.

The entitlement of social rights means essentially belonging to society—it implies that all citizens are included in the country's development and enjoy the well-being generated by this development. The sense of belonging stems not only from greater economic equality and well-being, but also from a sense of greater acceptance of diversity. In contrast to civil and political rights, social, economic, and cultural rights require greater progress and social equality. For John Rawls, this means that a society can guarantee access to certain social benefits, such as rights, liberties, and in-

42. SOCIAL COHESION, *supra* note 1, at 20.

43. *Id.*

comes that lead to a life of dignity with the power to participate in collective relationships.⁴⁴ On the other hand, the crossroads between citizenship and belonging also include the intersection where guaranteed social rights and internalized social solidarity meet.⁴⁵ However, citizenship implies not only entitlement to rights, but also a respect for the procedural rules of democratic institutionalism and laws of the land and a greater willingness to participate in public interest matters.⁴⁶

There is a close relationship between economic, social, and cultural rights on one side, and SC on the other. Ensuring that people exercise these rights will result in an increase in income levels and in the mitigation of poverty, as well as a better and deeper sense of belonging. Poverty generates poor economic performance, and slow growth of a country generates greater poverty, resulting in a vicious cycle.⁴⁷ Hence, higher and sustainable economic growth is a basic ingredient to break the vicious cycle; its impact on SC is a basic ingredient in sustaining economic growth in the future. Breaking the cycle with policies directed at improving SC can convert the phenomenon into a virtuous cycle. SC, in the way it has been defined here, should be explicitly included in any attempt to define an HR policy. Increasing SC will lead to a true exercise of economic, social, and cultural rights of society, and will ensure that the exercise of such rights will improve economic conditions that allow even more SC in the future.

B.2 Conclusion

The broadest definition of SC can be summarized as the improvement of economic and social inclusion, as well as the achievement of a community of values, social norms, and mutual solidarity. These will foster the development of networks and social bonds that lead to a trust in institutions and to citizen responsibility. The end result will be a society where its citizenry has a sense of belonging.

If the government does not address issues inherent to SC, such as poverty reduction, inequality, and exclusion, and if it does not carry out the necessary, specific actions to promote a sense of belonging, commitment, and social solidarity, economic growth will be slow and unsustainable. SC is both a means and an end towards achieving greater levels of well-being. Society can either fall into a vicious cycle (where a lack of SC hampers growth which in turn hampers development and this in turn limits SC even more), or into a virtuous cycle where the three variables reinforce each other. Furthermore, a lack of SC will contribute to a weakening of democ-

44. *Id.* at 26 (citing JOHN RAWLS, A THEORY OF JUSTICE (1971)).

45. SOCIAL COHESION, *supra* note 1, at 26.

46. *Id.*

47. See GUILLERMO E. PERRY ET AL., POVERTY REDUCTION AND GROWTH: VIRTUOUS AND VICIOUS CIRCLES (2006), available at http://siteresources.worldbank.org/EXTLACOFFICEOFCE/Resources/870892-1139877599088/virtuous_circles1_complete.pdf.

racy where cultural, social, and economic rights are ignored, with the obvious threat to social and political stability and to democratic governance generally.

The government is responsible for organizing and redistributing its resources in order to democratize access to social benefits. This access is achieved through the application of social policies whose effect is to extend access to education, employment, and health care, among other benefits, to the most disadvantaged groups. These social policies should play a clear role in the formulation of HR policies, since the economic, social, and cultural rights of a society require greater progress, social equality, the acceptance of diversity, and a greater sense of belonging as citizens by members of society.

The search for greater SC as a goal of public policy therefore requires the application of policies capable of restoring the sense of belonging and guaranteeing opportunities for inclusion, which permit advances towards full achievement of the rights of all citizens. These policies point to the construction of more inclusive forms of social organization, favoring through public action the generation of an active citizenry. They also generate opportunities for access to decent employment and allow access to basic goods and services.

Other policies that strengthen the generation of opportunities for inclusion are those oriented toward the development of human capital, retraining and competency certification. These policies will effectively widen opportunities for the poor and permit the insertion of the most disadvantaged sectors into a system of permanent training. Such training will enable workers to adapt with flexibility to changes in the labor market, thus avoiding exclusion for lack of training in the competencies required by the productive sector.⁴⁸

For these reasons, policies which promote the economic, social, and cultural rights of society will translate into better possibilities for achieving greater SC. In other words, policies based on the promotion of these rights can be considered policies of SC. It is not possible to design HR policies where SC issues are not addressed as a main agenda—SC must be the first item in the human rights agenda and hence in an HR public policy.

At the practical level, the government unquestionably has the responsibility of defining the specific policies to address improvement in education and training, access to services, reduction of poverty, and access to justice. This implies defining the best actions to achieve such goals, and assigning the budgetary and financial resources to make it possible. Actions in this direction range from the promotion of domestic investment (macro environ-

48. See European Union Conclusions and Recommendations, Latin American and Caribbean Forum on Social Cohesion, Santiago, Chile (Sept. 23–25, 2007), available at http://ec.europa.eu/external_relations/lac/events/sc/07_conclusions_en.pdf.

ment, business conditions, tax policy, etc.) to create jobs and generate growth, to the definition of programs that give the poor the means to improve their lives (education, training, health, etc.). Likewise, reforming the judicial system and reducing the corruption at all levels of government should be pursued.

C. *Evidence of Social Cohesion in Latin America and Mexico*

We have established that SC implies, *inter alia*, reducing poverty and inequality; increasing income for everyone; fostering long-term employment and better education; and achieving long-term, sustained GDP growth rates while improving equality in income distribution. The betterment of peoples' lives is the most direct and long-lasting means to increase the sense of belonging and social solidarity. This section will examine how social and economic indicators, as well as indicators of society's sense of belonging, have evolved recently in order to give an idea of whether SC is being achieved and what difficulties remain.

C.1 *Latin America*

According to ECLAC, there have been improvements in the basic proxy indicators of social cohesion of Latin America (LA) in a relatively short historical time frame.⁴⁹ In less than thirty years, there has been an important increase in life expectancy at birth and a notable decrease in child mortality and malnutrition.⁵⁰ According to the UN's Human Development Report, life expectancy on average has increased in LA from 61.2 years (between 1970–75) to 72.2 years (between 2000–05).⁵¹ Child mortality has also improved, dropping from 86 deaths per 1,000 live births (1970) to 26 deaths per 1,000 live births (2005).⁵² The majority of these achievements are the result of greater access to medical attention and significant investments in basic infrastructure, which have provided a high and ever-increasing percentage of the population with potable water and basic hygiene, permitting an overall improvement in living conditions.⁵³

At the same time, adult illiteracy was reduced,⁵⁴ elementary education became almost universal, and access to secondary education was increased.⁵⁵ For elementary education, the indicators for LA are very close to

49. Social Cohesion, *supra* note 1.

50. *Id.* at 48.

51. Figures obtained from UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT (2007–08) 264 (2007), available at http://hdr.undp.org/en/media/HDR_20072008_EN_Complete.pdf [hereinafter UNDP II].

52. *Id.*

53. *See generally id.*

54. On average, adult literacy in LA improved from 87.6% of its population 15+ years of age in the period 1985–94, to 90.3% in 1995–2005. *See id.* at 232, 272.

55. The elementary education enrollment rate rose from 86% to 95% between 1991 and 2005. *See id.* at 272.

those of the Organisation for Economic Cooperation and Development (OECD) countries.⁵⁶ Access to secondary education, however, still remains limited. The enrollment rate in secondary education was 68% in 2005.⁵⁷ However, this rate is much higher than that for all developing countries as a whole (53% in 2005).⁵⁸ There is also evidence of a favorable change in fertility rates (this indicator decreased from 5 births per woman in 1970–75 to 2.5 births per woman in 2000–05)⁵⁹ and the accelerated incorporation of women into the labor market (whose rate⁶⁰ reached 40.2% in 2005, which is 16% higher than it was in 1990).⁶¹ These changes have helped to decrease abject poverty due to the increase in family incomes resulting from women's incomes, and they have decreased the number of dependents in the families of the economically-active population.

Per capita GDP (Gross Domestic Product) in LA and the Caribbean (8,417 Purchasing Power Parity [PPP] dollars in 2005) is 60% greater than that for all developing countries as a group.⁶² In the world, the region is considered to be of intermediate income. Its Human Development Index (HDI) is the highest among all other regions of developing countries.⁶³

Despite this progress, certain distinctive features of Latin American development, such as structural heterogeneity, elevated concentration of income, insufficient and volatile economic growth and its effect on poverty, have persisted, and have even increased in some countries.

(A) POVERTY AND EXTREME POVERTY. During the last three decades, economic growth has been very slow (2.8% average per year since the 1970s).⁶⁴ The percentage of the population that lives in extreme poverty has gone from 40% in 1980 up to 48% in 1990 (at the end of the “lost decade”), and down to almost 35% in 2007.⁶⁵ Although twenty-seven million people climbed out of poverty from 2002 to 2006, 194 million people remained poor in LA in 2006, of which almost seventy million lived in extreme poverty.⁶⁶ Poverty was also “urbanized” from 1990 to 2006, a period during which the number of poor people grew in urban areas and decreased in rural

56. The elementary education enrollment rate in 2005 was 96% for LA compared to the average of 96% for all OECD countries in 2005. *See id.*

57. *See* UNDP II, *supra* note 51, at 272.

58. *Id.*

59. *Id.* at 246. The fertility rate of a population is the average number of children that would be born to a woman over her lifetime if (1) she were to experience the exact current age-specific fertility rates through her lifetime, and (2) she were to survive from birth through the end of her reproductive life.

60. Rate is defined as the percentage of women fifteen and older who are in the labor force.

61. UNDP II, *supra* note 51, at 338.

62. *Id.* at 232.

63. *Id.*

64. ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN, SOCIAL PANORAMA OF LATIN AMERICA 20 (2007) [hereinafter SOCIAL PANORAMA].

65. *Id.* at 52 tbl.I.3.

66. *Id.*

areas due to the rural-urban migration which characterized the region at the time.⁶⁷

(B) INEQUALITY. The region not only continues to show an extremely high level of poverty, but also has the most regressive income distribution in the world, since it is the only region whose average clearly exceeds the 0.50 of the Gini coefficient.⁶⁸ This can be explained by the segmentation of the economic, social, gender, and ethnic structure.

Employment income concentration is one of the determining factors of inequality in the region since it constitutes a large majority of household income. Inequality in employment income originates in the concentration of wages, salaries and earnings in the top decile of the population. In Argentina, Brazil, Chile, Colombia, Mexico, and Venezuela, the top 10% captures between 35% and 40% of the employment income.⁶⁹ The average income of employed persons in the top decile of the aforementioned countries (except Colombia) exceeds the GDP per capita of countries like Spain.⁷⁰

The gap between supply and demand of job qualifications is also a source of inequality and exclusion from the job market. According to a recent study, the structural causes of inequality and the gap between the incomes of different groups reside in differences in access to assets such as education, knowledge, and quality employment, as well as to other material assets such as land, capital, and financing.⁷¹

In sum, inequality develops in parallel with the lack of education and employment opportunities, which are a function of individual characteristics (ethnic and gender) and the lack of access to material resources.

(C) ECONOMIC GROWTH, VOLATILITY AND POVERTY. Economic growth in LA has been insufficient (a GDP average annual growth rate of 2.8% since the mid-1970s)⁷² to have a significant impact on poverty. Furthermore, the combination of economic instability and slow growth has doubled the negative effects on the rate of poverty.⁷³ This was observed mainly dur-

67. *Id.* at 198.

68. The Gini coefficient is a measure of inequality of income distribution. It is defined as a ratio with values between zero and one. A low Gini coefficient indicates more equal income distribution, while a high Gini coefficient indicates more unequal distribution. Zero corresponds to perfect equality (everyone having exactly the same income) and one corresponds to perfect inequality (where one person has all the income, while everyone else has no income). *Id.* at 56 n.5.

69. SOCIAL COHESION, *supra* note 1, at 64.

70. *Id.*

71. Comisión Económica para América Latina y el Caribe [Economic Commission for Latin America and the Caribbean, CEPAL], *La esquivada equidad en el desarrollo latinoamericano: Una visión estructural, una aproximación multifacética*, [The Difficulty of Equality in Latin American Development: A Structural Vision, a Multifaceted Approach] SERIE INFORMES Y ESTUDIOS ESPECIALES 14, U.N. Doc. LC/L.2414-P/E (Nov. 2005) (prepared by José Luis Machinea & Martín Hopenhayn).

72. SOCIAL COHESION, *supra* note 1, at 55.

73. *Id.* at 51.

ing the 1980s, since after 1990, the growth rate increased, volatility decreased, and poverty reduction became more visible.⁷⁴

The volatility observed in the growth of regional GDP has been associated with greater levels of poverty and inequality. This has been more acute in countries (e.g., the Central American economies) which have experienced an important decrease in their GDP. During the 1980s, volatility in LA reached its maximum (measured by the Coefficient of Variation in the Growth of GDP, which equaled 4.5), per capita GDP fell (from around US \$3,600 in 1980 to around US \$3,300), and poverty increased (from 40.5% in 1980 to 48.5% in 1990).⁷⁵ In contrast, in the 1990s, both volatility and poverty decreased and GDP increased. Since 2004, GDP per capita has been increasing, and the percentage of poor people has shown a continuous reduction.⁷⁶ It is thus essential to maintain growth as a necessary, though insufficient, condition for reducing the levels of poverty in the region, and for attaining greater SC.

(D) THE INFORMAL ECONOMY. The informal economy⁷⁷ in LA is another barrier to growth and social welfare, which erodes SC in the region. The growth of the informal economy has accelerated since the 1990s. According to a recent World Bank Study, in LA and the Caribbean alone, the informal economy reaches 57% in urban zones and 47% nationwide.⁷⁸ Seventy percent of new jobs in the 1990s were in the informal sector.⁷⁹ This study concluded that the informal economy can be attributed in part to the marked increase in minimum salaries in some countries and to inadequate macroeconomic policies.⁸⁰ Changes in the labor market and social security legislation, the inability to enforce laws, and the increase in social protection plans that do not require contributions destined to informal workers also contributed to the informal economy.⁸¹ Another World Bank study describes two types of informal workers: independent workers, who make up

74. *Id.*

75. *Id.* at 51 fig.I.1.

76. *Id.* at 13, 51 fig.I.1.

77. The term informal economy refers to all economic activities that fall outside the formal economy regulated by economic and legal institutions. Thus, those economic activities and the income they generate are unregulated by the institutions of society in a legal and social environment in which similar activities are regulated. In consequence, they include economic activities which are not monitored by the government and are not either taxed or included in the calculation of a country's Gross National Product (GNP) indicator. See Enrique Ghersi, *The Informal Economy in Latin America*, 17 CATO J. 99, 101 (1997), available at <http://www.cato.org/pubs/journal/cj17n1/cj17n1-8.pdf>.

78. GUILLERMO E. PERRY ET AL., *INFORMALITY: EXIT AND EXCLUSION* (2007), available at <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/LACEXT/0,,contentMDK:21345369~pagePK:146736~piPK:226340~theSitePK:258554,00.html>.

79. *Id.*

80. *Id.*

81. *Id.*

24% of the total urban workforce, and informal wage earners, who constitute 33% of total urban employment.⁸²

The same study maintains that the informal economy can be observed from the perspective of exclusion and escape.⁸³ In the former case, informal workers are “excluded” from the benefits granted by the government or by the economic circuits.⁸⁴ In the latter case, “escape” implies that workers, companies, and families select the mandates and the government institutions which suit them, analyze the situation they face and decide whether to cross over to the formal economy or not.⁸⁵

Another perspective from which to analyze the informal economy centers on the fact that the supply of qualified labor has not been compensated by a corresponding increase in the demand for labor. More than 90% of young people complete their elementary education and 70% enter secondary school.⁸⁶ The young people between twenty and twenty-four years of age have three to four years more education than their parents.⁸⁷ The impact of more education will result in better opportunities for employment and more knowledge of how to be better citizens. The problem is the lack of sufficient job creation for these better-educated young people, with greater educational capital, and the result is unemployment and personal dissatisfaction. Between 1990 and 2005, the unemployment rate in the region increased from 5% to 9%.⁸⁸ Unemployment, under-employment, and the informal economy are the result of a lack of growth in formal employment, legislation and models of social protection, among other factors.⁸⁹

Reversing the progression of the informal economy will require public policies which lead to the optimization of human capital and the design of social safety nets. There is also a need to reform the current labor code to include a deeper analysis of the various and diverse costs and benefits associated with the employment of labor force, which make workers and employers decide whether to enter the formal sector or remain informally attached to the economy. Finally, there needs to be a reduction in regulations and in excessive taxes and a creation of an inclusive social contract.

(E) DISCRIMINATION. Discrimination and segregation, the most obvious aspects of exclusion, have a profoundly negative impact on quality of life and on the sense of belonging to society. Poverty can lead to stigmatization and discrimination, which in turn lead to greater poverty and thus weaken SC.

82. *Id.*

83. *Id.*

84. PERRY ET AL., *supra* note 78.

85. *Id.*

86. SOCIAL PANORAMA, *supra* note 64, at 185 tbl.III.3.

87. *Id.*

88. *Id.* at 290 tbl.1.

89. *Id.* at 162.

At present, there are no indicators that measure the discriminatory attitudes and behavior against the very poor which can be applied to the entire LA region. An alternative analysis is whether people of different socioeconomic levels perceive themselves as the objects of discrimination. The ECLAC reports that indicators based on the Latin Barometer, which describe the perceptions of households by different income levels, show that in every LA country, the percentage of subjects who describe themselves as the subjects of discrimination is much higher in low-income households than in higher-income households.⁹⁰ The greatest differences are observed in Paraguay, Argentina, Bolivia, Chile, and Mexico, while the smallest differences are seen in Panama and Brazil.⁹¹

Among the causes of discrimination mentioned by low-income households are the following: belonging to the poor social class (36.5%), being old (16.1%), lacking education (12.4%), and not having connections (7.2%).⁹² The factors which are directly or indirectly related to poverty and to social mobility (being poor, being old, and lacking education) together constitute 60% of the causes of discrimination perceived by the most vulnerable people.⁹³ The study also mentioned ethnic identity (color of skin or race), disability, and gender (being a woman or a homosexual), which combined represent 31% of the causes.⁹⁴ In addition to their economic situation, the survey results show that the poorest people can also feel like the subjects of discrimination because they belong to certain social categories.⁹⁵

(F) SOCIAL INJUSTICE AND EXCLUSION.⁹⁶ In the Latin Barometer Survey, among those interviewed in 2001, 36% agreed that the justice system punished the guilty no matter who they were, while in 2003 that percentage decreased to 35%.⁹⁷ The majority perceives that the justice system is not impartial and that it discriminates against people or groups because of their characteristics.⁹⁸ In short, the majority perceives that all people are not equal before the law. In contrast, only 24% declared that all are equal before the law in the survey.⁹⁹

(G) KNOWLEDGE OF THE LAW AND INSTITUTIONS.¹⁰⁰ In 1996–97, as regards the knowledge held by members of society of their obligations and rights, only 40% declared that their fellow citizens know their obligations

90. *See id.* at 96 fig.I.25 (interpreting data from CORPORACIÓN LATINOBARÓMETRO, LATINBARÓMETRO REPORT 33 (2006)).

91. *See id.*

92. *See* SOCIAL PANORAMA, *supra* note 64, at 97 fig.I.27.

93. *Id.*

94. *Id.*

95. *See generally id.*

96. SOCIAL PANORAMA, *supra* note 64, at 73–74.

97. SOCIAL COHESION, *supra* note 1, at 77.

98. *See id.*

99. *See id.* at 78.

100. *Id.* at 77.

and duties and only 39% think that their compatriots are honest.¹⁰¹ These percentages decreased to 37% and 31%, respectively, in 2003.¹⁰²

(H) CONFIDENCE IN INSTITUTIONS.¹⁰³ Social confidence is the basis for the analysis of social and community networks and for the development of SC. According to results presented by ECLAC, 54% of the population interviewed has trust in television, 43% in the armed forces, and 37% in the police, while only 33% have trust in the justice system, 26% in the Congress, and 20% in political parties.¹⁰⁴ Confidence decreases when evaluating institutions that are more directly tied to political power.¹⁰⁵ These levels of trust seem to vary with the economic cycle and do not differ according to the gender of those interviewed.¹⁰⁶ However, it is noteworthy that countries with the lowest levels of confidence are those that have a large population of Indian or African descendents.

C.2 Mexico

Over the last couple of decades, most basic social and economic indicators have improved.¹⁰⁷ Life expectancy has increased, while infant mortality and fertility have declined.¹⁰⁸ Mexico has achieved important advances in terms of human capacities, health, nutrition, education, and access to basic goods and services, such as electricity, safe drinking water, and sewage. Educational enrollment has increased substantially while dropout rates are on the decline, more so in urban than in rural areas.¹⁰⁹ Individual achievements, however, have varied among indicators.

(A) POVERTY. Mexico's poverty levels have dropped, since the end of the 1990s, more than the Latin American average. According to the National Council for the Evaluation of the Policies for Social Development (CONEVAL, 2007), the three measures of poverty (i.e., dietary poverty,¹¹⁰ capabilities poverty,¹¹¹ and patrimonial poverty¹¹²) have all dropped from their peak in 1996 (37%, 46%, and 69% of the population, respectively) to

101. SOCIAL PANORAMA, *supra* note 65, at 81 fig.IV.1.

102. *Id.*

103. *Id.* at 78–79.

104. *Id.* at 83 fig.IV.2.

105. *Id.*

106. *See generally* SOCIAL COHESION, *supra* note 1, at 83.

107. *See* SOCIAL PANORAMA, *supra* note 64.

108. *Id.* at 50 fig.III.1.

109. Carlos Muñoz Izquierdo & Marisol Silva Laya, *Políticas para mejorar la calidad de la educación básica en México [Policies to Improve the Quality of Basic Education in Mexico]*, in *POLÍTICAS PÚBLICAS PARA UN CRECIMIENTO INCLUYENTE [PUBLIC POLICIES FOR INCLUSIVE GROWTH]* 277, 279–84 (Pablo Cotler ed., 2007).

110. Population that does not earn the income necessary to acquire basic food staples in order to satisfy the minimum nutritional requirements.

111. Population that earns the income to fulfill the dietary minimum requirements, but not that needed to acquire educational and health services.

112. Population that earns income to fulfill dietary and capabilities requirements, but not enough for housing, clothing, and transportation.

an all-time low in 2006 (18%, 25%, and 47%, respectively).¹¹³ From any perspective, these are amazing achievements in just ten years, although the remaining poor still constitute a very large number and remain a true challenge for Mexico.

(B) **INEQUALITY.** Despite success in the reduction of poverty, the levels of inequality remain very high in Mexico. Inequality measured by the Gini index¹¹⁴ did not experience great changes, measuring 0.475 in 1992¹¹⁵ and reaching 0.46 by 2004.¹¹⁶ Inequality in income distribution thus remains very high (although not as high as it is for LA as a whole). Income inequality creates inequality in other areas, including access to educational services and health.¹¹⁷ In addition to other consequences, such as fostering discrimination and the informal labor force, it also limits access to job opportunities, which generates a circle of inequality.¹¹⁸

(C) **HEALTH AND POVERTY.** Important advances by Mexico in the health sector during the last decades resulted in significant improvements in the population's standard of living by increasing access to basic services and a growing public support for important public health measures.¹¹⁹ As a result, there has been an increase in life expectancy, a reduction in infant mortality, and a drop in the mortality rate.¹²⁰ However, despite substantial improvements in the basic health indicators, the health system has many weaknesses from the point of view of poverty reduction, due in part to the centralized nature of the programs. Coverage in the formal system of social security continues to be limited, especially for the poor.¹²¹ Furthermore, the health system in Mexico is weak with regard to the quality of services.¹²² A substantial part of the population still lacks access to any form of social security.¹²³ Homes with workers enrolled in the formal job market receive the benefits of health insurance through the Mexican Institute of Social Security (IMSS, for its Spanish acronym), as do the State's employees who receive benefits from the Institute of Social Security for the State Employ-

113. CÁMARA DE SENADORES, CONSEJO NACIONAL DE EVALUACIÓN DE LA POLÍTICA DE DESARROLLO SOCIAL [CONEVAL] [NATIONAL COUNCIL FOR THE ASSESSMENT OF SOCIAL POLICY DEVELOPMENT], OBJETIVOS Y PLAN DE TRABAJO [OBJECTIVES AND PLAN OF ACTION] 6 (2007).

114. See SOCIAL COHESION, *supra* note 1.

115. INSTITUTO NACIONAL DE ESTADÍSTICA, GEOGRAFÍA Y INFORMÁTICA [INEGI] [NATIONAL STATISTICAL INSTITUTE], ENCUESTA NACIONAL DE INGRESOS Y GASTOS DE LOS HOGARES [ENIGH] 7 (2000) [HOUSEHOLD INCOME AND EXPENDITURE SURVEY].

116. WORLD BANK, 2007 WORLD DEVELOPMENT INDICATORS 67 (2007).

117. WORLD BANK, REP. NO. 28612-ME, POVERTY IN MEXICO: AN ASSESSMENT OF CONDITIONS, TRENDS AND GOVERNMENT STRATEGY XV (2004). [Hereinafter WORLD BANK REP.]

118. *Id.*

119. *Id.* at xvi.

120. *Id.* at 43.

121. *Id.* at 45.

122. *Id.*

123. WORLD BANK REP., *supra* note 117, at 45.

ees (ISSSTE, for its Spanish acronym).¹²⁴ Household participation with at least one member enrolled in the Social Security system is 50%, a figure that has not changed since 1992.¹²⁵

(D) ACCESS TO BASIC SERVICES. During the last decade, there were great improvements in access to electricity, drinking water, and sewage, particularly in rural areas.¹²⁶ However, in 2002, 10% of homes still lacked access to drinking water and almost 20% lacked sewage of any sort.¹²⁷ In rural areas, these percentages are even less promising—30% of homes lacked drinking water and 56% had no sewage.¹²⁸ In 2002, 30% of all homes in rural areas had a dirt floor, but the percentage is 53% for those who lived in extreme poverty.¹²⁹ Furthermore, 11% of this group lacked electricity.¹³⁰ In urban areas, 18% of those who lived in extreme poverty had dirt floors and 2.6% lacked electricity in 2002.¹³¹

(E) EDUCATION AND POVERTY. In the last decade there was a marked intent to improve universal coverage and quality of education, but it has not been enough. The population of young people and adults without basic education is almost entirely comprised of poor or indigenous groups.

On the other hand, not attending school, as well as scholastic performance by students who do attend, is related to the socioeconomic level of the child's family. The students of private elementary and secondary schools obtain the best results, followed by general and technical urban public primary and secondary schools and lastly by rural schools and indigenous schools.

Despite improvements from 2000–06, indigenous education still shows important shortages. Eighty-seven percent of the centers that provide indigenous elementary education offer all grade levels, but more than 60% are handled by one, two, or at most, three teachers. Only 25% have enough teachers to cover the six elementary grades.¹³²

In short, the Mexican Ministry of Education has achieved improvements in coverage but not in the quality of education. Certain regions, as well as some socioeconomic groups (the poor and indigenous), do not enjoy the coverage, the resources, and the quality necessary to achieve the necessary outcomes.

(F) DISCRIMINATION. The citizens' perception of whether they feel included or excluded by their society is an indicator of SC.¹³³ Discrimina-

124. *Id.*

125. *Id.*

126. *Id.* at 47.

127. *Id.*

128. *Id.*

129. WORLD BANK REP., *supra* note 117, at 47.

130. *Id.*

131. *Id.*

132. Muñoz Izquierdo & Silva Laya, *supra* note 109, at 291.

133. SOCIAL COHESION, *supra* note 1, at 24.

tion is a determining factor for the lack of SC, which by its nature keeps victims of discrimination, because of a limited perception, from belonging to a social plan or group.¹³⁴ In this way, an extremely discriminatory society, with great contempt toward certain social groups, will be a society with limited SC.

In 2004 the Ministry of Social Development carried out the first National Survey of Discrimination (END, for its Spanish acronym) in Mexico in conjunction with the National Commission for the Prevention of Discrimination.¹³⁵ Its objective was to find out how the phenomenon of discrimination occurred in the daily life of Mexicans who either practice it or are victims of it. Some of the most telling results from the survey that reveal the perceptions and attitudes of discrimination in Mexico suggest that there are three causes of discrimination that account for the greatest differences among people: (1) to be indigenous; (2) to practice a religion other than Catholicism; and (3) to fall at the lower end of the economic spectrum (position), measured by the amount of money, income, or wealth one possesses.¹³⁶

The results of the survey describe how groups perceive whether they are subject to discrimination based on their interaction with the rest of society. Approximately 90% of indigenous people feel discriminated against because of their condition, as do 95% of people who are not heterosexual, 94% of those who are handicapped, and 94% of women.¹³⁷ Almost one in three people belonging to these groups mention having suffered discrimination in the previous year because of their condition, and one in three state that they have been discriminated against, mostly in the workplace.¹³⁸

Another interesting result of Székely's analysis is that when people's education level improves, the intensity of discrimination and intolerance drop significantly.¹³⁹ END also reveals that those who have a greater level of educational preparation feel the impact of discrimination to a lesser degree.¹⁴⁰

In LA, there are few countries that have laws expressly designed to avoid discriminatory practices.¹⁴¹ Since 2001, Mexico is one of the countries that has such legal instruments in place, namely in the third paragraph

134. *Id.* at 27.

135. Miguel Székely, *Un Nuevo rostro en el espejo: Percepciones sobre la discriminación y la cohesión social en México* [A New Face in the Mirror: Perceptions on Discrimination and Social Cohesion in Mexico] 8 (Serie Políticas Sociales [Political Social Series] No. 128, ECLAC, 2006), available at http://www.eclac.cl/publicaciones/xml/0/27820/Serie_128.pdf.

136. *Id.* at 15.

137. *Id.* at 18.

138. *Id.*

139. *Id.* at 35.

140. *Id.* at 46.

141. Székely, *supra* note 135, at 36.

of Article 1 of the Mexican Constitution.¹⁴² This constitutional change fostered the first Federal Law for the Prevention and Elimination of Discrimination in 2003 and, two years later, the General Law for Handicapped Persons, with the purpose of protecting this specific group.¹⁴³ However, there are still no strong legal instruments with established penalties for non-compliance that can truly enforce the prevalent legislation.

Clearly, discrimination is one of the major obstacles for social integration and for strengthening the sense of belonging among the members of a society. Discrimination prevents its victims from seeking a greater integration into society. Additionally, it impacts work, which in turn affects the economic well-being to which these segments of the population aspire. The lack of respect, disregard, and belittlement of the other creates a difficult barrier to remove when seeking stronger social cohesion.

FINAL CONCLUSIONS

In the last thirty years, there have been some remarkable improvements in the indicators of human development in LA, and in Mexico specifically. These improvements have largely been the result of government policies focused on the services of health care, access to education, and access to basic services, among others. Those who have benefited the most are the middle classes, and to some extent, the lower classes, thus causing people excluded from these groups to feel dissatisfaction and resentment toward governments, institutions, and society as a whole. At the same time, the population has become increasingly aware that it can demand that governments and society respect their economic, social, and cultural rights.

On the other hand, indicators of high and sustainable economic growth—poverty and extreme poverty, the informal economy and mainstream employment, universal access to goods and public services, and inequality—have not sufficiently improved to give the region a basis for growth at higher and more sustainable rates in the future. There are still unacceptable levels of poor, extremely poor, and informal workers lacking benefits—groups who are discriminated against because of their economic situation. Other social and cultural factors exclude the poor and extremely poor from participating in society and from feeling that they belong to it.

The achievement of a socially cohesive society demands not only the continuous improvement of general and specific socioeconomic indicators, but also the improvement of structural indicators that guarantee growing social and economic similarities among the various groups, sectors, and geographical regions of the population. Hence, it is not only important to observe the overall evolution of access to health, education, and the basics, but

142. *Id.* (citing Constitución Política de los Estados Unidos Mexicanos [Const.], as amended, Diario Oficial de la Federación [Art. 1], 14 de Agosto de 2001 (Mex.)).

143. *Id.*

also an egalitarian impact on all groups of society. Not only must national and per capita income rise to achieve SC, but governments must also reduce gaps in income distribution (the income differences between the “haves” and the “have nots”) because they spawn and reinforce different types of economic, social, and cultural discrimination that take society further away from integration and cohesion.

When addressing SC, it is necessary to include the citizens’ perception of, and their sense of belonging in, the society in which they reside, which is closely related to trusting the institutions and trusting society’s attitude towards its fellow citizens and towards authority and the legal system, as well as diminishing feelings of discrimination and social marginalization present in some societal groups.

This issue is complex, but definitely crucial for growth and sustainable development. It is a subject that has its foundation in the rights of man, particularly in regard to social, economic, and cultural rights. A society that respects, promotes, and safeguards the HR of citizens requires mechanisms to assure SC. The respect for HR and greater SC nourish each other, so public policy directed toward these objectives must be designed congruently. Unequivocally, the first item in the agenda of a true and sustainable HR policy should be SC.

The evidence implied by Latin American indicators, including those in Mexico, suggests that progress has been made in areas related to the general welfare of the population (basic indicators). However, other issues directly related to SC, such as the economic and social exclusion of social groups, as well as sharp differences between rural and urban areas within the country, constitute an ongoing challenge.

This is a challenge involving situations that are neither simple, short term, nor inertial. Unless public policies are well thought out and designed realistically to address inequality, discrimination, and informal working practices, these conditions will sustain permanent poverty and will hinder growth and development.

Mexico has reduced the number of people living in extreme poverty as a result of social development programs that, through the use of incentives, have successfully allowed marginalized communities access to resources that are essential to economic and social improvement, such as education, health, and infrastructure. However, regional differences between specific social groups and rural versus urban communities remain a reality. These variations indicate that improved access to educational, health, and housing resources is not distributed uniformly or equally. These inequities give rise to high levels of social dissatisfaction, segregation, and discrimination, which clearly impede the construction of a society that is founded on the pursuit of improved SC.

The marginalization and exclusion of groups and regions within the country (and, in fact, in most countries of LA) must be significantly reduced. In order to achieve this goal, both the government and society must lay the foundations for stronger SC, as part of a comprehensive HR policy. Such a policy should at a minimum incorporate the following elements:

1. Achieve sufficient, sustainable economic growth, which creates employment and development opportunities for the community and provides sufficient resources for the State to enable implementation of a complete and effective social policy.
2. Raise the productive capacity of the work force, increasing the supply and quality of formal education at all levels, recognizing the needs and cultural diversity of all groups within the population, and increasing the supply of modern technical education based on the requirements of the national production system.
3. Facilitate the entry of the economically disadvantaged segment of the population into the productive sector and promote a universal system of basic protection.
4. Foster a stronger civic culture, thereby promoting prosperity by solidarity among individuals and their communities.
5. Stimulate programs that promote the development of social capital in the community by utilizing local networks.
6. Drive profitable solutions through processes that encourage the entrepreneurial nature of the marginalized urban and rural workforces, as well as provide access to financial credit for these projects at reasonable rates.
7. Increase public investment in community infrastructure and communication routes in rural areas in order to strengthen links between local markets and growth areas within the country.
8. Create an intrinsic system of protection or social security, accessible to the entire population, hence eliminating the current polarization in the area of public health.
9. Design and implement effective measures that promote the acceptance of different social groups (indigenous, female, elderly, etc.) and minimize the opportunities for discrimination. Besides access to opportunities, genuine inclusion of these different groups should be encouraged.
10. Align and coordinate State efforts to promote collaboration between different institutions within the federal and state governments, through institutions that guarantee coordination among government offices at all levels.

In sum, there must be, by definition and by nature, an intimate and indissoluble linkage between HR and SC policies. It is impossible to separate them, because of the role they play in the context of society's goals:

improving well-being and allowing all members to both enjoy the benefits and commit themselves to the well-being of others. Regarding its HR and social development policies, Mexico has achieved important advancements with substantive positive effects on social indicators (e.g., poverty, education).

However, the fundamental achievement of true SC still suffers important lags. Its link with HR goals remains elusive. Inequality, unequal health benefits, disparities in educational results of groups of population, and discrimination due to varying factors (disability, gender, ethnicity, etc.) are yet to be resolved, both from the SC and HR perspectives. Mexico is deeply committed to HR and democracy, but such commitments cannot remain separated from a true commitment to solving the root problems of SC broadly defined. As such, addressing the multi-faceted concept of SC must be the first item in any coherent and complete HR public policy.