



TRANSITIONAL JUSTICE, HUMAN RIGHTS AND THE RESTORATION OF CREDIBILITY: RECONSTRUCTING MEXICO'S SOCIAL FABRIC

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ABSTRACT. *Mexico is entering a phase of transitional justice. This can be observed in the numerous reforms and measures that are being taken to adapt the legal system to international standards, particularly those related to human rights and criminal justice. Some examples show an increased tendency to adhere to and enforce the rule of law and human rights; to recognize the official truth of authorized misconduct that took place in the past; to punish perpetrators, and above all, to ensure victims' rights to truth and reparation. If these tendencies continue, it could potentially lead to the restoration of public trust in the authorities and pave the way for reconciliation between society and the State. While many experiences of traditional transitional justice have taken place in post-authoritarian contexts, the convergence of the main elements used in those traditional cases lead us to suggest that these models could also apply to societies in transition, not from a particular form of government to another, but from a developing democracy into a law-abiding society. In this sense, a bottom-up approach that aims at attaining truth, reform and change will be necessary to break a cycle of impunity and develop social and government institutions that respect and enforce the rule of law and human rights.*

KEY WORDS: *Transitional justice, human rights, international law, victims' rights, rule of law.*

RESUMEN. *México está comenzando a atravesar por una fase de facto de justicia transicional. Un matiz de ello puede observarse en las numerosas reformas y medidas que están siendo tomadas para adaptar el marco legal, y en particular aquellas áreas relativas a los derechos humanos y a la justicia penal, a los estándares internacionales. Algunos ejemplos en las esferas del sistema judicial y de las instituciones públicas de derechos humanos muestran una tendencia ascendente a adherirse e implementar el Estado de derecho y los derechos humanos; a reconocer una verdad oficial respecto a conductas inapropiadas, autorizadas*

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por el gobierno, que tuvieron lugar en el pasado; a castigar a los infractores de la ley y, sobre todo, a garantizar los derechos de las víctimas a la verdad y a la reparación del daño. La continuidad de estas tendencias podría conducir al restablecimiento de la confianza pública en las autoridades, y mostrar el camino hacia la reconciliación de la sociedad con el Estado. Mientras muchas de las experiencias tradicionales de justicia transicional han tenido lugar en contextos pos-autoritarios, la convergencia de los principales elementos que han sido utilizados en esos casos tradicionales nos llevan a considerar la idea de que dichos esquemas también podrían ser aplicables a sociedades en transición, no de una forma de gobierno a otro, sino de una democracia en desarrollo hacia una sociedad respetuosa de la ley. En este sentido, un enfoque que busque alcanzar la verdad, reformas y cambios será necesario para romper el ciclo de impunidad y desarrollar instituciones sociales y oficiales que respeten y garanticen la prevalencia del Estado de derecho y los derechos humanos.

PALABRAS CLAVE: *Justicia transicional, derechos humanos, derecho internacional, derechos de las víctimas, Estado de derecho.*

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I. INTRODUCTION

Recent Mexican history, and in particular during the 2006-2012 presidential term of Felipe Calderón Hinojosa, could give the impression that the country —despite its relatively good economic condition- is either a failed State or about to become one.¹ There is a situation in which authorities and official institutions have been immersed in corruption scandals, rampant impunity

¹ Fletcher, Weinstein and Rowen argue that an effective government has three basic functions to perform: ensuring basic security (both against external and internal threats); meeting the basic needs of its citizens; and maintaining legitimacy (which requires that governmental structures are transparent, accessible and accountable). In the case of Mexico, there seem to be serious deficits in the effectiveness of its government, which would qualify it as a “weak”

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