



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9  
OF THE CONVENTION**

**Fifteenth periodic reports of States parties due in 2004**

**Addendum**

**MEXICO\* \*\* \*\*\***

[20 December 2004]

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\* This document contains the twelfth to fifteenth periodic reports of Mexico, due on 22 December 1998, 2000, 2002 and 2004 respectively, submitted in one document. For the eleventh periodic report and the summary records of the meetings at which the Committee considered those reports, see document CERD/296/Add.1 and CERD/C/1206, 1207, 1231, 1234 and 1235. The annexes may be consulted in the files of the Secretariat.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\*\* The notes have been kept as they appear in the original version of the document.

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## Introduction

1. The International Convention on the Elimination of All Forms of Racial Discrimination was adopted and opened for signature and ratification by the United Nations General Assembly in its resolution 2106 A (XX) of 21 December 1965. It was signed in New York, United States of America, on 7 March 1966. In accordance with its article 19, the Convention entered into force on 4 January 1969. Mexico signed the Convention on 1 November 1966 and ratified it on 20 February 1975.
2. On 16 September 1996, Mexico accepted the amendments to article 8 of the Convention whereby, once the amendments are in force, the United Nations “shall provide the necessary staff and facilities for the effective performance of the functions of the Committee”. The amendments were approved at the Fourteenth Meeting of the States Parties to the Convention, held in New York on 15 January 1992.<sup>1</sup>
3. On 17 January 2002, the decree approving Mexico’s declaration recognizing the competence of the Committee on the Elimination of Racial Discrimination established pursuant to the International Convention on the Elimination of All Forms of Racial Discrimination was published in the *Diario Oficial de la Federación*.
4. On 15 March 2002, Mexico made the declaration recognizing the competence of the Committee on the Elimination of Racial Discrimination, in accordance with article 14 of the Convention, to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of the rights set forth in the Convention.
5. In accordance with article 9 of the Convention, States parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of the Convention, every two years and whenever the Committee so requests.
6. The Government of Mexico submitted its eleventh periodic report on 19 August 1996 but did not submit biennial reports for the period between 1996 and 2003.
7. This report, which covers the period in question, is accordingly submitted in consolidated form for consideration by the Committee on the Elimination of Racial Discrimination.
8. The departments of the federal executive,<sup>2</sup> the National Human Rights Commission and various States contributed to the preparation of this report. Moreover, the draft report was sent to non-governmental human rights organizations for comments before it was submitted to the Committee.
9. This document contains the twelfth to the fifteenth periodic reports, which were due on 22 March 1998, 2000, 2002 and 2004, respectively. With regard to the eleventh periodic report of Mexico and the summary records of the meetings at which the Committee considered the report, see documents CERD/C/SR.1206, CERD/C/SR.1207, CERD/C/SR.1231, CERD/C/SR.1234 and CERD/C/SR.1235.

10. The information submitted by Mexico in accordance with the guidelines for the initial part of State party reports is contained in the core document (HRI/CORE/1/Add.12/Rev.1).

**I. INFORMATION ON THE LEGISLATIVE, JUDICIAL,  
ADMINISTRATIVE OR OTHER MEASURES WHICH  
GIVE EFFECT TO THE PROVISIONS OF ARTICLE 2  
OF THE CONVENTION**

**A. Constitutional framework**

11. Chapter I of the Constitution of the United Mexican States, which was adopted almost 80 years ago, sets out the individual guarantees to be enjoyed by every person in Mexico, the scope of application of such guarantees and the degree to which they may be restricted or suspended, in the cases and under the conditions established by the Constitution.<sup>3</sup>

12. Article 133 of the Constitution provides that “treaties which are in keeping with the Constitution and which have been or may be concluded by the President of the Republic with the approval of the Senate are, along with the Constitution and the laws of Congress, the supreme law of the Union”. The International Convention on the Elimination of All Forms of Racial Discrimination is accordingly part of national legislation.

**B. Constitutional reforms of 2001**

13. Pursuant to the Committee’s suggestion that the Government of Mexico should adopt all necessary measures for effective prevention and action to combat the various forms of racial or ethnic discrimination in order to comply with the requirements of articles 4 and 5 of the Convention, the Government wishes to inform the Committee that, on 25 April 2001, a plenary meeting of the Chamber of Senators approved amendments and additions to several provisions of the Constitution concerning indigenous matters; these are contained in articles 1, 2, 4, 18 and 115. The draft text of the amendments and additions was unanimously approved by the 109 senators present at the session. Three days later, a plenary meeting of the Chamber of Deputies approved the amendments with a qualified majority of 386 votes in favour out of a total of 500 deputies.

14. The process of acceptance by local congresses of the bill approved by the Federal Congress began on 8 May 2001 in the States of Colima, Guerrero, Nayarit and Veracruz and ended on 19 July 2001 in the State of Baja California. The bill was adopted by 19 States and rejected by 9, while in 3 States the amendments are still being discussed in commissions.

15. On 14 August 2001, the *Diario Oficial* published the decree adding a second and third paragraph to article 1, rewording article 2 in its entirety, repealing paragraph 1 of article 4 and adding a sixth paragraph to article 18 and a final paragraph to section III of article 115 of the Constitution.<sup>4</sup>

16. These constitutional reforms principally concern indigenous rights and culture and, most importantly, confer constitutional status on the prohibition of discrimination, thus giving effect to the general principle of equality. The legislative branch is under an obligation to revise

all domestic legislation with a view to identifying norms that are not in keeping with the provision prohibiting discrimination and bringing them into line with the new general principle of equality.

17. It should be stressed that these reforms to the Constitution concerning indigenous rights and culture respect the sovereignty of the Mexican States, since the States will have to take a decision as to the need to draft State laws in which the scope of the new constitutional provisions can be extended.

### **C. Federal and local legislation**

18. Following the constitutional reforms of 14 August 2001, a series of secondary laws were approved and other initiatives are envisaged that will contribute to improving and updating Mexican legislation in order to combat discrimination, particularly discrimination on grounds of racial or ethnic origin, in addition to those already in existence and which were described in the previous report. Some of the most relevant initiatives are presented below.

#### **Federal Act to Prevent and Eliminate Discrimination**

19. In February 2001, the Citizens' Commission on Discrimination Studies was established with the support of the Government of Mexico. The Commission was composed of representatives of the main political parties, legislators, civil servants, representatives of organizations that defend the rights of groups subject to discrimination, as well as the rights of academics and other specialists. The Commission was pluralistic and inclusive, and the results of its work reflected this composition. The Commission produced two highly important documents: the first was the book *La discriminación en México: por una nueva cultura de la igualdad* (Discrimination in Mexico: towards a new culture of equality), the first systematic study of discriminatory and social exclusion practices in Mexico. The second was the preliminary draft of a federal act to prevent and eliminate discrimination, which served as the basis for the Federal Government's initiative for a federal act to prevent and eliminate discrimination. Following its consideration by Parliament, the initiative was unanimously approved by Congress in May 2003, promulgated by the President of Mexico on 9 June 2003 and published in the *Diario Oficial* on 11 June 2003.<sup>5</sup>

20. The purpose of the Federal Act to Prevent and Eliminate Discrimination is to prevent and eliminate all forms of discrimination against any person, in accordance with article 1, paragraph 1, of the Mexican Constitution, and to promote equal opportunities and equal treatment. The Act also contains a special section on indigenous peoples and establishes the National Council for the Prevention of Discrimination.

21. The Council is responsible for conducting and coordinating anti-discrimination policies in Mexico. It is a decentralized legal entity with its own resources; it has technological and managerial autonomy and is not subject to any authority in ruling on claims or complaints submitted to it and is fully independent in the decisions it adopts. Since 2004, the Council has been empowered by federal mandate to handle proceedings involving complaints of acts of discrimination.

22. In accordance with article 17 of the Federal Act to Prevent and Eliminate Discrimination, the aim of the National Council for the Prevention of Discrimination is to: (1) contribute to Mexico's cultural, social and democratic development; (2) carry out actions to prevent and eliminate discrimination; (3) draw up and promote public policies for equal opportunities and equal treatment for all persons in Mexico; and (4) coordinate action by the departments and agencies of the federal executive to prevent and eliminate discrimination.

### **Criminal Code for the Federal District**

23. At present, the Federal District is the only Mexican State to criminalize and punish discrimination. Article 206 of the Criminal Code of the Federal District punishes discrimination with a prison sentence of up to three years. This is an important precedent for other States.<sup>6</sup>

### **D. Administrative measures**

24. Another course of action to combat discrimination led to the establishment of the Government Human Rights Policy Commission on 11 March 2003,<sup>7</sup> with a view to strengthening the promotion and protection of human rights in Mexico with the assistance of government departments, the National Human Rights Commission and civil society organizations. For its work, the Commission is currently divided into several thematic subcommissions dealing with various human rights, some of which relate to groups that have historically suffered from discrimination. The subcommissions cover the following topics:

1. Civil and political rights;
2. Economic, social and cultural rights;
3. Vulnerable groups;
4. Rights of the child;
5. Education;
6. Coordination and liaison for the prevention and eradication of violence against women in Ciudad Juárez;
7. Harmonization of legislation;
8. Migrants;<sup>8</sup> and
9. Indigenous people.

25. One of the first acts of the current Government was to sign a technical cooperation agreement on 2 December 2000 with the Office of the United Nations High Commissioner for Human Rights.<sup>9</sup> The most important results of signing the agreement included:

- Setting up an office of the High Commissioner in Mexico;



- Preparation of a national human rights study by four national experts, submitted to the President of the Republic on 8 December 2003;
- Drafting of a national human rights programme as the principal document on the subject. The programme, which is currently in preparation, will be based on the study submitted by the office of the High Commissioner in Mexico and will also have input from government bodies at various levels, public human rights organizations, civil society organizations and academics and specialists, as well as the advisory services of the office of the High Commissioner in Mexico.

### **E. Challenges**

26. As a major step towards modernizing Mexico's legal system and in accordance with the high priority that the Government currently attaches to the recognition, protection and promotion of human rights, in April 2004 the executive sent the legislature an initiative on constitutional reform<sup>10</sup> for discussion and approval. The initiative expressly introduces the obligation on the part of the State to recognize and guarantee protection of human rights in article 1 of the Mexican Constitution, which reads as follows: "Human rights are recognized by this Constitution and shall be protected in accordance with the provisions established therein."

27. The initiative seeks to reform the heading of chapter I, title I, of the Constitution in order to group together human rights and the individual guarantees provided by the Constitution under the general heading of "Fundamental rights". If this constitutional reform is approved, it will establish the recognition and protection of human rights as the basis of Mexico's legal system.

28. The initiative to reform the Constitution also seeks to amend article 3, paragraph 2; article 14, paragraph 2; article 22, paragraph 1; article 33, paragraph 1; article 73, section XXI, paragraph 1; article 89, section X; article 103, section I; and article 105, section II (e); to add a second paragraph to article 15, a third paragraph to article 73, section XXI, a ninth paragraph to article 102, part B, subparagraphs (g) and (h) to article 105, section II; and to delete the last paragraph of article 22.

29. One of the main proposals of this initiative, which seeks to lay the foundations for a State human rights policy and to create a culture of human rights, includes the amendment of article 3, paragraph 2, of the Constitution in order to make respect for human rights a way of life. Since education is the primary means of achieving that goal, the initiative proposes to incorporate respect for human rights in State education.

30. Bearing in mind that human rights have been only partially respected in Mexico, the initiative in question proposes the addition of a second paragraph to article 15 of the Constitution in order to stress that the authorities have the obligation to protect the human rights recognized in treaties and other provisions of Mexico's legal system in accordance with the terms of the Constitution.

31. The initiative to reform section XXI of article 73 gives the federal authorities the power to try ordinary offences involving human rights violations when such violations fall outside the scope of the local authorities.

32. Full recognition of human rights in the Constitution means that a single human rights policy must be maintained both at home and abroad. In this regard, the initiative also proposes the reform of section X of article 89 in order to incorporate the protection of human rights in the list of basic principles of Mexico's foreign policy.

33. With regard to *amparo* proceedings, the reform of article 103 empowers the federal courts to resolve disputes concerning laws or acts that violate human rights; pursuant to the amendment to article 105 of the Constitution, the Supreme Court of Justice is empowered to hear applications for constitutional review, the purpose of which is to enable the President of the National Human Rights Commission to raise the question of a possible contradiction between a general law or the Constitution and international treaties signed by Mexico, federal or local laws that violate human rights, and to enable the officials of human rights bodies in each of the States to do the same exclusively with regard to local laws that violate human rights.

34. One of the main challenges facing the National Council for the Prevention of Discrimination is to ensure coordination with State legislatures when drafting local laws to combat discrimination. At present, the Council is working with the Governments of the States of Nuevo León, Coahuila and Yucatán, which are also giving consideration to the establishment of institutions to carry out this task.

## **II. MEASURES TO COMBAT DISCRIMINATION AGAINST MIGRANTS IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 2, PARAGRAPH 2, OF THE CONVENTION**

35. The National Human Rights Survey<sup>11</sup> categorizes Mexico as a country of origin, transit and destination of migrants. It states that the most frequent abuses encountered by a migrant to Mexico are extortion, robbery, battery, intimidation and threats, sexual abuse, destruction of documents and detention without being informed of his or her rights.<sup>12</sup>

### **A. Protection of Mexican migrants in the United States of America**

36. The Government of Mexico has made migration a priority both domestically and in its relations with the United States of America. This commitment was demonstrated by the establishment of the Presidential Office for Mexicans Abroad and the opening of direct, full, high-level negotiations with the administration of President George W. Bush.

37. The federal executive has made the following topics central to the negotiations agenda: regularization of the migratory status of Mexicans already residing in the United States; extension of work visas for safe and legal entry into the United States; cooperation at the borders to save lives and prevent smuggling; and promotion of economic growth in migrants' places of origin.

38. The Regional Conference on Migration, held in Puebla, Mexico, in 1996, was an example of dialogue and cooperation between the Governments of Canada, the United States of America, Mexico, the Dominican Republic and the Central American countries, with the participation of civil organizations. The existence of this group underscores the need to deal with this topic in supranational bodies that are open to society.

39. In the context of the first Regional Conference on Migration, the Government of Mexico proposed that the countries of Central America should establish consultation mechanisms on consular protection in order to create an institutional space for resolving differences and problems stemming from the application of migration provisions in Mexico and for exchanging information on the subject between the Mexican migration authorities and the consular representatives of the country of origin in question.

40. Since its inception in 1996, the Regional Conference has held annual meetings at the vice-ministerial level with a view to achieving consensus on the activities to be developed in the Plan of Action. The Plan of Action includes the following general topics from which various activities stem:

- Migration policy and management;
- Human rights;
- Relationship between development and migration.

41. At the Ninth Meeting of the Regional Conference on Migration, held in Panama City from 17 to 21 May 2004, the Vice-Ministers of the member countries agreed to endorse the General Framework for the Dignified, Safe, and Orderly Return of Regional Migrants by Land and the Programme on Multilateral Cooperation for the Assisted Return of Extra-Regional Migrants Stranded in Member Countries of the Regional Conference on Migration prepared by Mexico and the International Organization for Migration, which provide for the participation of the competent bodies in each country in the reception of migrants, ensuring consular access and protection of their human rights.

42. The Mexican Government's protection of migrants extends to legal matters. In defence of migrant workers, the Mexican Government applied to the Inter-American Court of Human Rights for an advisory opinion. The Court issued Advisory Opinion OC-18/03 of 17 September 2003, which recognizes the labour rights of workers regardless of their migratory status.<sup>13</sup>

43. The Government of Mexico has also defended Mexicans on death row in American prisons, whose right to consular protection has been violated (Vienna Convention on Consular Relations of 1963). The Mexican Government applied to the highest international judicial body, the International Court of Justice, where it received support: a judgement was handed down on 31 March 2004 ordering a review of the procedures for determining the guilt of 51 Mexican prisoners.<sup>14</sup>

#### **B. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

44. This is the first United Nations instrument specifically devoted to the question of migration and migrant workers. It was adopted by the United Nations General Assembly on 18 December 1990. On 22 May 1991, Mexico signed the International Convention,

which was approved by the Senate on 14 December 1998 and published in the *Diario Oficial* on 10 February 1999. Mexico participated actively in the drafting and negotiations, and promoted an approach based on the human rights of migrants, with emphasis on preventing the ill-treatment and discrimination to which migrants are often subjected.

45. On the occasion of the entry into force of the Convention on 1 July 2003, a special edition of 3,000 copies was published and distributed to all the staff of the National Institute for Migration for information and action.

46. The National Institute for Migration is distributing 5,000 copies of an information brochure to inform the migrant population, the staff of the Institute and public officials who cooperate with it in implementing migration laws, about the main provisions of the Convention.

47. On 16 June 2004, the National Institute organized a workshop for dialogue on the follow-up to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in which the Government, academics and civil society discussed Mexico's observance of its commitments under the Convention.

48. On 24 April 2004, at the sixtieth session of the United Nations Commission on Human Rights, Mexico and others sponsored resolution 2004/56 entitled "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families". The resolution urges States to sign and ratify the Convention and calls upon their authorities to promulgate laws that protect the human rights of migrants, to regulate their stay in the host country and to treat them fairly and with dignity. It should be pointed out that the Commission adopted resolution 2004/56 without a vote, that is, with the consensus of the international community.

49. Similarly, at its fifty-eighth session, the United Nations General Assembly adopted resolution 58/166, which once again called upon States to ratify the Convention and to provide assistance in establishing the Committee in accordance with the mandate contained in the Convention. This resolution was also adopted by consensus.

### **C. Protection of migrants in Mexico**

50. Mexico has undertaken various domestic actions the results of which have been recognized by the Government as uneven and inadequate. In the 1980s, Mexico established the Programme for Mexican Communities Abroad within the Ministry of Foreign Affairs and initiated relations with Hispanic organizations such as the National Race Council in the United States of America. At the end of the 1980s and the beginning of the 1990s, the Government put forward two major initiatives: the Peasant Programme and the Beta Group, a special body for the protection of migrants on Mexico's northern and southern borders. The Mexican and American Solidarity Foundation for the promotion of social and educational exchange projects was also established during those years. Under the previous Government, a binational group of academics was set up through an agreement between the Governments of Mexico and the United States of America to study the phenomenon of migration. The work of this group continues to be an indispensable reference for studying Mexican migration to the United States.

51. According to data from the National Institute for Migration, there was a total of 138,061 undocumented migrants in holding centres in 2002; of that number, 97.2 per cent were principally from Central America (Guatemala, Honduras, Ecuador, El Salvador and Nicaragua), while Brazilians accounted for 0.6 per cent and citizens of other countries represented 2.2 per cent.
52. The figure for the period from January to December 2003 was 187,537 persons, 96.4 per cent of whom were Central Americans, 0.9 per cent Brazilians and 2.7 per cent citizens of other countries.
53. The figure for the period from January to August 2004 was 148,361 persons, 97.5 per cent of whom were Central Americans, 0.6 per cent Brazilians and 1.9 per cent citizens of other countries.
54. According to the National Institute for Migration, some 150,000 migrant farm workers, mainly from indigenous communities in Guatemala, are hired by employers in the State of Chiapas to work on coffee, banana, pineapple, cocoa and sugar cane plantations. However, some NGOs have reported complaints concerning migrant farm workers' legal status and work contracts and the abuses that they and their families experience. The most common complaints include unfair dismissal, withholding of wages and documents, long working days, ill-treatment and racial discrimination, as well as inadequate conditions in the areas of food, housing, health and payment of farm workers' transport to the place of work or their return to their communities of origin.
55. In urban centres like Tapachula, migrant women are often employed in domestic service. Approximately 90 per cent of female domestic workers come from Guatemala; the rest come from Honduras and Nicaragua. According to the cases recorded by NGOs, the women are victims of abuses that include long working days six days a week, lack of medical insurance, physical and verbal ill-treatment, unfair dismissal, withholding or non-payment of wages, fabricated offences, threats to turn them over to the migration authorities because they have no papers, sexual harassment and racial discrimination.
56. The National Institute for Migration has established that, for the period from 1999 to 2003, some 260,578 migrant farm workers registered their entry into Mexico on the basis of Agricultural Visitor Migratory Forms (FMVA visas). The figure for the period from January to August 2004 is 29,171 farm workers.
57. With regard to the protection of the rights of workers arriving in Mexico from Guatemala, the National Institute prepared the Programme of documentation for the legal and migratory security of Guatemalan farm workers in 1997 with the aim of ensuring respect for the labour and human rights of Guatemalan workers and documenting their numbers through the FMVA visa system, which allows them to be gainfully employed in this economic sector in the State of Chiapas.
58. At the meeting of the Binational Mexico-Guatemala Group on Migratory Affairs, held in Mexico City on 11 and 12 September 2001, the Guatemalan authorities proposed the establishment of an ad hoc group on Guatemalan temporary migrant farm workers. The purpose of the ad hoc group is to provide a flexible mechanism to deal with the problem of this group of

migrants in order to ensure respect for their human rights and encourage vigilance and compliance with the labour laws of both countries and the implementation of alternative mechanisms for expediting solutions to the labour problems of workers employed in productive activities in Mexico.

59. The meeting establishing the Ad Hoc Group on Guatemalan temporary migrant farm workers was held on 12 February 2002 in the city of Tapachula, Chiapas. The Ad Hoc Group meets at least twice a year. On 6 August 2002, in the context of the Seventh Mexico-Guatemala Binational Meeting, the first meeting of the Ad Hoc Group was held in Mexico City. A Mexico-Guatemala subgroup on agricultural labour matters was established at the meeting, which was attended by the authorities of both countries with responsibility for these matters, specifically the Government of the State of Chiapas.

60. On 28 November 2003, a seminar for Mexican employers of Guatemalan temporary migrant farm workers was held in Tapachula, Chiapas. The seminar focused on the General Population Act, the Federal Labour Act and the Social Security Act, with a view to making employers aware of and responsible for the rights of farm workers. Representatives of the Government of Guatemala attended the event.

61. The National Institute for Migration distributes an information brochure explaining the rights and obligations of persons with a valid FMVA. Sections dealing with farm workers were upgraded in the National Institute's offices in the cities of Talismán, Tapachula and Hidalgo, Chiapas.

62. Another important course of action promoted by the National Institute for Migration is the Regularization of Migration Programme, which operated initially from 1 January to 30 June 2004, and was, later extended to 31 December 2004. The purpose of the Programme is to establish criteria on the basis of which aliens of any nationality living in Mexico who do not have valid migration documents can formalize their non-immigrant migratory status in a context of respect for their human rights and individual guarantees.

63. As part of the Regularization of Migration Programme, a total of 2,595 applications were received during the period from January to August 2004; 1,480 applications (57 per cent) were accepted and 36 (1.4 per cent) were refused. A total of 1,079 (41.6 per cent) applications were still being processed in August 2004.

64. Another course of action has been the upgrading of migrant holding centres. In 2003, after a comprehensive study of the 45 migrant centres operated by the National Institute for Migration in Mexico, a work project, entitled "Programme for upgrading migrant holding centres", was created; its goals were included as a strategic indicator in the National Institute's "Bases for performance".

65. In 2003, the upgrading of 23 holding centres was completed in the States of Baja California, Quintana Roo, Tamaulipas, Chihuahua, Chiapas, Tabasco, Oaxaca, Veracruz, Sonora, Guerrero and Campeche; in 2004, the remaining 22 centres in the States of Sinaloa, Quintana Roo, Oaxaca, Tamaulipas, Chiapas, Veracruz, Zacatecas and Campeche were refurbished.

66. The State of Chiapas is one of the most dynamic points with the largest influx of migrants, which frequently causes overcrowding problems in holding centres, particularly in the centre in Tapachula, Chiapas, where many Central Americans are held. It was therefore decided to invest in land to build a new centre meeting international standards. To this end, Mexico sought assistance from the International Organization for Migration.

67. The new holding centre will have a surface area of 30,000 square metres and will be able to hold 490 persons overnight and 960 for a temporary stay. It will include specifically designated areas for men, women and families. It will also have a medical service, canteens, a laundry, a library, dormitories for persons requiring special treatment, recreation areas with sports fields, bathrooms and drinking fountains, public telephones, internal roads and parking areas for buses and private vehicles, garden areas and areas for social work and psychological treatment.

68. With regard to other activities, on 11 November 2003 the National Institute for Migration signed a cooperation agreement with the Ministry of Labour and Social Welfare, the National Population Council and El Colegio de la Frontera Norte with a view to carrying out a survey of migration on Mexico's border with Guatemala. The survey will make it possible to obtain up-to-date information on the volume and characteristics of 105 migratory flows across the border from Guatemala to Mexico and from Mexico to Guatemala, with emphasis on the most pertinent economic, social, family and demographic data concerning the persons who comprise these flows.

69. On 2 April 2004, the Arrangement for the Safe and Orderly Repatriation of Central Americans on the Borders of Mexico and Guatemala was amended and updated. The Agreement sets out the handover procedures and criteria for the repatriation of Salvadorans, Nicaraguans and other Central Americans. The new criteria entered into force on 17 May 2004.

70. With regard to cooperation for the mutual return of nationals, on 20 February 2004 Mexico and the United States of America signed the Memorandum of Understanding on the Safe, Orderly, Dignified and Humane Repatriation of Mexican Nationals, based on the principle of shared responsibility and full respect for the human rights of migrants and the avoidance of unilateral acts. In 2003, 559,949 persons were repatriated and 319,558 were repatriated between January and June 2004.

71. On 12 and 13 June 2002, the Department of Migration of Guatemala and the National Institute for Migration signed the Arrangement for the Safe and Orderly Repatriation of Central Americans on the Borders of Mexico and Guatemala, establishing specific procedures, venues and timetables for the repatriation of Guatemalan and Central Americans. On 2 July 2004, a new arrangement was signed in order to take account of the current situation.

72. On 9 August 2004, the Ministry of the Interior signed a memorandum of understanding with the International Organization for Migration, whereby this Organization will assist the Government of Mexico in obtaining the necessary travel documents for the repatriation of migrants from outside the continent whose countries of origin do not have an accredited diplomatic mission or consular post in Mexico, and in enabling them to benefit from the reduced

air fares available to the National Institute for Migration; this will represent a savings of up to 50 per cent of the average of 12 million pesos spent annually by the National Institute for Migration for the purchase of air tickets for this purpose.

73. On 23 April 2004, during President Vicente Fox's official visit to Guatemala, a memorandum of understanding was signed for the protection of women and minors who are the victims of smuggling and trafficking in persons on the border between Mexico and Guatemala.<sup>15</sup> The Memorandum envisages training for migration officials in order to make them aware of the different treatment that should be given to this vulnerable group.

74. In January 2004, a formal start was made on the survey on migration on the Mexico-Guatemala border.

75. On 9 and 24 March 2004, Mexico signed the Plan of Action for Cooperation in Migratory Matters and Consular Protection with El Salvador and Honduras, respectively. These bilateral instruments include priority topics, such as procedures for the safe, dignified and orderly repatriation of migrants, the strengthening of consular cooperation and preventive action to inform potential migrants of the risks of illegal migration.

76. In 2003, the National Human Rights Commission established the Migrants Programme within the First General Inspection Office in order to deal with complaints relating to migration and to strengthen cooperation with the federal and local authorities in the area of migration, and with the public human rights bodies and NGOs involved with these problems.

77. The primary objectives of the Programme include supervisory visits to Mexico's migrant holding centres in order to prevent acts that violate the human rights of migrants held in such centres, and to promote the observance of and respect for their rights. The Programme includes the establishment of offices at various points on Mexico's northern and southern borders in order to have greater capacity to handle complaints of human rights violations committed against migrants.

78. At present, the National Commission has migrants' offices in Tapachula, Chiapas, Villahermosa, Tabasco, Ciudad Juárez, Chihuahua, Nogales, Sonora, Reynosa, Tamaulipas and Tijuana, Baja California. It also has mobile offices in some of Mexico's most conflict-ridden border areas in order to ensure the observance of migrants' rights.

#### **D. Agricultural day labourers' programme of the Ministry of Social Development**

79. The National Human Rights Survey reveals that Mexico currently has 3.4 million persons who travel from their communities of origin to other regions of the country for employment in harvesting various crops. The main problems concern the existence of exploitation networks of contractors, agricultural labourers' ignorance of their rights and the invisibility of their situation, the failure of judicial bodies to deal with the problem, and the absence of supervision of employers of agricultural day labourers and the failure to penalize employers who exploit them.<sup>16</sup>



80. The aim of the agricultural day labourers' programme<sup>17</sup> is to contribute to the living and working conditions of agricultural day labourers, through comprehensive and timely attention to their needs, and through the social promotion of institutional coordination with the three branches of government and cooperation with the producers, social organizations and the beneficiaries themselves.

81. Assistance is provided to day labourers in States with the following characteristics:

- “Attraction” States - those with a large presence of migrant and local agricultural day labourers;
- “Expulsion” States - those with large numbers of day labourers who migrate to agricultural areas; and
- Intermediate States - those with substantial numbers of migrant and local day labourers.

82. The comprehensive care strategy is implemented through research, social welfare, institutional coordination and social partnership and provides the following types of support:

- Accommodation and sanitation, with temporary accommodation in the form of hostels and health services and permanent accommodation, consisting of low-cost housing, renovations and additions;
- Drinking water, with water treatment plants and distribution networks;
- Health and social security, with the establishment of dispensaries and clinics;
- Food and supplies, with the opening of supply systems and joint purchases;
- Education, culture and recreation, through the construction and equipment of classrooms, childcare facilities and recreational areas;
- Employment, training and productivity, with the encouragement of productive initiatives;
- Administration of justice, with the dissemination of rights and handling of cases;
- Support for migrants in transit, through the provision of transit hostels, medical care and food supplies;
- Obtaining of official documents;
- Dissemination of labour rights and human rights.

83. The programme operates in 257 municipalities in 17 States (Baja California, Baja California Sur, Chihuahua, Durango, Guerrero, Hidalgo, Jalisco, Michoacán, Morelos, Nayarit, Oaxaca, Puebla, San Luis Potosí, Sinaloa, Sonora, Tamaulipas and Veracruz) where there are 1,387 work units, benefiting 721,015 persons.

84. The National Employment Survey indicated that, in the year 2000,<sup>18</sup> 5,255,000 farm workers were registered, of whom 2,347,000 were day labourers, 85 per cent men and 15 per cent women. In other words, the Survey recorded 25 per cent more day labourers than the census data; these differences are due to the fact that, in less urbanized areas, temporary employment is taken into account.

85. Migratory movements in depressed rural areas are constantly increasing because the inhabitants find it impossible to survive with the income and resources that they obtain from farming, as is the case in the Huasteca region of Hidalgo.

86. In 1999, the Programme provided assistance to 75 per cent of migrant agricultural day labourers; some 741,000 day labourers were registered as having received assistance. This means that, of the 2.3 million day labourers recorded in the aforementioned survey, 1 million are migrant workers.

#### **E. Primary Education Programme for Migrant Girls and Boys of the Ministry of Public Education**

87. Bearing in mind article 32 of the General Education Act,<sup>19</sup> the Ministry of Public Education is coordinating the primary education programme for migrant children with the aim of developing a curriculum to provide primary education to the children belonging to the families of migrant agricultural day labourers and introducing the conditions to put this proposal into practice.

#### **Challenges posed by migrants**

88. On 14 June 2004, the President of Mexico signed the initiative for the Mexicans Abroad (Regulation of Voting) Act<sup>20</sup> which, if approved by the legislature, will enable Mexicans outside Mexico, like all other Mexicans, to elect the next President by exercising their right to vote electronically or by post, with the participation of the Federal Electoral Institute as a guarantee of transparency and reliability.

89. This initiative, which seeks to enable Mexicans living abroad to exercise their right to vote, must be approved by a majority of the members of the Chamber of Deputies and the Senate. It will also have to consider budgetary, logistical and operational aspects that would make this experience a unique democratic exercise in the world.

90. With regard to agricultural day labourers, one of the most neglected groups of migrants, the National Human Rights Survey states that there is a need to combat exploitation by intermediaries and to explore the possibility of reforming the Federal Labour Act to include the concept of agricultural day labourers and regularize their work situation.<sup>21</sup>

### **III. MEASURES TO COMBAT DISCRIMINATION AGAINST INDIGENOUS PEOPLES IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 2, PARAGRAPH 2, OF THE CONVENTION**

#### **A. Tackling problems in the State of Chiapas**

91. Mexico recognizes that a resolution of the social conflict affecting certain parts of Chiapas is a priority if it is to fulfil its international obligations. Accordingly, in September 2000, the Federal Government set up the Office of the Coordinator for Dialogue and Negotiation in Chiapas. Since 1 December 2000, the Office has taken various steps to achieve reconciliation and peaceful coexistence in the State.

92. On 5 December 2000, in one of his first official acts and in fulfilment of the Government's obligations under the San Andrés Agreements, the new President of Mexico sent a proposal for constitutional amendments on indigenous rights and culture, prepared on the basis of the draft of the Peace and Concord Commission, to the Senate for consideration and adoption.

93. Progress towards reconciliation in Chiapas has been made following various initiatives by the Federal and State Governments:

- The Mexican army was ordered to withdraw from the seven military positions requested by the Zapatista National Liberation Army (Río Euseba, Guadalupe Tepeyac, Amador Hernández, Jolnachoj, Cuxuljá, Roberto Barrios and La Garrucha), as acknowledged by the Zapatista group and certified in April 2001;
- The military bases of Guadalupe Tepeyac and Río Euseba were converted into centres for the development of the indigenous communities, which were opened on 20 April 2002;
- Of the more than 100 prisoners whose release was requested by the Zapatista National Liberation Army, only 5 remain in prison for ordinary offences and are subject to State (local) regulations. By mutual agreement, a working group composed of officials of the Ministry of the Interior and Zapatista advisers has been established to conduct a thorough examination of the legal situation of those prisoners.

#### **B. Indicators of the situation of indigenous peoples**

94. The Committee has requested Mexico to provide up-to-date information on the number of indigenous people in its territory and their social and economic conditions.<sup>22</sup> The Committee was particularly concerned about the methodology used in Mexican censuses to identify indigenous people and to verify the objectivity and reliability of the information gathered by the government authorities. It emphasized that it is vital to have information in this area, since discrimination may take the form of omission or minimization of figures on the population groups subjected to discrimination on grounds of race or ethnicity. This statistical invisibility is exacerbated by the fact that stigmatized minorities internalize their rejection by society to such an extent that they deny their ethnicity, nationality or membership of some other sector rejected by the majority population.

95. The National Commission for the Development of Indigenous Peoples<sup>23</sup> has been studying the issue of censuses of indigenous populations for 10 years, together with the National Institute of Statistics, Geography and Informatics and the National Population Council.

96. The last two population censuses (1990 and 2000) applied a very different methodology, which improved reliability.

97. In the past, the basic criterion for determining the number of people belonging to a given indigenous group was language. There were as many indigenous people as there were registered speakers of indigenous languages, plus their children under 5 years of age. Clearly, this approach excluded indigenous people who, through loss of their indigenous language - but not of other objective and subjective characteristics - had ceased to appear in the censuses.

98. The previous methodology was abandoned in the 1990 census, when it was replaced by a formula in which linguistic (objective) data was combined with a social (subjective) variable. The number of indigenous people was calculated according to the criterion that, in a household or domestic unit where the head of household or the spouse spoke an indigenous language, all persons there forming part of the same socio-economic unit would be considered indigenous.

99. As a result of efforts to improve the methodology, and in the light of requests from indigenous peoples themselves for reliable indicators - since they claimed that the language criterion was not sufficient and that more people would be registered as indigenous if they were given the option to identify themselves as such - in 2000 it was decided to apply the criterion that, where heads of household declared themselves indigenous, even if they did not speak an indigenous language, the other members of the household would also be counted as indigenous.<sup>24</sup>

100. The application of improved census methodology yields an estimated total of 12,707,000 indigenous people in Mexico (about 13 per cent of the total population), as shown in the table below:<sup>25</sup>

Indigenous population	1990	1995	2000
Total population, including the indigenous population	81 249 645	91 158 290	97 483 412
Speakers of indigenous languages	5 282 347	5 483 555	6 044 547
Under-fives where head of household speaks an indigenous language	1 129 625	1 232 036	1 233 455
Non-speakers of indigenous languages who identify themselves as indigenous			1 103 312
Population registered by the National Institute of Statistics, Geography and Informatics	6 411 972	6 715 591	8 381 314
Population in households where the head or a spouse speaks an indigenous language	8 373 700	8 948 152	
Population in households where the head or a spouse does not speak an indigenous language	177 289	183 336	
Population according to data supplied by the National Institute for Indigenous Affairs/National Population Council	8 550 989	9 167 488	12 707 000

101. Overall, these figures show that Mexico's indigenous population is growing in absolute terms year on year. While this trend may be partly due to the greater refinement of the instruments used, it is also possible that the growth rate among the indigenous population is higher than the national average rate of population growth.

102. However, in relative terms, there has in fact been a slight decrease in the indigenous population. This trend may be attributable to language displacement; that is, the lower the reported number of speakers of indigenous language, the lower the figures for the indigenous population. This is why it is important that the self-identification approach should be used more widely in census-taking. As rejection and stigmatization of indigenous people decline, the more reliable self-identification will become.

103. Another point to consider in relation to censuses is the number of indigenous peoples in Mexico. Before 1980, there were said to be 52 indigenous peoples,<sup>26</sup> based on the number of languages spoken. This figure is disputable, since the peoples do not define themselves by their language but by their shared history and similar perspectives. On the other hand, the fact that these groups are dispersed throughout Mexico means that speakers of the same languages do not necessarily have shared interests and even their linguistic usages are in many cases mutually unintelligible.

104. With regard to the attention accorded by State to indigenous peoples, it is important to mention the indicators that help establish the precise distribution and location of the indigenous population. In the area of public policy, it is extremely difficult to provide for indigenous people owing to the fact that most of them live in scattered communities.

105. According to census data, for every 100 speakers of indigenous language, 65 live in a rural community with a population of less than 2,500; 19 live in a semi-urban community of more than 2,500; and fewer than 16 live in urban centres with a population of over 15,000. This characteristic dispersal is exacerbated in many cases by lack of access to adequate lines of communication, which limits the Government's capacity to assist indigenous peoples and increases their marginalization.

106. Another major exercise in the area of data collection and the establishment of indicators on the situation of indigenous peoples was the National Programme for the Development of Indigenous Peoples 2001-2006, developed by the National Commission for the Development of Indigenous Peoples in cooperation with the Office for the Development of Indigenous Peoples. In addition to setting out the broad approach to be taken by the Government in support of Mexico's indigenous peoples, the Programme also provides a general analysis of the main problems and challenges facing Mexico in indigenous matters.<sup>27</sup>

107. According to the Programme, the marginalization of indigenous peoples becomes even more apparent when the quality-of-life indicators for the municipalities where they live are examined. In 2000, it was determined that 803 of Mexico's 2,443 municipalities had high concentrations of indigenous inhabitants, accounting for 30 per cent of the estimated indigenous population. In 801 "indigenous" municipalities, the marginalization rate is considered to be very low in only 3 and low in 12. By contrast, 79 municipalities show medium levels of marginalization, 407 (50 per cent of the total) high levels, and 300 very high levels.

108. As can be seen, most of the indigenous population lives in conditions of exclusion and inequality. Municipalities with very high marginalization rates account for 37 per cent of the national total and those with high rates for 79 per cent, while indigenous municipalities with low exclusion rates represent a mere 0.4 per cent as compared with the remaining non-indigenous municipalities. The municipalities with the highest marginalization rates are concentrated in the States of Oaxaca, Puebla, Chiapas, Guerrero and Veracruz.

109. The most direct indicators of these conditions of inequality are health and nutrition. For example, the life expectancy of Mexicans in 1998 was about 74, while for indigenous people it was 69. The difference is most noticeable in the mortality rate of children under 5: in 1992, child mortality in cities of more than 15,000 inhabitants was about 30 per 1,000 live births.

110. The Programme also provides other figures concerning indigenous peoples:

- A survey carried out by the Ministry of Health and the Institute for Indigenous Affairs in municipalities where indigenous people accounted for 30 per cent or more of the population revealed a mortality rate of 55 per 1,000 live births. In the Cora (Nayarit), Tarahumara (Chihuahua) and Huichol (Jalisco, Nayarit and Durango) regions, the mortality rate was 89, 95 and 100 per 1,000 live births respectively. This means that, in extreme cases, 10 per cent of indigenous children die before their fifth birthday;
- Somewhat more encouraging is the fact that infant mortality (under-ones) among the indigenous population has steadily declined, although this does not mean that it has reached national levels. In Guerrero, the rate is 52 per 1,000, while in Nuevo León it is 15;
- The housing situation can be assessed by a range of indicators. In 1995, 16.5 million dwellings, or 85 per cent of the total, had drinking water, while only 62 per cent of indigenous dwellings had drinking water; 14.5 million (74 per cent) dwellings had drainage systems, while only 563,217 out of 1,600,000 indigenous dwellings, (33.7 per cent) had such systems;
- As to education, the 2000 census shows 6 million illiterates in Mexico, or 11 per cent of the population over the age of 15. Of these, 1,564,856 are indigenous people, who thus account for 34 per cent of the total, more than three times the national average.

### **C. Measures to deal with land disputes**

111. The Land Programme 2001-2006 of the Department of Agrarian Reform estimates that collective property in Mexico amounts to some 103,500,000 hectares, divided among the various agricultural centres: 27,664 *ejidos* (communal landholdings) and 2,278 *comunidades*, making a total of 29,942 agricultural centres.

112. According to the National Human Rights Survey, in some areas the indigenous communities have no legal security with regard to land tenure owing to the slow pace and corruption typical of agrarian procedures, and individual interests. Disagreements over *ejido*

boundaries, conflicts concerning the use of common resources such as forests and water, and the influence of local *caciques* (political bosses) and drug traffickers are some of the most common causes of land disputes among farm owners, as has emerged from cases involving indigenous peoples, including the Yaquis of Sonora, the Huicholes of Jalisco, the Tarahumaras of Chihuahua and the Huaves of Oaxaca.<sup>28</sup>

113. The Programme for the Certification of *Ejido* Rights was set up to solve these problems. As at 30 October 2003, registration and establishment of tenure had been carried out in respect of 2,506 *ejidos* and *comunidades*, with a total area of 10,373,460 hectares, benefiting 533,049 farmers, who were issued 1,115,747 certificates and title deeds. In this way, 81.4 per cent of Mexico's *ejidos* and *comunidades* were registered between 1993 and October 2003, and the family property of 3,431,752 peasants was secured.

114. Agricultural centres with an indigenous population of 70 per cent or more have been identified, resulting in the registration of 2,260 indigenous agricultural centres: 1,920 of these are *ejidos* and 340 are *comunidades* located in Chiapas, Hidalgo, Oaxaca, Veracruz and Yucatán. They cover a total area of 5,510,000 hectares, and 706,870 certificates and title deeds have been issued to 355,167 landholders.

115. In its comments, the Committee on the Elimination of Racial Discrimination expresses concern at the potential effects of the new Land Act on indigenous peoples' land tenure.<sup>29</sup> In this regard, it should be pointed out that the purpose of the land registration programme is not to privatize land but to divide common and private land into plots in order to establish legal security of tenure.

116. It is true that Mexico's new legislation permits the sale of *ejidos* but not of *comunidades agrarias*. Such sales may not, however, be made by individuals but only with the consent of the *ejido* assembly.<sup>30</sup> In other words, the law encourages the subdivision of land as a means of providing security to the beneficial owners and to credit institutions; however, this is very different from the sale of *ejido* property, which requires members' consent. It should also be emphasized that the sale of communally owned land is not permitted.

117. With regard to indigenous *ejidos*, data indicate that the response to the voluntary subdivision programme has been fairly low and that it has been accepted only as a means of gaining greater control of common lands. Thus, out of 24,341 agricultural centres registered at the national level, only 1,126 are *comunidades*, a mere 4.6 per cent of the total. Of these, 80 per cent have done no more than define the boundaries of common lands in order to establish a system of crop rotation, which permits more sustainable use of the land and prevents soil erosion and exhaustion. Thus, as of October 2003, only 224 *comunidades* had been subdivided into individual plots.

118. One of the reasons for the low level of community participation in the registration programme is that the vast majority of *comunidades* do not have complete basic documentation, which is an absolute requirement for admission to the programme and for avoiding boundary problems. Consequently, some 90 per cent of *comunidades* have not been regularized, as compared with the national average of 56.2 per cent.

119. This has resulted in uncertainty with regard to land tenure and continuing confusion and disputes. It also means that the attrition in *comunidades* and the loss of land are attributable more to the backlog of unresolved disputes than to any other cause, and this results in invasions, overlapping of boundaries and the absence of property titles.

120. As a means of dealing with the most serious land disputes, the Federal and State Governments carried out a joint survey that brought to light 14 cases requiring urgent attention (so-called “hot spots”), the impact of which extends beyond the settlements immediately involved in the dispute. Such disputes have lasted for more than 30 years, at times resulting in confrontations and deaths. Thirteen of these “hot spots” are located in indigenous regions.

121. In response to this situation, special working groups have been established, comprised of staff from the agricultural institutions, the National Commission for the Development of Indigenous Peoples and State governments. The working groups organize on-site round tables for conciliation or negotiation in order to find the best way to solve the problem. This approach is being used in Bernalejo, in Zacatecas, among the Yaquis of Sonora, in Chimalapa, in Oaxaca and in other regions. Progress is being made in three of these cases, in which conciliation agreements have been signed on a *quid pro quo* basis.

#### **D. Legislative measures to combat discrimination against indigenous peoples**

##### **1. Constitutional reforms affecting indigenous peoples**

122. A new article 2<sup>31</sup> (see annex II), which was added to the Constitution on 15 August 2001, goes considerably further than the text of former article 4, paragraph 1, of the Constitution.<sup>32</sup> New article 2 sets forth a clear definition of indigenous peoples and communities (not included in the former paragraph) and recognizes them as an integral part of Mexico’s ethnic composition.

123. New article 2 also establishes the need for Federal and State laws to recognize the right of indigenous peoples to self-determination, based on their own criteria (for example, ethnolinguistic characteristics, and customs and traditions), in respect of the appointment of authorities, methods of regulating and settling disputes, and social organization. The new article guarantees indigenous peoples equal opportunities to take part in Mexico’s political life (as in the drafting of the National Development Plan).

124. Lastly, new article 2 recognizes the vulnerability of the indigenous peoples and emphasizes that it is the duty of the Mexican State to encourage regional economic development in the indigenous regions by making special budget allocations for indigenous communities at the federal and municipal levels and guaranteeing indigenous peoples’ access to such basic services as education, infrastructure and health.

125. This recognition of indigenous peoples’ right to self-determination, and the specification of precise measures to be taken by the State to reduce inequality, represent an acknowledgement of the disadvantageous situation of such groups.



126. New article 2 provides that the State has a duty under the Constitution to improve the standard of living of indigenous communities. This implies the introduction of a new type of legislative measure, namely affirmative action mechanisms for the compensation and advancement of members of indigenous groups who have traditionally suffered from exclusion and discrimination.

127. These constitutional amendments reflect the conviction that indigenous peoples should be able to exercise, under equal conditions, all the rights exercised by other Mexican nationals. Thus, the Mexican Government accepts that non-discrimination involves recognizing the principle that the safeguards protecting all Mexicans should be applied with due consideration, respect and esteem for cultural differences.

128. The constitutional amendment of 2001 represents a further advance, since it recognizes, among other things, the freedom and autonomy of indigenous peoples to choose their own social organization, to elect their own authorities and establish their own regulatory frameworks, and, in general, decide on their own internal order. Other rights established in article 2 permit the exercise of collective rights, such as the preservation of the languages and habitat of indigenous peoples, as well as preferential treatment in the use and enjoyment of their lands. The article also provides that, in matters of access to justice in any courts or proceedings, account must be taken of the cultural characteristics of indigenous peoples and communities and of their right to the assistance of defence lawyers who know their language and culture.

129. In the second part of article 2, the Constitution provides for a range of public policies and programmatic measures aimed at “promoting equal opportunities for indigenous people and eliminating all forms of discrimination” and seeks to ensure that the Federation, States and municipalities are endowed with institutions capable of extending and ensuring the applicability of all these rights to members of indigenous groups. Article 2 also states that members of indigenous groups should participate in the design and functioning of such institutions.

130. In this regard, amended article 2 of the Constitution places new obligations on the State to: (a) encourage regional development through the equitable distribution of resources among municipalities; (b) increase school attendance by promoting a bilingual, intercultural model of education; (c) ensure effective health-care coverage; (d) provide financing facilities to improve housing conditions; (e) encourage the involvement of indigenous women in development; (f) expand the communications and telecommunications network in order to enable indigenous people to operate mass media; (g) support productive activities and sustainable development in indigenous communities; (h) introduce public policies to protect migrants; and (i) consult indigenous people on the preparation of development plans.

### **Challenges of the reform**

131. While the 2001 constitutional amendment on indigenous peoples’ rights formally recognizes the right of indigenous peoples to self-determination, it failed to incorporate certain principles of the Peace and Concord Commission Act, which had been accepted by the indigenous community. For example, it omitted the requirement to carry out open consultations on the reform with the indigenous peoples, as should have been done in fulfilment of the

obligations arising from Mexico's ratification of International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. As a result, the indigenous population rejected the reform, and more than 300 constitutional challenges were submitted to the Supreme Court seeking annulment of the procedure.

132. The indigenous communities are still demanding a review of the Constitution.

## **2. Act establishing the National Commission for the Development of Indigenous Peoples**

133. One aspect of the far-reaching legislative and institutional reforms to address Mexico's problems of discrimination in general and the problems of discrimination and underdevelopment affecting Mexico's indigenous peoples in particular, was the closure in 2003 of the National Institute for Indigenous Affairs, the agency responsible for coordinating the Federal Government's policy in indigenous matters. It was replaced by the National Commission for the Development of Indigenous Peoples, an institution with broader legal powers, more resources and a greater capacity to focus and coordinate efforts on behalf of Mexico's indigenous peoples. On 19 May 2003, the President of Mexico promulgated the Act adopted by Congress, establishing the National Commission for the Development of Indigenous Peoples, and published in the *Diario Oficial* on 21 May 2003.<sup>33</sup>

134. The creation of the National Commission for the Development of Indigenous Peoples enables Mexico to conduct a cross-cutting policy to promote indigenous development, and provides a solid institutional framework for the elimination of discriminatory practices against indigenous peoples on the grounds of race or ethnicity.

## **3. General Act on the Linguistic Rights of Indigenous Peoples**

135. On 13 March 2003, the *Diario Oficial* published a decree promulgating the General Act on the Linguistic Rights of Indigenous Peoples and amending article 7, section IV, of the General Education Act.<sup>34</sup> This Act proclaims that all Mexico's indigenous languages are national languages and amends a provision of the General Education Act that makes Spanish the sole language to be used in schools. The purpose of the Act is to ensure the recognition and protection of the individual and collective linguistic rights of indigenous peoples and communities and to promote the use and development of indigenous languages. It also paves the way for the establishment of a national institute of indigenous languages, which will be responsible for studying, promoting and expanding the use of indigenous languages.

## **4. Reforms to recognize traditions and customs in criminal and civil proceedings involving indigenous peoples**

136. On 18 December 2002, the *Diario Oficial* published amendments and additions to various articles of the Federal Code of Civil Procedure and the Federal Code of Criminal Procedure.<sup>35</sup> Under both codes, courts are now required to take account of indigenous traditions and customs and to respect self-identification by indigenous people involved in trials or proceedings; that is, in conformity with the Constitution, to accept as indigenous anyone who claims to be indigenous or who is recognized as such by a community authority (in accordance with the Constitution and ILO Convention No. 169).

137. Notwithstanding the gradual improvements in the recognition of indigenous traditions and customs within the Mexican judicial system, the National Human Rights Survey found that non-recognition of “indigenous courts” persists in a number of States; this situation allows the courts to continue to impose sentences disproportionate to the alleged offences, as in the case of environmental offences or offences against public health.<sup>36</sup>

## **5. States’ legislation on the rights of indigenous peoples**

138. With regard to legislative reforms in the States, the State of Oaxaca has the Indigenous Rights Act,<sup>37</sup> the State of Mexico has the Indigenous Rights and Culture Act<sup>38</sup> and the State of San Luis Potosí has amended its Constitution and adopted legislation on indigenous peoples.<sup>39</sup>

### **E. Administrative and other measures to combat discrimination against indigenous peoples**

#### **Public policy on behalf of indigenous populations**

*Action by the National Commission for the Development of Indigenous Peoples to guarantee social and cultural rights*

139. With the aim of sharply reducing race-based or ethnically motivated inequalities and addressing the problem of discrimination, the National Commission for the Development of Indigenous Peoples is carrying out a series of projects designed to support the economic development of Mexico’s indigenous communities and peoples. These measures have a material and cultural focus, insofar as they attempt to meet the needs of indigenous peoples, taking due account of their aspirations and proposals.

140. The programmes are designed, implemented and evaluated with a view to promoting the economic and social development of indigenous peoples in accordance with the strategies and approaches set forth in the National Development Plan 2001-2006, and including the principle of full respect for cultural diversity and for indigenous forms of social organization and participation.

141. The basic strategy in the National Commission’s policy is financed from the regional funds. The regional funds act as implementing agencies and also as decision makers in operational, technical and financial matters, under the direct responsibility of indigenous producers and representatives of their communities or organizations. They operate as financial institutions whose resources, once recovered, can be recycled by their members. Their basic principles include allocating a minimum of 80 per cent of funding to productive projects, earmarking 30 per cent for women’s projects and requiring that project evaluations be carried out by a specialist external to the fund and the institution.

142. There are currently 246 regional funds operating in 25 States. One of the major achievements of this programme is that it has provided support to 23.5 per cent of Mexico’s total indigenous population, either through fiscal resources or using recovered funds. Moreover, 28 of the regional funds are women’s funds, and it is a matter of operating principle that all funds should be mixed. There are also 14 funds that work with migrants, providing assistance to this particularly vulnerable sector.

143. Investment from regional funds has made it possible to create a productive infrastructure in indigenous regions, including local stores, coffee, pepper, and vanilla plantations, irrigation systems, and livestock, fishery and forestry facilities. Certain indigenous organizations have exported products such as vanilla, pepper and honey to the United States and Europe.

144. A total of 2,160,470,000 pesos have been allocated and 810,900,000 pesos have been reinvested. Funding has been provided for 40,387 productive projects, benefiting a total of 2.5 million indigenous people.

145. The following table summarizes the activities carried out in 2003 to support the infrastructure of indigenous communities.<sup>40</sup>

Type of project	Number of projects
Drinking water	276
Drainage	60
Country roads	132
Highways	51
Electricity	359
Town planning	1
Housing	30
School infrastructure	2
Health centres	2

146. Health is another area which the National Commission for the Development of Indigenous Peoples endeavours to provide support with due regard for the specific needs of the target group. In such cases, account is also taken of indigenous peoples' geographical distribution and their limited resources, as well as their conceptions of health and illness. The aim is to strengthen traditional medicine and to assist indigenous people who are ill and require third-level services but have limited economic means.

147. In this regard, the Commission maintains a relationship of support and cooperation with associations of traditional indigenous doctors, and contributes to the recovery of indigenous patients who require specialized care by referring them to second- and third-level services. The following tables show some of the results.

#### Third-level care

Year	Beneficiaries
2000	9 494
2001	8 484
2002	3 781
2003	

### Traditional medicine

Year	Beneficiaries
2000	4 545
2001	4 784
2002	4 850
2003	3 198

148. One programme of vital importance to indigenous communities is assistance to parents in placing their children in hostels where they receive board and lodging, care and out-of-school activities. The programme takes account of the communities' scattered geographical distribution in order to make it easier for children to attend school.

149. The programme also helps indigenous regions and communities to make up lost ground in terms of education, by promoting children's full development by giving them an opportunity to enrol in primary school and to continue and complete that cycle. There are now 1,082 hostels in 21 States, serving a population of 60,694 children.

150. The following table shows some of the benefits gained from the hostel programme.

Year	No. of hostels	No. of beneficiaries
2000	1 079	59 673
2001	1 081	59 993
2002	1 081	60 494
2003	1 085	60 694

### *The National Human Rights Commission and the protection of the human rights of indigenous peoples*

151. The National Human Rights Commission protects and promotes indigenous peoples' human rights through its Programme for Indigenous Affairs, under which the Commission, notably through its Inspectorate-General No. 4, receives, processes and settles complaints of human rights violations submitted by members of indigenous groups, with the aim of ensuring respect for indigenous peoples and for their languages, cultures, customs and traditions, resources, religious and spiritual practices and their special forms of social organization.

152. It is very important to stress that acts that violate indigenous peoples' human rights may in many cases present elements of discrimination regardless of the precise nature of the violation or of the legal provision violated. In this regard, it is equally important to bear in mind that the introduction of the constitutional principle of non-discrimination and other relevant legal provisions is of rather recent date and does not imply that discrimination against indigenous peoples no longer exists.

153. In order to prevent discrimination against indigenous peoples and communities, particularly with regard to reproductive rights, the National Human Rights Commission issued general recommendation No. 4 on 16 December 2002 in response to administrative practices constituting violations of the human rights of members of indigenous communities with regard to obtaining free and informed consent for the use of family planning methods.<sup>41</sup>

154. In this regard, the National Human Rights Commission found, in the course of processing various complaints, as well as from its many working visits to indigenous communities, that the practices of the staff of public health institutions, at both the State and the Federal levels, in respect of choice of family planning methods, impaired indigenous people's exercise of their right to take a free, responsible and informed decision as to the number and spacing of their children.

155. The National Human Rights Commission recommended that the Federal and State health authorities should set up inter-institutional coordination mechanisms at all levels of government in order to enable users to exercise their human right to freedom of decision and choice under article 4 of the Constitution, and to take the necessary administrative steps to prepare and disseminate information in the languages of the indigenous communities with a view to explaining sexual and reproductive rights.

156. With regard to defenders of the human rights of indigenous peoples, the National Human Rights Commission received 19 complaints under the Journalists and Civil Human Rights Defenders Protection Programme between 2003 and July 2004, for alleged violations of the human rights of members of NGOs concerned with the defence of individual rights; eight of these cases involve organizations dedicated to the defence of indigenous groups.

157. The Programme deals not only with requests submitted directly by civil defenders but also constantly monitors various media publications and keeps a file of newspapers and periodicals on the basis of which it put together 13 preliminary cases for civil defenders, six of whom are members of indigenous organizations who publicly complained that they had been the victims of action of some kind designed to impede their work.

#### **IV. INFORMATION ON THE LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER MEASURES WHICH GIVE EFFECT TO THE PROVISIONS OF ARTICLES 4 AND 5 OF THE CONVENTION CONCERNING INDIGENOUS PEOPLES**

158. In order to meet the requirements of articles 4 and 5 of the Convention, the Government of Mexico made a number of changes to the Constitution: it added a second and third paragraph to article 1; it amended article 2 in its entirety and removed the first paragraph of article 4; and it added a sixth paragraph to article 18 and a last paragraph to article 115, section III. These constitutional reforms dealt mainly with indigenous rights and culture, and included the prohibition of discrimination in the Constitution.

##### **A. Political representation of indigenous peoples**

159. Article 2, section VII, of the Constitution recognizes and guarantees the right of indigenous peoples and communities to self-determination and, consequently, gives them the autonomy to elect, in municipalities with indigenous populations, representatives to town councils.

160. In this regard, the constitutions and laws of the States must recognize and regulate these rights in the municipalities with a view to strengthening participation and political representation in accordance with their traditions and internal norms.

161. With regard to specific cases relating to the restriction of access to political rights, on the day of federal midterm elections in July 2003 the Federal Electoral Institute attempted to register specific data on complaints about discrimination, but did not obtain significant results. That was a first attempt; Federal Electoral Institute itself is currently considering ways of refining instruments with a view to conducting a new measurement in 2006.

162. In September 2003, the Zapatista National Liberation Army announced the establishment of “good governance boards” in regions where there are communities that serve as Zapatista bases - the so-called *caracoles* - with a view to strengthening regional autonomy and creating local administrative bodies that interact with Mexican society and the federal administration.

### **B. Freedom of expression of indigenous peoples**

163. Mexico has a system of radio stations that broadcast programmes on indigenous culture; the system began operating in 1979, with the inauguration of radio station XEZV “The Voice of the Mountain”, in Tlapa de Comonfort, Guerrero. Since then, the system has continued to grow and today has 24 indigenous culture radio stations throughout the country, 4 of which are low-power radio stations run by boys and girls from hostels in Yucatán.

164. According to the National Commission for the Development of Indigenous Peoples, the radio stations transmit on various AM frequencies for an average of 12 continuous hours a day and cover some 928 municipalities, where they can be heard by more than 5 million speakers of indigenous languages who, together with the mestizo population of those municipalities, make for a potential audience of over 22 million listeners.

165. The radio stations that make up the system of indigenous culture radio station strengthen Mexico’s cultural diversity by promoting the use of 31 different indigenous languages. Every day, bilingual speakers deal with community concerns by making announcements for communities and individuals, and broadcasting programmes on various topics, as well as information and promotional capsules relating to different campaigns.

## **V. INFORMATION ON THE LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER MEASURES WHICH GIVE EFFECT TO THE PROVISIONS OF ARTICLE 6 OF THE CONVENTION CONCERNING INDIGENOUS PEOPLES**

166. According to the National Human Rights Study, indigenous peoples who claim to be victims of discrimination, ill-treatment or abuse tend to be more vulnerable in the area of access to, and the administration of, justice.<sup>42</sup>

167. Proceedings involving indigenous people are often plagued by irregularities, not only because of a lack of competent interpreters and defenders but also because the Procurator’s Office and judges are usually unaware of indigenous customs. Sometimes the sentences that are

handed down are out of all proportion with the alleged offences, as happens in cases relating to environmental crimes or crimes against health or against federal laws concerning arms or telecommunications.

168. Against this background of irregularities and abuses, the Office of the Attorney-General established, on 24 July 2003, a special unit to deal with indigenous affairs attached to the Office of the Deputy Human Rights Procurator, Treatment of Victims and Community Services.

169. The unit deals with indigenous persons who have been convicted of federal offences and who have been sent to Mexico's social rehabilitation centres. For this reason, the unit has an ongoing programme of visits to assess the legal situation of each of the interned indigenous persons and to provide them with advice and personalized legal information with a view to resolving their cases.

170. The programme of visits has made possible the early release of indigenous persons who meet the requirements established by law; in particular, the release of persons with health problems and elderly persons is often obtained by pointing out that it is legally or physically impossible for such persons to complete their sentences.

171. On 18 December 2002, the Federal Code of Criminal Procedure was amended and supplemented. The Code provides that, when persons belonging to indigenous peoples or communities are among the accused, they must be assisted by defenders who are completely familiar with their language and culture, on the assumption that an ex officio defender will be appointed.<sup>43</sup>

172. According to the annual report of the Federal Institute of the Public Defender,<sup>44</sup> 255 requests for early release or relocation were processed, benefiting 134 indigenous prisoners. Moreover, a national census was conducted, which made it possible to find 82 lawyers who met the requirements indicated in the legal reform. The Council of the Federal Judiciary was requested to authorize financial resources to appoint persons familiar with indigenous languages and cultures as interim federal public defenders, particularly in the States of Oaxaca, Guerrero, Chiapas and Yucatán.

173. The Council of the Federal Judiciary agreed to draw up a list of potential public defenders to assist persons who do not have a sufficient knowledge of Spanish; such defenders could be remunerated through the payment of professional honorariums, giving priority to the frequency of the language or dialect involved. Instructions have been issued regarding interviews and proof that the lawyers included in the census speak an indigenous language and are familiar with the culture. In February 2003, a list of 49 lawyers accredited in an indigenous language and culture was drawn up.

174. Moreover, with a view to training professionals to become defenders of indigenous peoples and communities, the Institute is carrying out activities with the International Relations Unit of the Council and the Legal Department of the Federal Executive, making use of the Agreement on the Strengthening and Modernization of the Administration of Justice in Mexico, within the framework of bilateral cooperation between the European Community and Mexico.



175. Such activities include the training of law students at universities that have concluded agreements with the Institute, such as the National Autonomous University of Mexico, under the auspices of the European Union and the Council, in order to enable such students to serve as public defenders in cases involving indigenous persons.

176. With regard to the Committee's observations concerning indicators that show how indigenous persons are tried, any information produced by the Integrated System for Case Follow-up of the Federal Judiciary, which is responsible for administering justice in Mexico and, consequently, handing down sentences autonomously, will be provided to the Committee.

177. According to the Supreme Court of Justice, in October 2003, there were 6,270 indigenous persons in Mexican prisons, including persons held for trial and convicted persons. Of that number, 5,112 cases were handled by the ordinary courts and 1,158 by the federal courts. It should be pointed out that 5,946 (95 per cent) of the aforementioned persons were men and 324 were women. With regard to their legal status, 1,788 (28.52 per cent) accused persons were tried in the ordinary courts; 3,324 (53 per cent) persons were convicted by the ordinary courts; 266 (4.24 per cent) accused persons were tried in the federal courts, and 892 (14.23 per cent) persons were convicted by the federal courts.

178. On 2 March 2001, the National Commission for the Development of Indigenous Peoples, the National Human Rights Commission, the Ministry of Public Security, the Office of the Government Procurator and the Federal Institute of the Public Defender signed the Agreement on Access to and the Administration of Justice, which set in motion measures for the release of incarcerated persons; such measures have benefited many indigenous prisoners in such States as Oaxaca, Chiapas and Guerrero. These programmes are promoted with a view to obtaining the release of prisoners through measures that include an assessment of the detainee's prison situation and even the provision of bail, depending on the detainee's situation. The contributions come from private institutions, such as the Telmex Foundation, which on the same day signed a cooperation agreement with the Commission for the release of indigenous prisoners.

179. The National Human Rights Commission carries out activities to promote and protect the rights of indigenous persons in prison; such activities include the early release of indigenous prisoners at the national level before the competent authorities in cases that are conducted in conformity with the law. To this end, and with the support of the various prevention and social rehabilitation directorates of the States, the Federal District, the federal penal colony of the Marías Islands, and the decentralized administrative body for prevention and social rehabilitation of the Ministry of Public Security, an updated register is kept of the legal situation of indigenous persons deprived of their liberty in Mexico's various social rehabilitation centres and municipal prisons, both those under ordinary jurisdiction and those under federal jurisdiction.

180. As a result of the proposals put forward by the National Human Rights Commission to the federal executive and the executive authorities of ordinary jurisdiction of various States, indigenous persons imprisoned for ordinary and federal offences were released, as may be seen in the following table.

Year	Persons released
1 January to 15 November 1999	924
16 November 1999 to 15 November 2000	422
16 November 2000 to 31 December 2001	922
2002	1 206
2003	688

181. The National Commission for the Development of Indigenous Peoples offers the assistance of interpreters of indigenous languages. Interpreters provide assistance in all trials and proceedings and at any stage of judicial proceedings (from detention to sentencing). However, such assistance is provided mainly when statements to the public prosecutor and the accused's statements are taken. In this regard, services were provided to the competent bodies as follows: in 1998, assistance was provided by 574 interpreters; in 1999, by 308; in 2000, by 601; in 2001, by 247; in 2002, by 389; and in 2003, by 287.

182. With regard to the right to have judges consider the special cultural characteristics of indigenous persons (established in article 2 of the Constitution), progress has been rather slow because, in principle, this guarantee should be upheld by the defender.

183. In such cases, defenders can solicit the assistance of practical experts (community authorities) or official experts (mainly from the National Commission for the Development of Indigenous Peoples). In this regard, the Commission has provided expert services in the area of anthropology since 1993 and every year carries out an average of 30 studies of this type.

## **VI. INFORMATION ON THE LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER MEASURES WHICH GIVE EFFECT TO THE PROVISIONS OF ARTICLE 7 OF THE CONVENTION CONCERNING INDIGENOUS PEOPLES**

### **A. Measures taken by the National Commission for the Development of Indigenous Peoples to strengthen a culture of non-discrimination**

184. The National Commission for the Development of Indigenous Peoples has a programme of scholarships for students at the professional level. To date, the Commission has supported a total of 1,620 persons, and also 18 students specializing in music and 7 students in linguistic careers.

185. The National Commission for the Development of Indigenous Peoples also implements a programme for transferring resources to indigenous communities in order to support cultural activities. The programme is entitled "Funds for indigenous culture" and supports community and regional measures to revive, defend, strengthen, promote and disseminate the cultural heritage of indigenous peoples. Over the past six years, the Commission - and, previously, the National Institute for Indigenous Affairs - has supported 6,248 projects in 24 States.

186. Human rights are taught in courses for civil servants. In this regard, the National Commission for the Development of Indigenous Peoples has organized workshops with ex officio defenders, defenders from the federal judiciary and others who have an impact on the knowledge of indigenous rights.

187. Training programmes for groups in vulnerable situations have included human rights courses for indigenous peoples, women, children, the elderly, disabled persons, persons with HIV/AIDS, persons in prison and migrant populations.

188. Between 1977 and 2003, 150 publications were issued to disseminate information on the state of development and the conditions of indigenous peoples in Mexico, including five volumes of the collection entitled *Historia de los Pueblos Indígenas en México* (History of Mexico's Indigenous Peoples); six texts on literature for boys and girls; two books on socio-economic indicators; five books on indigenous languages; four books on indigenous rights; five social anthropology texts; and other titles on various subjects.

189. With a view to supporting, promoting, preserving and developing indigenous peoples' cultural manifestations, as well as increasing knowledge of Mexico's cultural diversity, since 1997 until the present, the National Commission for the Development of Indigenous Peoples has held a total of 455 events at the national level, including events devoted to:

- Boys and girls living in cities;
- Women;
- Young indigenous persons;
- The dissemination of indigenous languages;
- The dissemination of publications;
- The promotion of studies on the current situation of indigenous peoples;
- The popularization of traditional medicine; and
- The dissemination of cultural values.

**B. Measures taken by the Ministry of Public Education to  
strengthen a culture of non-discrimination**

190. The objective of the Comprehensive Programme for Instruction in Civics and Ethics in Primary Education is to provide pupils with a solid grounding in civics and ethics in order to provide them with a school environment conducive to the development of their human potential and their acquisition of life skills. It also seeks to ensure that, in their interaction with other persons, girls and boys conduct themselves in accordance with the principles and procedures of democracy and recognize and defend their human rights.

191. The Programme for Strengthening Special Education and Integration in Education is the Federal Government's answer to citizens' requests and proposals in the area of special education, and establishes procedures to be followed in order to strengthen a culture of integration of persons with disabilities and to ensure that they have the same opportunities to lead a life of dignity. The objective of the Programme is to guarantee quality education for girls, boys and young people with special educational needs, giving priority to children and young people with disabilities, by strengthening the process of educational integration and of special education services.

192. In the 1960s, the Ministry of Public Education began an indigenous education programme in official primary schools, prepared teaching programmes whose content and methods are suitable for indigenous cultures and prepared primers in most of the indigenous languages.

193. However, the training of bilingual teachers has not been sufficient; for this reason, the Ministry of Public Education, through the General Directorate for Indigenous Education, is promoting the development of intercultural bilingual education in order to meet the educational needs of indigenous boys, girls and young people.

194. Intercultural bilingual education incorporates science and technology and teaching resources with a view to ensuring that pupils meet national objectives for basic education and achieve an effective level of oral and written bilingualism. The programme seeks to adapt academic norms to the needs and characteristics of cultural and linguistic diversity in order to encourage pupils to appreciate their own culture and to develop the educational curriculum in its entirety.

195. This approach has led to the development of three programmes that express the Government's response and commitment to reducing the inequalities and problems that exist in indigenous education:

1. *Programme to Strengthen Intercultural Bilingual Education.* The Programme carries out research, puts forward proposals in the areas of methodology, training, and the development of educational materials that ensure that pupils learn to read and write both in the indigenous language and in Spanish. It also seeks to develop educational materials to promote educational practices that meet the basic learning needs of indigenous children.
2. *Programme for the Training and Professional Development of Teachers and Directors of Intercultural Bilingual Education.* The Programme includes the basic and professional training of bilingual teachers and directors as an integrated, systematic and ongoing process that seeks to provide continuity, progression, training, remedial education and professional self-improvement in the initial in-service training of teachers, with a view to strengthening teacher training in the workplace and promoting a collegial working environment for teaching staff, and creating conditions for pedagogical exchanges between directors and teachers specializing in intercultural bilingual education.

3. *Programme to Strengthen Schools that Provide Intercultural Bilingual Education.* The objective of this Programme is, inter alia, to ensure the adequate operation of schools for indigenous peoples and to provide them with a sufficient infrastructure and quality equipment, and ensure the effective use of school time. It also seeks to improve the learning of the national basic curriculum, of oral and written bilingualism, and knowledge and appreciation of one's culture.

196. With a view to improving and developing infrastructure for indigenous higher education, various public<sup>45</sup> and private<sup>46</sup> universities have been established, and the following projects have been developed:

- Quintana Roo University, which will be located in Puerto Felipe Carrillo de Quintana Roo;
- Intercultural University of Mexiquito, which will be located in Tacotalpa, Tabasco;
- Intercultural University of Guerrero, which will be located in the municipality of San Luis Acatlán, Guerrero;
- University of Ethnic Groups, which will be located in Zacatlán, Puebla;
- Indigenous University of Michoacán, which will be located in Pátzcuaro Michoacán;
- Intercultural University of Chiapas, which will be located in San Cristóbal Las Casas;
- Tarahumara University, which will be located in Guachochí, Chihuahua.

197. In August 2003, the establishment of the National Institute of Indigenous Languages was approved. The purpose of the Institute is to regulate the necessary public policies and formulate strategies and instruments to encourage the knowledge of indigenous languages that are still spoken in the national territory. The programme of the Institute is currently being discussed with a view to approving the necessary budget allocations.

**C. Measures taken by the Federal Institute of the Public Defender  
to strengthen a culture of non-discrimination**

198. Through the Department for the Promotion of a Culture of Human Rights, the Handling of Complaints and Inspection, workshops in human rights and indigenous rights were conducted in the States of Chiapas, Querétaro, Oaxaca and Yucatán for staff of the Public Prosecutor's Office, federal investigation agents, and experts.

**D. Measures taken by the National Human Rights Commission  
to strengthen a culture of non-discrimination**

199. With a view to strengthening a culture of non-discrimination, the National Human Rights Commission has prepared various free publications.<sup>47</sup>

200. For example, in 2004 the National Human Rights Commission published the book *Principales instrumentos internacionales sobre discriminación y racismo* (Principal international instruments dealing with discrimination and racism) with a view to disseminating in Mexican society a knowledge of the treaties and declarations on those subjects.

201. The publications were distributed to approximately 10,000 recipients, including institutions for the promotion and protection of human rights; non-governmental organizations; Federal, State and decentralized government institutions; international organizations with offices in Mexico; the diplomatic corps accredited in Mexico; and higher secondary-level and higher educational institutions.

202. In order to ensure the observance of the right to education and to avoid discriminatory treatment, in 2003 the National Human Rights Commission issued general recommendation No. 5 in response to the 1,110 complaints that it received between June 1991 and March 2003. In the complaints, the aggrieved parties are children who profess the religion of Jehovah's Witnesses; the parents of such children complain about the sanctions imposed on their children for refusing to participate in civic ceremonies, and the education authorities' violation of the right to education of children who profess that religion.

203. With regard to the dissemination of human rights, in 2003 the National Human Rights Commission held 37 courses, conferences, lectures and modules in various academic centres and government and non-governmental institutions. Eight courses dealt with reproductive health in indigenous communities, in compliance with the Commission's general recommendation No. 4.

204. As a result of the studies and research carried out by the National Human Rights Commission, and with a view to promoting and strengthening a culture of human rights among governmental and non-governmental and national and international organizations, the Government disseminated information on the human rights of indigenous Mexicans. The following materials were distributed: *Discriminación a los pueblos indígenas* (Discrimination against indigenous peoples); *Derechos humanos de los indígenas* (Human rights of indigenous peoples); *Los derechos de los pueblos indígenas* (The rights of indigenous peoples; fascicle 1 of the series of lectures and round tables 2000, prevention of violence, protection of vulnerable groups, and human rights).

205. Similarly, bearing in mind the gender perspective and the principle of multiculturalism, the National Human Rights Commission held workshops on the human rights of Indian peoples and the human rights of indigenous women, taking into account their specific status as indigenous migrant women and indigenous women prisoners, and the particular ways in which they deal with the phenomena of gender violence, discrimination and access to justice. The Commission also held courses and workshops on indigenous children in conflict with the law. The courses and workshops were attended by staff of the criminal justice and prison system, by members of human rights institutions and by women and children whose rights had been violated. Some of the courses and workshops were held in Chiapas, the State of México,

Hidalgo, Oaxaca and Puebla in coordination with the National Institute for Indigenous Affairs (currently the National Commission for the Development of Indigenous Peoples), State human rights commissions, State Governments, the Mexican Academy of Human Rights, and Amnesty International.

206. With regard to non-discrimination against persons with disabilities, in 2003 the National Human Rights Commission began the campaign entitled *Nos unimos por el respeto a las personas con discapacidad* (United in respect for persons with disabilities), in coordination with the Embassy of Switzerland in Mexico. The campaign included the publication of four booklets and a poster dealing with persons with disabilities, which were distributed among approximately 3,500 persons. As part of the campaign, the seminar entitled “United in respect for persons with disabilities” was held on 24 November 2003. The main objective of the seminar was to demonstrate the importance of observing the rights of persons with disabilities by refraining from discrimination.

207. The following materials were also presented: Uniform rules on equal opportunities for persons with disabilities; the right of disabled persons to work: International Labour Organization Convention No. 159 concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983; discrimination against disabled persons: Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities; and *Nos unimos por el respeto a las personas con discapacidad*.

208. Also in 2003, as part of measures to combat discrimination against persons with HIV/AIDS, the second competition entitled “Images of life: Children and young people in a world with HIV/AIDS” was held with a view to raising the population’s awareness of the human rights of persons affected by this disease. As a result of this competition, the winning entries were printed as four posters for the campaign *Nos unimos por el respeto a las personas que viven o se ven afectadas por el VIH/SIDA* (United in respect for persons living with or affected by HIV/AIDS).

209. The competition included the participation of the Joint United Nations Programme on HIV/AIDS (UNAIDS Thematic Group in Mexico); the United Nations Children’s Fund (UNICEF); the National Centre for the Prevention and Control of HIV/AIDS and Sexually Transmitted Diseases (CENSIDA) and Merck Sharp & Dhome Pharmaceuticals Mexico.

210. It should be pointed out that, at the request of the Papalote Children’s Museum, 52 of the works that were entered in the competition were exhibited from February to April 2004 to inform visitors to the museum about HIV/AIDS and non-discrimination.

211. With a view to demonstrating the importance of including older persons in the development of society, in 2003 the Second National Photography Contest, entitled “Echos of Youth: The Human Rights of Older Persons”. As a result, a 2004 calendar and diary were published. The competition was co-sponsored by the National Human Rights Commission, the United Nations Population Fund and the National Institute of Older Persons.

212. In 2004, the Commission published a three-page leaflet entitled *Nos unimos por el respeto a la diversidad* (United in respect for diversity), which was published in the Tzeltal, Nahuatl, Otomí, Mixteco, Zapoteco and Mayan languages in order to disseminate it among the various indigenous peoples. This activity was carried out under the auspices of the Office of the United Nations High Commissioner for Human Rights, which approved a cooperation project with the National Human Rights Commission through a donation of US\$ 7,550 for the reprint of 50,000 copies of the leaflet and 12,000 copies of the leaflet.

213. In the town of Mérida, Yucatán, the international workshop entitled “Indigenous women between violence and discrimination” was held on 4 and 5 March 2004. The workshop was organized by the National Human Rights Commission in its capacity as temporary secretariat for the network of national institutions for the promotion and protection of human rights for the American continent. Experts from the United Nations, national institutions, members of the Mexican Federation of Public Human Rights Organizations, representatives of indigenous peoples and special guests participated in the workshop.

## **VII. INFORMATION ON THE LEGISLATIVE, JUDICIAL, ADMINISTRATIVE OR OTHER MEASURES WHICH GIVE EFFECT TO THE PROVISIONS OF ARTICLE 14 OF THE CONVENTION**

214. With regard to the Mexican Government’s support for the eleventh periodic report and the Committee’s concluding observations to the effect that, in 1997, Mexico had not yet made the declaration recognizing the competence of the Committee on the Elimination of Racial Discrimination established pursuant to the International Convention on the Elimination of All Forms of Racial Discrimination, provided for in article 14 of the Convention, to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of the rights set forth in the Convention, the Government of Mexico wishes to state that it made the aforementioned declaration on 15 March 2002.

## **VIII. CONCLUSIONS**

215. As can be seen from this report, Mexico has taken important and decisive steps to eliminate discrimination. However, Mexico acknowledges that racism, racial discrimination, xenophobia and related intolerance continue to exist at all levels of Mexican society.

216. In Mexico, efforts to combat discrimination are given the highest priority, and the Government of Mexico has sought to create an appropriate legal framework and competent bodies to prevent and punish the acts of discrimination that persist in Mexico.

217. All types of discrimination constitute a violation of the dignity of the person and a serious violation of his or her human rights. It is therefore necessary to redouble efforts in the area of education, which is a basic tool for eliminating racism, racial discrimination and xenophobia.



218. Human rights education is the most effective way of preventing the transmission, from generation to generation, of racist and discriminatory practices. Moreover, human rights education promotes the development of a culture of tolerance in a world that is made up of multi-ethnic societies.

219. The Government of Mexico is aware that all human rights are based on the principles of equality before the law and non-discrimination. Any assertion to the contrary is incompatible with the democratic principles that should govern the conduct of States.

220. Without respect for the basic principle of equality, it is impossible to lay the foundations for the exercise of other human rights, since their exercise is related to the elimination of unfavourable and discriminatory conditions. For this reason, through its submission of the present report, the Government of Mexico ratifies its commitment to eliminate discriminatory practices in order to enable all persons in Mexico to have equal opportunities and equal chances for development.

### Notes

<sup>1</sup> The amendment shall enter into force when it has been accepted by a two-thirds majority of the 165 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination.

<sup>2</sup> See annex I.

<sup>3</sup> The recognition of social rights was added to these individual guarantees.

<sup>4</sup> See annex II.

<sup>5</sup> See annex III.

<sup>6</sup> Article 206. A prison sentence of between one and three years and between 50 and 200 day-fine units shall be handed down to any person who, on grounds of age, sex, pregnancy, civil status, race, ethnic origin, language, religion, beliefs, sexual orientation, skin colour, nationality, social origin or position, occupation or profession, economic situation, physical characteristics, disability or state of health:

- I. Provokes or incites hatred or violence;
- II. Ill-treats or excludes any person or group of persons; or
- III. Denies or restricts labour rights.

If a public employee refuses or delays a transaction or service to which a person has a right, the penalty for which the first paragraph of this article provides shall be increased by half, and he or she shall be removed from and made ineligible for any public post, employment or commission for the duration of the deprivation of liberty to which he or she is sentenced.

This offence shall be criminally prosecuted.

<sup>7</sup> See annex IV.

<sup>8</sup> In view of the importance of this question for Mexico, and because of the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 1 July 2003, the Subcommission on the Rights of Migrants was established. Although it was formally established on 14 July 2004, the Subcommission began its preliminary work in April of that year and achieved a consensus between departments and civil society organizations on a detailed agenda. The Subcommission will be responsible for laying the groundwork and establishing guidelines for ensuring the development of a migration policy based on a consolidated approach to human rights, with special emphasis on the situation of migrant women, children and adolescents.

<sup>9</sup> See <http://www.sre.gob.mx/substg/derechoshumanos/copecon.htm>.

<sup>10</sup> See <http://www.presidencia.gob.mx/actividades/index.php?contenido=8014>.

<sup>11</sup> See [http://www.cinu.org.mx/prensa/especiales/2003/dh\\_2003/](http://www.cinu.org.mx/prensa/especiales/2003/dh_2003/).

<sup>12</sup> See Study, p. 173.

<sup>13</sup> See [http://www.corteidh.or.cr/serieapdf/seriea\\_18\\_esp.pdf](http://www.corteidh.or.cr/serieapdf/seriea_18_esp.pdf).

<sup>14</sup> See <http://www.icj-cij.org/icjwww/idocket/imus/imusframe.htm>.

<sup>15</sup> On 4 March 2003, Mexico deposited with the United Nations Secretariat the instruments of ratification of the United Nations Convention against Transnational Organized Crime, which entered into force on 28 September 2003, and its two additional Protocols on the smuggling of migrants and the prevention and punishment of trafficking in persons, especially women and children.

<sup>16</sup> See Study, p. 172.

<sup>17</sup> See <http://www.sedesol.gob.mx/programas/jornaleros.htm>.

<sup>18</sup> See [http://www.inegi.gob.mx/prod\\_serv/contenidos/espanol/bvinegi/ene/ene00.pdf?](http://www.inegi.gob.mx/prod_serv/contenidos/espanol/bvinegi/ene/ene00.pdf?), p. 52.

<sup>19</sup> General Education Act, chapter III (Equity in education) article 32. The education authorities shall take measures to provide conditions that permit the full exercise of each individual's right to education, greater equity in education, and equal opportunities of access to and time spent in the education system.

These measures shall preferentially be addressed to those groups and regions that are most backward in education or which are faced with disadvantageous economic and social conditions.

<sup>20</sup> See <http://portal.sre.gob.mx/ime/pdf/FoxVoto.pdf>.

<sup>21</sup> See Analysis, p. 173.

<sup>22</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, A/31/18 and Corr.1 (1976), paras. 317 and 361.

<sup>23</sup> See below, paras. 108 ff., for details of the Commission's functions.

<sup>24</sup> More precise and detailed results obtained from the 2000 census, together with an explanation of the methodology applied, may be found in the *Indicadores Socioeconómicos de los Pueblos Indígenas de México 2002*, published by the National Institute for Indigenous Affairs (now the National Commission for the Development of Indigenous Peoples).

<sup>25</sup> National Programme for the Development of Indigenous Peoples, INI-SEDESOL, 2002, p. 25.

<sup>26</sup> Amuzgo, Chatino, Chichimeca, Chinanteco, Chocholteca, Chontal de Oaxaca, Chontal de Tabasco, Chol, Cora, Cuicateco, Guarijío, Huasteco, Huave Mero, Huichol, Jacalteco, Kikapú, Kiliwa, Kumiai, Lacandón, Mame, Matlatzinca, Motozintleco, Mayo, Mazahua, Mazateco, Mexicanero, Mixe, Mixteco, Mochó, Nahua, Ocuilteco, Otomí, Paipai, Pame, Pápago, Pima, Purépecha, Seri, Tarahumara, Tarasco, Tepehua, Northern Tepehuán, Southern Tepehuán, Tlapaneco, Tojolobal, Totonaco, Triqui, Tzeltal, Tzotzil, Yaqui, Zapoteco and Zoque.

<sup>27</sup> See <http://indigenas.presidencia.gob.mx/programa/?template=descarga.inc.html>.

<sup>28</sup> See Survey, p. 154.

<sup>29</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, A/31/18 and Corr.1 (1976), para. 363.

<sup>30</sup> Constitution, art. 27.

<sup>31</sup> Former article 2 of the Constitution, which prohibited slavery, became article 1, paragraph 2.

<sup>32</sup> The previous text of article 4, paragraph 1, of the Constitution, which was revoked by the Decree of 14 August 2001, read as follows:

“The Mexican nation is multicultural in its composition, originally formed by its indigenous peoples. The law shall protect and promote the development of their languages, cultures, practices, customs, resources and specific forms of social organization, and shall guarantee their members effective access to the jurisdiction of the State. In agrarian proceedings and litigation to which they are party, their legal customs and practices shall be taken into account in the terms established by the law.”

<sup>33</sup> See annex V.

<sup>34</sup> See annex VI.

<sup>35</sup> See annex VII.

<sup>36</sup> See Survey, p. 155.

<sup>37</sup> See annex VIII.

<sup>38</sup> See annex IX.

<sup>39</sup> See annexes X and XI.

<sup>40</sup> National Programme for the Development of Indigenous Peoples, p. 80.

<sup>41</sup> See annex XII.

<sup>42</sup> See Study, p. 155.

<sup>43</sup> Article 15 of the Federal Code of Criminal Procedure.

<sup>44</sup> See <http://www.ijf.cjf.gob.mx/docs/2003/informe2003.pdf>.

<sup>45</sup> The following institutions are currently in operation: the Intercultural University of the State of Mexico in San Felipe del Progreso, Mexico State, which opened in September 2004; the Mochicahui Autonomous Indigenous University of Mexico, in the municipality of Mochicahui, El Fuerte, Sinaloa, established in May 1999 with about 2,000 students; and the Community University, with three campuses in San Luis Potosí (Tamazunchale, Tancanwitz and Tamuin), established in 1999 on the initiative of the State Government.

<sup>46</sup> The Study Centre for Rural Development in Zautla, Puebla, for the training of indigenous professionals for rural and community development, which has been in operation for 18 years; the University Centre of Totonacapan in Papantla, Veracruz, which opened in 2000, is operated as a non-governmental organization, providing instruction at the technical and professional levels; and the Rural Higher Education Centre of Estipac, Jalisco, established 23 years ago in order to promote the training of bilingual teachers to provide basic education to pupils in the village of Huichol.

<sup>47</sup> See annex XIII.

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