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Совет по правам человека

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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав, включая
право на развитие**

Доклад Специального докладчика по вопросу о праве на образование г-на Вернера Муньоса*

Добавление

Миссия в Мексику**

(8–18 февраля 2010 года)

Резюме

Специальный докладчик по вопросу о праве на образование г-н Вернер Муньос Вильялобос посетил Мексику 8–18 февраля 2010 года. В ходе этой миссии Специальный докладчик изучил состояние права на образование, принимая во внимание различные его виды и уровни, а именно: дошкольное, начальное, среднее, среднее специальное и высшее образование.

В настоящем докладе Специальный докладчик анализирует основные характерные особенности мексиканской системы очного и заочного образования в плане его организации, охвата, объема государственных расходов, субсидий и последних реформ системы образования, проведенных ныне действующим федеральным правительством.

* Настоящий документ представляется с опозданием в связи с необходимостью включить в него обновленную информацию.

** Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен, и на английском языке.

Кроме того, Специальный докладчик имел возможность обстоятельно изучить реализуемые правительством инициативы, призванные решить проблемы, с которыми сталкивается система образования, особенно в том, что касается качества образования, образования для коренных народов, межкультурного образования, образования мигрантов и детей из числа поденных работников, а также инклюзивного образования.

Наконец, Специальный докладчик считает необходимым добиваться национального консенсуса по вопросам образования, не ограничивая предпринимаемые усилия лишь сменой руководящего звена и обеспечивая привлечение к соответствующей деятельности различных субъектов гражданского общества, включая родителей, представителей научных кругов, организации гражданского общества, учащихся, педагогов и преподавателей, а также власти федерального уровня и уровня штатов.

Annex

Report of the Special Rapporteur on the right to education

Mission to Mexico (8 to 18 February 2010)

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I. Introduction

1. The Special Rapporteur on the right to education, Vernor Muñoz Villalobos, made an official visit to Mexico from 8 to 18 February 2010. He went to the cities of México D.F., Tapachula, Oxchuc, San Cristóbal de las Casas and Tijuana in the states of Chiapas, Monterrey, Nuevo León, and Baja California. The Special Rapporteur had the honour to be received by the education ministries of the Federation and of the states visited, as well as by the Governor of Nuevo León, the President of the National Commission on Human Rights (CNDH), the Director of the National Adult Education Institute (INEA), the Director of the National System for Integral Development of the Family (SNDIF), the Director of the National Council for the Promotion of Education (CONAFE) and representatives of other national, state and municipal authorities.

2. In the course of more than 75 separate meetings the Special Rapporteur talked with over 1,000 representatives of civil society, including indigenous leaders, teachers, students, parents, academics, alternative teaching organizations, and institutions of the United Nations system in Mexico. He was able to visit basic education and upper secondary schools, as well as universities and research centres, such as the National Independent University of Mexico (UNAM), the National Polytechnic Institute (IPN), the Latin American Social Sciences Faculty (FLASCO), the College of Mexico, the Independent University of Nuevo León (UANL), the College of the Northern Frontier (COLEF) and the Chiapas Intercultural University in San Cristóbal de las Casas. The Special Rapporteur wishes to offer his thanks to the Government for according him the opportunity to meet with all the authorities of relevance to his mandate and to the civil society organizations which provided him with valuable information.

II. The right to education: principles, rules and standards

A. International legal framework

3. The United Mexican States is a party to international human rights instruments, including: the International Covenant on Civil and Political Rights (acceded in 1981); the International Covenant on Economic, Social and Cultural Rights (1981); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1986); the International Convention on the Elimination of All Forms of Racial Discrimination (1975); the Convention on the Elimination of All Forms of Discrimination against Women (1981); the Convention on the Rights of the Child (1990); the Convention on the Rights of Persons with Disabilities (2007); the Protocol on the Smuggling of Migrants by Land, Sea or Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children additional to the United Nations Convention against Transnational Organized Crime (2003); and the Indigenous and Tribal Peoples Convention of the International Labour Organization (No. 169 of 1989) (ratified in 1990). All these instruments contain specific provisions on education and commit States to adopt all necessary measures to protect, respect and facilitate the exercise of the right to education of all persons in their territories without any discrimination whatsoever.

B. Domestic legal framework and federal and state policies

4. Mexico's two principal legal instruments regulating education are the Constitution of the United Mexican States of 1917 and the General Education Act (*Diario Oficial de la Federación* (DOF) of 13 July 1993).

5. Article 3 of the Constitution provides that education is a right of every individual. The State, including the Federation, the federal entities, the Federal District and the municipalities, are required to provide preschool, primary and secondary education, the components of compulsory basic education in Mexico.

6. The Mexican State has adopted the necessary legislative and regulatory measures for creating an education system which seeks to guarantee the exercise of the right to education. In general terms, the regulatory framework is governed by the articles of the Constitution which refer to educational matters and by the General Education Act.

7. The Constitution provides at the outset that "every person has the right to receive education" and stipulates that the State shall provide compulsory basic education consisting of preschool, primary and secondary education. This education must be "secular" and "free" when provided by the State. The Constitution goes on to state that "the guiding principle of this education shall be based on the achievements of scientific progress, shall fight ignorance and its effects, servitude, fanaticism and prejudice": a "democratic" and "national" principle.¹ The authorities are required to improve literacy levels among the indigenous peoples and communities in order to overcome their deficits and backwardness, as well as promoting bilingual and intercultural education, the completion of basic education, industrial training, and upper secondary and higher education.² To this end the Constitution provides that the authorities shall "formulate and carry out education programmes with a regional content which recognize the cultural heritage of [Mexico's] peoples, in accordance with the relevant legislation and in consultation with the indigenous communities".³

8. The General Education Act, adopted in 1993 and amended in 2009, "regulates the education provided by the State: by the Federation, the federal entities and the municipalities, their decentralized bodies, and individuals officially authorized or recognized as qualified to teach. It is binding throughout the Republic, and its provisions are provisions of public policy and social benefit".⁴ The Act states as fundamental principles that education is a right inherent in the human person⁵ and an obligation of the State⁶ and of Mexicans, who must ensure that their minor children and wards attend preschool, primary and secondary education establishments.⁷ The Act provides inter alia that the education provided shall be designed "to contribute to the comprehensive development of individuals to enable them to exercise their human capacities to the full", as well as "to strengthen the awareness of nationality and sovereignty" and "to promote through education a knowledge of the Nation's linguistic plurality and respect for the linguistic rights of the indigenous peoples".⁸

¹ Constitution of the United Mexican States, art. 3.

² Ibid., art. 2.B.

³ Ibid., art. 2.B.II.

⁴ General Education Act (DOF of 22 June 2009, originally published on 13 July 1993), art. 1.

⁵ Ibid., art. 2.

⁶ Ibid., art. 3.

⁷ Ibid., arts. 4 and 66.I. (This obligation also appears in article 31 of the Constitution.)

⁸ Ibid., art. 7.

9. Similarly, the federal education authority has exclusive competence to determine for the whole Republic the curricula and programmes for preschool, primary and secondary education, teacher training and the other forms of training for basic education teachers, to produce free textbooks and keep them up to date, and to regulate a national system for the education, training and further training of basic education and other teachers and for upgrading their qualifications.⁹

10. Where funding is concerned, the Act provides that the annual amount which the State (Federation, federal entities and municipalities) allocates for spending on public education and the education services must be not less than 8 per cent of the country's gross domestic product (GDP), and that, within this amount, at least 1 per cent of GDP must be allocated to scientific research and technological development in the public institutes of higher education. The Federal Executive and the government of each federal entity are required, subject to the applicable provisions on revenue and public spending, to contribute to the funding of public education and the education services.¹⁰

11. With regard to the Federal District, the General Education Act provides that the powers to regulate initial, basic (including indigenous) and special education assigned to local education authorities in their respective jurisdictions by article 11 (Application and scope of the Act), article 13 (Exclusive competence of local authorities) and article 14 (Shared competence of federal and local education authorities), as well as by other provisions of the Act, shall be vested in the government of the Federal District and any bodies which it may establish. The Federal District has its own legislation: the Federal District Education Act, published in the *Gaceta Oficial del Distrito Federal* on 8 June 2008. This Act requires the local government and the Federal District Education Council to collaborate with the Federal Executive to verify that the resources allocated to education are used properly.¹¹ The government of the Federal District has to work together with the federal authorities to improve the public institutions of higher education.¹² The Federal District Education Secretariat, in turn, is required to keep these institutions under review, without encroaching on their jurisdictions, in order to solve any problems which may arise and attend to the needs of Mexico City.¹³

12. The State of Chiapas has had its own education legislation since 1981.¹⁴ The purpose of this legislation is "to regulate the education provided by the state, its decentralized organs and agencies, and individuals officially authorized or recognized as qualified to teach" in accordance with the principles set out in article 3 of the Federal Constitution, the General Education Act, and the Constitution of the State of Chiapas and the principles contained therein, as well as with other regulations and agreements.¹⁵

13. The State of Nuevo León also has its own Education Act, the latest amended version of which was published in the *Periódico Oficial* on 19 December 2008. This Act recognizes the right education of all persons on the basis of the principles of

⁹ Ibid., art. 12.

¹⁰ Ibid., art. 25.

¹¹ Federal District Education Act (published in the *Diario Oficial del Distrito Federal* on 8 June 2008), art. 27.

¹² Ibid., art. 74.

¹³ Ibid., art. 75.

¹⁴ The official instrument currently in force is the Education Act Decree, No. 194 (published in the *Periódico Oficial del Estado de Chiapas* on 16 June 2004).

¹⁵ Education Act Decree of the State of Chiapas, No. 194, published on 16 June 2004), art. 1.

equality of opportunities,¹⁶ secularity,¹⁷ free provision,¹⁸ equity¹⁹ and quality.²⁰ The competent authorities for education are the Executive of the State of Nuevo León and the local councils of each municipality in the municipal area.²¹ Nuevo León provides the following types and modalities of education: initial, basic, indigenous, adult, special, upper secondary, higher, and vocational.²²

14. The State of Baja California has had its own Education Act since 29 September 1995. The institutions responsible for the education services are the Executive of the State of Baja California and the local councils, subject to the relevant powers of the federal education authority.²³ The Act stipulates the obligation of the Baja California Executive “to provide sufficient education services to enable all the inhabitants to attend preschool, primary and secondary education establishments in conformity with the principle of maximum quality and equity”. The Executive must therefore give particular attention to schools in remote areas and marginalized urban zones, establish support programmes for teachers working in such schools, furnish educational support to groups with special educational needs, establish systems of distance learning, etc.²⁴

III. Main features of Mexico’s education system

A. Structure and organization

15. The National Education System (SEN) is based on the national legislation on education, and the Ministry of Public Education is the federal lead agency for the System’s policies and operations. The General Education Act provides that the SEN, which is the context for all educational activities, consists of: the corps of pupils and teachers and education authorities; the National Technical Council on Education and the corresponding bodies in the federal entities; the education curricula, programmes, methods and materials; the education institutions of the State and its decentralized organs; the private establishments officially authorized or recognized as qualified to provide education; and the higher education institutions accorded independence under the Act.²⁵ The SEN has four funding categories (federal, state, independent and private) and two organizational modalities (enrolment and non-enrolment).

1. The enrolment system

(i) *Types of education*

(a) Compulsory basic education

16. There are three levels: preschool, primary and secondary.

¹⁶ Education Act of the State of Nuevo León (published in the Periódico Oficial del Estado de Nuevo León on 16 October 2000 and most recently amended on 19 December 2008), art. 2.

¹⁷ Ibid., art. 5.

¹⁸ Idem.

¹⁹ Ibid., arts. 13–16.

²⁰ Ibid., arts. 17–20.

²¹ Ibid., art. 3.

²² Ibid., art. 4.

²³ Education Act of the State of Baja California (published in the Periódico Oficial, No. 48, on 29 September 1995), art. 1.

²⁴ Ibid., art. 5.

²⁵ General Education Act, art. 10.

17. Preschool education is for children in the 3–5 age group. It has been compulsory by law since the 2008/09 school year and thus forms part of the basic education provided by the SEN pursuant to transitional article 5 (of the amendment to article 3) of the Constitution. There are three modalities: general, indigenous and community.

18. Primary education is for children from age 6 (when they enrol in the first cycle) to age 11 (if the pupil has completed regularly the six years of primary education, one cycle per year, or up to age 15 if the pupil has enrolled late or has recorded absences or has had to repeat grades). There are three modalities: general, indigenous and community.

19. Secondary education generally covers children in the 12–14 age group; it is designed to equip them with more advanced knowledge in order to prepare them for the upper secondary level or to enter the labour market. There are five modalities: general, technical, remote secondary, community, and workers'.²⁶

(b) Upper secondary education

20. In upper secondary education the students choose between two paths, depending on their personal education plans: the (general or technical) baccalaureate, following which they may go on to higher education; or the technical vocational modality, to be followed by an occupational option. This level is completed in two or three years, depending on the curriculum, and is for students in the 15–17 age group.²⁷

(c) Higher education

21. Higher education is available in Mexico from age 18, in various forms: institutes of technology, technical universities, polytechnic universities, federal public universities, state public universities, intercultural universities, and teacher training colleges. Each of these types of institution has its own undergraduate and postgraduate programmes (master's degrees and doctorates).²⁸

(ii) *Types of modality by level of education*

22. The general modality caters for most children during their basic and upper secondary education. At the preschool and primary levels, children who do not attend general schools may enrol in the indigenous or community systems.

23. There are five secondary modalities: general, technical, remote technical, community and workers'. Technical secondary is for pupils who require the knowledge to enable them to find jobs quickly. Its curriculum mirrors the general modality but with emphasis on technical skills. The remote secondary and community secondary modalities are for children living in areas remote from a town. Lastly, there is the workers' modality, which has a very small enrolment.²⁹

24. Upper secondary education also offers options mirroring those of the general modality, following the same technical and technological baccalaureate pattern. There are several institutions which offer these options, as well as pre-university courses or arrangements for leaving the education system and finding a job. As a result, there is a long list of options, a situation implying plurality but also the possibility of confusion which may lead to curriculum fragmentation. According to the General Education Act, the oversight of schools is a matter for the Federal Govern-

²⁶ National Education Assessment Institute (INEE), *Panorama Educativo de Mexico* (Educational Panorama of Mexico) (Mexico D.F., 2008), p. 33.

²⁷ *Ibid.*, p. 34.

²⁸ *Idem.*

²⁹ *Ibid.*, p. 35.

ment and the federal entities. This is why there are centralized services of the Federal Government and decentralized services of the Federal Government, the federal entities and the states. In addition, the public universities (through their independent units) and the private universities officially authorized or recognized as qualified to provide education also operate at this level.³⁰

25. There are three types of higher education qualification: teacher training (for basic education teachers); university (offering a broad range of disciplines); and technical (including study for higher technical university degrees). Postgraduate students may be awarded special subject, master's or doctoral qualifications.³¹

26. The Directorate General for Indigenous Education is responsible for ensuring that the federal entities offer the indigenous population quality initial and basic education based on equity in a framework of diversity.

27. The purpose of the General Coordination Office for Intercultural and Bilingual Education³² is to promote and evaluate education policy in terms of equity, intercultural development and social participation in all types and modalities of education in coordination with the various agencies of the SEN. To this end it has to produce model curricula which take account of diversity, provide specialized training for teaching, technical and managerial personnel, develop and disseminate the indigenous languages, carry out educational research, and devise alternative forms of school management with grass-roots participation.

28. Most of the pupils in the community modality come from indigenous groups or sparsely populated settlements remote from the towns, where the SEN offers services which differ from the standard model both for cultural reasons and because of the cost of providing this kind of education service for very small school populations located far from urban areas. The community courses are offered by the National Council for the Promotion of Education (CONAFE), unlike the other types of enrolment education service, which are provided by the state and federal public education authorities in most of the federal entities.

29. CONAFE is the agency of the Federal Government responsible for ensuring that the children and young people living in the country's poorest and most isolated communities have equitable access to education of quality. In locations which have a high degree of marginalization but still lack a school CONAFE sponsors community teachers to provide education equivalent to the preschool, primary and secondary levels. CONAFE also provides education for parents with children aged under four years to train them in good child-raising practices. For example, it contributes to the financing of the education of more than five million children and young people, whose education is supported by scholarships awarded to their families under the Human Development Opportunities Programme run by the Ministry of Social Development, which is mentioned later in this report.³³

³⁰ Department for Upper Secondary Education (SEMS), *Reforma Integral de la Educación Media Superior en México: La Creación de un Sistema Nacional de Bachillerato en un marco de diversidad* (Comprehensive reform of upper secondary education in Mexico: the creation of a national baccalaureate system in a context of diversity) (2008), pp. 18–20. Available at: www.sems.udg.mx/rib-ceppems/ACUERDO1/Reforma_EMS_3.pdf.

³¹ INEE, *op. cit.* (see footnote 26 above), p. 35.

³² Presidential Agreement of 16 January 2001 (published in DOF on 22 January 2001) and Rules of Procedure of the Ministry of Public Education, art. 16.

³³ CONAFE: www.conafe.gob.mx.

2. The non-enrolment system

30. The non-enrolment education system is targeted on persons who wish to continue their formal education in more flexible modalities or who have special needs. It includes two levels of initial education, adult education, special education, vocational training, an open or quasi-school system, and non-enrolment indigenous education. Different types of service are provided at every level.

31. The initial education schools take in children even below the age of enrolment in preschool education, in part to train their mothers to look after them properly. This type of education is provided by the child development centres (CENDI) with funding from the federal, state and municipal budgets, the Mexican Social Security Institute (IMSS) and the Social Security and Services Institute for State Employees (ISSSTE). In addition, the CONAFE programmes provide initial education services in rural, indigenous and marginalized urban areas. Mothers and other members of the community are trained to carry out activities to promote and enhance mental, social and psychomotor development with children aged under four years.³⁴

32. Adult education is provided primarily for persons aged over 15 who have not acquired the basic skills of reading, writing and elementary arithmetic or who did not begin or did not complete basic education at the correct ages; its curriculum design covers learning to read and write and modular courses for primary and secondary certification in subjects of use in everyday life and work. Secondary certification enables students to go on to the upper secondary level. The National Adult Education Institute (INEA) provides this type of education in the form of programmes for young people (from age 15) and/or adults who have not acquired the basic skills of reading, writing and counting or who did not begin or did not complete their primary and secondary education, and for children and young people in the 10–14 age group who are not enrolled in the primary school system, women, monolingual indigenous peoples and individuals, street children, inmates of prisons, older adults, persons with disabilities, migrant day labourers, and Mexicans who settled in the United States of America without beginning or completing their basic education.

33. Special education is for persons with disabilities and is designed to help them to be able eventually to enrol in normal schools at the appropriate level. The service can be provided for children from 45 days after birth (in the form of initial education), for older children (preschool and primary levels) and for adolescents and young people up to age 22 (secondary education and vocational training). Although the specific modalities may vary from state to state, the following are the main special education services: the basic level of the Multiple Treatment Centre (CAM-Básico) – for the initial, preschool, primary and/or secondary education of children and young people with some sign of disability; CAM-Laboral – for young people in the 15–22 age group with special educational needs to enable them acquire work skills; the Unit for Normal Education Support Services (USAER) – for teachers and the family members of children with some sign of disability enrolled in preschool, primary or secondary schools; the Citizens' Advice Unit (UOP) – to furnish information and advice to the general public concerning various disabilities and the special educational needs which they imply.³⁵

³⁴ National Teacher Training University. Initial education: www.lie.upn.mx/docs/MenuPrincipal/LineasEspec/EducInic.pdf.

³⁵ Directorate for Special Education, Education Secretariat of the State of Yucatan (see: www.educacion.yucatan.gob.mx/quienes/org/especial.php), Secretariat for Public Education of the Federal District, Special Education

34. Training for work is for persons who can at least read and write but need to find jobs and require the knowledge and skills used in specific occupations. The training programmes in work and specific occupations are run mainly by the General Directorate for Vocational Training Centres (DGCFT), which is an agency of the Ministry of Public Education. The DGCFT operates with 198 Industrial Training Centres (CECATI) located throughout the country and offering a list of 226 courses covering 61 occupations in 17 economic sectors.

35. Lastly, the open or quasi-school education system enables students in upper secondary and higher education to study without having to be personally present in the classroom.

B. Coverage

36. Mexico has a net education coverage of 101.4 per cent in primary education (figures for the 2007/08 school year),³⁶ which means that practically the entire population has access to education at this level. This general pattern is found in most of the federal entities. The primary coverage is apparently complete in Baja California Sur, the Federal District, Baja California, Morelos and Chiapas, but there are still states, including Quintana Roo, Aguascalientes, Yucatán, Campeche and Colima, where large proportions of children do not attend school.³⁷ Estimates based on census figures for the whole country indicate that between 1 and 2 per cent of children in the 6–11 age group do not attend school owing to the incapacity of the SEN to provide primary schooling in rural, small and isolated settlements, to migration for reasons of farm work, or to disabilities suffered by the children.

37. The net national coverage of secondary education (81.5 per cent) shows a smaller uptake than in primary. The Federal District, Coahuila, Baja California Sur, Tlaxcala and Morelos are the federal entities with the highest rates of coverage. Federal entities such as Chiapas, Guerrero, Campeche, Oaxaca and Michoacán,³⁸ classified by the National Council for Evaluation of Social Policy (CONEVAL) as having high and very high degrees of social deficit, have the lowest rates of coverage in secondary education.³⁹ The situation in the State of Chiapas is worth analyzing because, as mentioned above, Chiapas is among the five states with the highest levels of coverage in primary, but it occupies last place in secondary.

38. In the school year 2006/07 the net drop-out rate in primary was 1.5 per cent in the public system and 2.1 per cent in the private⁴⁰ but 7.8 per cent in public secondary and only 1.9 per cent in private secondary. This means that roughly eight in every hundred children in public schools drop-out from public secondary schools and roughly two in every hundred drop out from the private system. The enrolment rate with regular grade promotion in the 2007/08 school year was 82.6 per cent in the 3–5 age group (preschool), 100.2 per cent in the 6–11 age group (primary), 87.6 per cent in the 12–14 age group (i.e. for secondary students) and 50.4 per cent in the 15–17 age group (when students are normally taking upper secondary courses).⁴¹ The

(see: www2.sepdf.gob.mx/que_hacemos/especial.jsp) and INEE, op. cit. (footnote 26 above), p. 36.

³⁶ INEE, op. cit. (footnote 26 above), p. 147.

³⁷ Idem.

³⁸ Idem.

³⁹ CONEVAL data, 2007.

⁴⁰ INEE, op. cit. (footnote 36 above), p. 177.

⁴¹ Ibid., p.150.

graduation rate is 99.7 per cent in primary and 90.1 per cent in secondary⁴² (figures for 2006/07).

39. The figure given for the 15–17 age group is particularly relevant, as is the fact that the estimated completion rate for 2007/08 was 44.4 per cent.⁴³ There are considerable gaps in the coverage in upper secondary education, estimated at 60.1 per cent for that same year, a situation which undermines the equity which the education system should be promoting. Although the drop-out rate has been declining, from 17.5 per cent in 2000/01 to 16.6 per cent in 2007/08, Mexico is the country of the Organization for Economic Cooperation and Development (OECD) which reports the least progress in coverage (2006 figures).⁴⁴ However, the growth in the provision of education would not be sufficient in itself to reverse the negative indicators. Account must be taken of another set of circumstances which may cause drop-outs: the inflexibility of the curricula, which are often unsuited to the regional and local situations, and the incompatibility of the courses offered in different types of establishment. When an upper secondary student is forced to change schools or courses, he or she will often have to start again from scratch; this is an off-putting factor which, from a broader perspective, has an adverse impact on the effectiveness of the education system as a whole.⁴⁵ Furthermore, there are major problems with ensuring the quality of the education provided at this level.

C. State spending on education

40. Mexico has increased its spending on education over the past 15 years from 4.1 per cent of GDP in 1990 to 6.3 per cent in 2008. In 2008, however, only 4.9 per cent of the total was public spending, the remaining 1.4 per cent being private. About 20 per cent of the federal budget was allocated to education.

41. Between 2000 and 2007 national expenditure on education per pupil rose at an average rate of 7.1 per cent a year to stand at 17,100 pesos at the end of the period; the largest increase (11.3 per cent) occurred in 2001 and the smallest (0.6 per cent) in 2006. Although the increases in expenditure per pupil by level of education were very small during this period, the State at least coped with the increasing enrolment.⁴⁶

42. The Special Rapporteur was informed that national spending on education in 2010 would total 6.5 per cent of GDP but that only 78.4 per cent of this forecast amount would represent compulsory public spending, with 21.6 per cent coming from private sources; it is estimated that in 2009 the federal contribution accounted for 506,706.9 million pesos of total national public spending on education and that 114,193.9 million pesos were provided by the states and municipalities.⁴⁷

⁴² Ibid., p.183.

⁴³ SEMS, op. cit. (footnote 30 above), p. 7. See also D. Calderón (ed.), *Contra la pared: Estado de la Educación en México* (Against the wall: State of education in Mexico) (2009), p. 13.

⁴⁴ OECD, *Education at a Glance*, annex 3 (www.oecd.org/edu/eag2006); cited in SEMS, op. cit., p. 10.

⁴⁵ SEMS, op. cit. (footnote 30 above), p. 11.

⁴⁶ Ministry of Public Education, *Tercer Informe de Labores* (Third Report on Activities) (2009).

⁴⁷ Idem.

D. Scholarships and support programmes

43. The Constitution and the General Education Act stipulate that the education provided by the State shall be free.

44. In 1997 the Government initiated the Education, Health and Nutrition Programme (PROGRESA). Since then this programme has been adopted by three federal administrations run by two political parties (the Partido Revolucionario Institucional (PRI) and the Partido Acción Nacional (PAN)), the only difference being the change of name to Opportunities in 2002. Although it has undergone changes over the years, from the outset this programme has consisted essentially of cash transfers to beneficiary families provided that the children attend school and go for regular medical checks. At present the transfers under the programme are made every two months to the mothers of participating families, which must have children aged under 22 enrolled between the third grade of primary and the third grade of upper secondary education. The final amount allocated to a family has three components corresponding to the programme's three pillars: support for education, health and nutrition.

45. In institutional terms Opportunities is run by a national coordination committee, which is a decentralized agency of the Ministry of Social Development. Most of its budget is provided by this ministry, with additional contributions from the education and health ministries, which also determine the operational rules in conjunction with the Treasury and the Mexican Social Security Institute (IMSS). The total number of beneficiary families has stood at its high point since 2004, representing about 18 per cent of the country's population and 35 per cent of the poorest quintile.⁴⁸

46. Where the education component is concerned, studies and evaluations of Opportunities have indicated a positive impact on school attendance figures: "Estimates of the programme's impact – in terms of communities and households – range between 0.74 and 1.07 per cent for boys and between 0.96 and 1.45 per cent for girls".⁴⁹ Other studies carried out during the programme's initial phase also found higher enrolment rates among poor children in receipt of the subsidies, with girls again in the lead. It is also worth mentioning that Opportunities appears to have a parallel positive influence on child labour, a variable not included among the programme's objectives. Studies have verified that the probability of a child's working fell by between 10 and 14 per cent at the moment when he or she was enrolled in the programme.⁵⁰ With regard to higher education, specifically in the intercultural universities, students have benefited under the National Higher Education Scholarships Programme (PRONABES), the purpose of which is to encourage students from poor backgrounds to embark on higher education. In addition, in order to continue their studies such students can also obtain scholarships from CONAFE or the municipality in which the intercultural university is located.

⁴⁸ World Bank, *Conditional Cash Transfers: Reducing Present and Future Poverty* (Washington D.C., 2009), p. 268.

⁴⁹ L. Rawlings, "A New Approach to Social Assistance: Latin America's Experience with Conditional Cash Transfer Programmes". *Social Protection Discussion Paper Series* (0416), 22 (2004), p. 9.

⁵⁰ S. Parker and E. Skoufias, *The Impact of PROGRESA on Work, Leisure and Time Allocation* (Washington D.C., International Food Policy Research Institute, 2000).

E. Recent reforms

47. The most recent reform, known as the Alliance for Quality in Education (between the Federal Government and the National Union of Education Workers (SNTE)) is a proposal put forward in May 2008 with the aim of bringing about change by improving the quality of education.

48. This programme seeks to achieve the following changes: modernization of schools (by upgrading infrastructure and equipment); advancement and enhancement of qualifications for teachers and education authorities (recruiting new personnel by means of national public competitions, to be independently organized and judged, by establishing the National Further Training System for Upgrading the Qualifications of Serving Teachers, and by creating five regional centres of academic excellence); enhancement of the nutritional well-being and health of pupils and improvements with respect to access to education, retention in the system and graduation at the correct age; curriculum reform to ensure the comprehensive education of pupils for life and work (by changing the approaches and content of basic education and promoting the teaching of English from the preschool level); and coordination of the national evaluation system to deliver periodic assessments of the stakeholders in the education process.⁵¹ Attention should be drawn to three ongoing reforms in the education system: chiefly, the reform of basic education; the comprehensive reform of upper secondary education; and the incorporation of the intercultural approach in the national education system.

IV. Challenges to the education system and steps taken by the Government to tackle them

49. Mexico's population has increased fourfold over the past 50 years, with the result that the demand for education has posed big challenges to the Government and the federal entities. The country has not only responded to this situation but has also secured major progress in all areas and modalities of education.

50. The blooming of an enormous diversity of projects and programmes to meet the demand for education has continued right up to the present. In fact, it has been impossible to produce an inventory of the enormous diversity of these initiatives.

51. The country has about 220,000 basic education schools catering for some 26 million children. Great efforts have been made to coordinate the whole of basic education and to expand secondary education. In addition, Mexico has a large array of higher education establishments in the shape of its universities and technical colleges, which is the envy of Latin America.

52. One of the main successes in the building of Mexico's institutional capacity was the establishment of the National Institute for the Evaluation of Education (INEE), which has provided improved information by monitoring a set of indicators on basic and upper secondary education and producing in-depth analyses of the educational performance of pupils with respect to the national basic education curriculum, as well as studying the situation of the supply of education services. All of this activity is designed to facilitate decisions on education policy which are more firmly rooted in the national reality.

⁵¹ SEP, Alianza por la calidad de la educación (Alliance for Equality in Education) (See: alianza.sep.gob.mx/pdf/alianzabreve.pdf).

A. The system's complexity

53. Mexico's education system is extremely complex in various respects, with its characteristic features of a combination of federal and state obligations, decentralization and, chiefly, an atypical symbiosis of the National Union of Education Workers (SNTE) and the Ministry of Public Education.

54. This symbiosis is due to historical reasons and produces collaboration at some times and obstruction at others, but from the standpoint of the obligations of the states with respect to right to education it must be stressed that the agency from which this right is demanded and which establishes it in legal terms is the Mexican State; this is why the SNTE/Ministry mixture exhibits a reciprocal subordination of atypical functions in each of the parties which has added great complexity to the education scene.

55. The organic complexity of the administration of education is compounded by asymmetrical structures, such as the inequalities between rural and urban areas and between public and private schools. The Special Rapporteur was informed that Mexico has five million persons aged over 15 years who cannot read or write (8.4 per cent of the total population),⁵² most of them indigenous women and rural dwellers. The illiteracy rate is as high as 50 per cent in some areas, and the functional illiteracy rate cannot be estimated; this situation has prompted the Government to take serious but still insufficient action.

B. Education for young people and adults

56. The situation of adult education is worrying, for the official statistics indicate that 30 per cent of the country's total population has an educational deficit. In 2005, 46 per cent of persons in the over-15 age group were affected by such a deficit; this means that 31 million persons had not completed compulsory basic education or had not attended school.⁵³ This figure contrasts sharply with the 66.1 per cent of the population in the 15–64 age group living in indigenous households who lack basic education.⁵⁴

57. Despite the seriousness of this deficit among young people and adults, the adult education subsystem reaches barely some 2.4 million persons, a fact confirmed to the Special Rapporteur by the Director of INEA. Furthermore, it receives barely 0.86 per cent of the budget of the Ministry of Public Education and is in the hands of 100,000 "*asesores solidarios*" (support workers), who work part-time with great enthusiasm but have no higher teaching qualifications.

C. Education budget

58. The shortage of education funding affects not only Mexico's adults but the entire education system as well. It is clear that, in spite of the efforts made, the obligation under the General Education Act to allocate 8 per cent of GDP to education has still not been fulfilled.

⁵² INEGI, II Population and Housing Census 2005.

⁵³ INEA estimates based on the XII Population and Housing Census 2000 and INEGI and CONAPO population forecasts 2005.

⁵⁴ INEGI, II Population and Housing Census 2005.

59. The shortage of funding has a profound impact in rural areas and indigenous communities and is aggravated by the widespread practice of the payment of fees (known as “voluntary contributions”), which vary in amount and type but affect impoverished families more severely.

D. Drop-out and repetition rates

60. Notwithstanding its very good enrolment figures, Mexico is confronted by major challenges in the effort to reduce drop-outs and repeated years.

61. According to INEE estimates, for example, only 66 out of every 100 children who enrol in primary education complete this level at the correct age;⁵⁵ the drop-out rate at the upper secondary level is about 16 per cent;⁵⁶ this situation is aggravated by an examination system in each state for students completing secondary and entails in practice a selection process which often penalizes students who have not had good education opportunities in the past.

62. In response to the drop-out problem the education authorities have offered a wide variety of scholarships and support programmes to improve retention in the system. Nevertheless, rather than contenting itself with the enrolment rates in primary education, the State has to continue making determined efforts to ensure success throughout people’s entire education career. It should also be acknowledged that the problem is not simply one of funding but is due as well to a lack of cultural and linguistic relevance in education.

E. Teacher training

63. The effort to combat drop-outs and education deficits has revealed a need to continue to improve the education and training of teachers, which some national experts describe as heterogeneous, irregular and often inconsistent.

64. However, the stock of 266 operational public teacher training schools (including 17 rural schools) and 225 private teacher training establishments is acceptable, although this number satisfies barely 30 per cent of the demand.

65. The teacher training capacity does not measure up to the needs identified, especially in rural areas and indigenous communities, which are offered an education service operated by extension workers and instructors who have no teaching qualifications and enjoy no security of tenure and who, in addition, have to deal with groups of pupils in multi-grade schools staffed by only one or two teachers.

F. Indigenous and rural communities

66. The Special Rapporteur considers that exclusion from opportunities of education in Mexico has a very specific group of victims, a situation which can be summed up in a single sentence: poor people receive poor education. The findings of the ENLACE (National Evaluation of Academic Achievement) test tend to support this comment.

⁵⁵ Panorama Educativa de Mexico 2009 (Educational Panorama of Mexico 2009). SEN indicators.

⁵⁶ SEMS, *op. cit.* (footnote 30 above), pp. 18–20.

67. This assertion is understandable in the light of the great difficulties confronting many rural and indigenous communities, historical victims of a lack of education opportunities.

68. Of course, the organization of the education service is determined by population density, and it must be remembered that 70 per cent of Mexico's rural communities have barely 100 inhabitants. This system of organization leaves such communities deprived of education opportunities or places their education in the hands of facilitators and extension workers contracted by or living on grants from CONAFE who teach in multi-grade schools which are often very dilapidated and lacking in any proper sanitation services.

69. The Special Rapporteur considers that the educational needs of the communities served by CONAFE should be made a priority of the regular education system in the form of plans which embrace emergency resources, teacher training, construction of classrooms, and implementation of projects and programmes tailored to the country's cultural diversity.

70. The affirmative-action measures should reinforce the campaigns to enhance teachers' status in such a way as to boost the support for their work and promote their improvement in all respects. These campaigns should be also accompanied by concrete steps to prevent absenteeism among teachers.

71. The existing social asymmetry cannot be corrected by ad hoc measures, not can it be claimed that the compensation programmes and subsidies will resolve a structural problem connected with the absence of a coordinated and systematic public policy which does not change every six years and which addresses the problems of discrimination and social exclusion affecting indigenous peoples, rural dwellers, day-labourer families, and persons with disabilities.

72. In spite of the efforts made by the Mexican Government, education spending continues to discriminate against rural communities. The usual practice is to take a cost/benefit approach, under which the installation of education facilities is determined by a specific population threshold; this approach has prevented many children and adolescents from attending school.

73. The public policies and education plans and programmes should not only address the funding aspects but should also make attending to people's needs the first priority. Accordingly, it is important for the Federal Government to strengthen its public spending measures in such a way that the public resources are distributed fairly and provide more opportunities for those who have fewest.

74. The disparities are really pronounced in the case of the indigenous peoples, but it is also true that more detailed information is required about the problems confronting these peoples. For this reason the Special Rapporteur recommends that specific analyses should be made of the education needs of the indigenous peoples and of rural areas in general.

75. The Special Rapporteur emphasizes the fact that the exercise of their rights by indigenous peoples and the quality of the subsystem designed to attend to their educational needs fall far short of the standard.

76. It is true that there have been some successes, but in general terms the subsystem's budget remains very small and the educational model is incapable of rescuing and reinforcing the indigenous cultures and languages, a situation aggravated by the lack of teacher training.

77. It is also true that the efforts have been concentrated on primary education, with the result that indigenous pupil numbers have increased; but the very high drop-out rate in rural areas persists, and it remains very difficult for pupils to transfer to the secondary and upper secondary levels owing to the shortage of schools.

78. Less than 1 per cent of the indigenous children who enrol in primary school attend university (against a figure of 17 per cent for the total population). It has to be acknowledged that the intercultural universities are very much in demand in the places where they exist, a fact which demonstrates that the indigenous peoples do respond to the opportunities offered to them.

G. Intercultural education

79. The bilingual intercultural education strategy is focused primarily on the indigenous population, although the plans do include enhancement of the awareness of non-indigenous citizens. In general terms the Special Rapporteur notes efforts to address the issue of the relevance of education at all levels; evidence of this effort is provided by the creation of a degree course in bilingual intercultural primary education and the introduction of courses and qualifications in intercultural education for instructors and teachers, with good results.

80. However, the budget of the intercultural education programmes has been sharply reduced, and the intercultural approach is generally regarded as a question relating to the indigenous peoples and not as a central component of the curriculum.

81. The establishment of the intercultural universities is one of the main achievements of the Mexican State. They constitute a strategic education project which seeks to promote the training of professionals committed to the economic, social and cultural development of the indigenous peoples. These institutions are close in location and in culture to the indigenous peoples but they accept students without reference to their family backgrounds. They already exist in nine of the country's states. No similar undertaking is to be found in other levels or modalities of the education service.

H. Day-labourer families

82. Mexico is informally estimated to have 3.1 million day labourers, a million of whom are aged under 18. The Special Rapporteur was informed that services are provided for only a very small proportion of the children working as day labourers and that they are victims of child labour on farms and in the towns.

83. To give some idea of the scale of the problem it should be pointed out that 70 per cent of the education deficit is contributed by day-labourer families and that most of the parents are totally or functionally illiterate or have large deficits in their education.

84. The Government has devised good practices to address this situation, including the single-ticket (*boleta única*) project for day-labourer children. But it has been unable to implement this project in full.

85. The Migrant Children Programme (PRONIM) has done excellent work in the fields and on farms, sometimes going even further and intervening in communities. However, it does not have the capacity to cope with the challenges and it focuses its work chiefly on primary education (where the best standards of education are found).

86. Notwithstanding these commendable efforts, there are still problems with the recognition of the school-attendance records of children whose day-labourer families move around from place to place. In addition, many of these children have no documents, and PRONIM and the SEN have to cope with the enormous problem that the school terms often do not coincide with the farming cycles, making it even more difficult to attend to the educational needs of these children.

87. The undocumented status of migrant children is aggravated by the fact that in many cases the civil registry offices charge fees for issuing birth certificates, causing problems for the children when they enrol in school or change schools.

I. Persons with disabilities

88. The Special Rapporteur noted the existence of two different strategies (integrative and special education) and disparities in the services provided for children with disabilities between advanced states such as Nuevo León and poorer ones such as Chiapas. He was also informed that many children with disabilities do not attend school, either because the schools are not authorized to accept them or because their parents prefer to keep them at home.

89. Working through the country's rehabilitation centres, the National System for Integral Development of the Family (SNDIF) promotes the prevention of disability and facilitates the rehabilitation and social reintegration of persons with disabilities, encouraging full respect for the exercise of their rights to equality of opportunities and to equity in access to education services, as well as to all those services which contribute to their well-being and improve their quality of life.

90. To this end the SNDIF, working through the Directorate General for Rehabilitation and Social Assistance, uses two different models to meet the need for educational integration: (a) the programme of educational integration for children with disabilities, which has been operating in the rehabilitation centres since 2002 and has to date enrolled a total of 6,434 children with disabilities in regular and special basic education; and (b) the educational integration model of the Gaby Brimmer Research and Training Centre for Rehabilitation and Educational Integration, which makes joint use of the SNDIF and the Ministry of Public Education to provide basic education services, school transport, school meals, and specialized medical care for children with severe disabilities.

91. In 2007 the SNDIF signed an agreement with INEA under which they endeavour to support persons with some degree of disability who are illiterate or have an educational deficit.

92. The Special Rapporteur wishes to stress that Mexico has undertaken to carry out the National Programme for the Development of Persons with Disabilities 2009–2012. This programme proposes nine specific targets, including “improving the quality of education and expanding the opportunities of access, the retention and graduation rates, and the levels of educational attainment for persons with disabilities in the various types, levels and modalities of the National Education System”.⁵⁷

⁵⁷ CONADIS, DIF, Programa Nacional para el Desarrollo de las Personas con Discapacidad 2009–2012 (National Programme for the Development of Persons with Disabilities 2009–2010) (CONADIS, México D.F., 2009), p. 92.

J. Quality and equality in education

93. The Special Rapporteur considers that quality should be regarded as an essential component of the right to education: it is intrinsically interlinked with education provision, access and spending and should therefore be incorporated in public policies; and it is primarily a responsibility of the Federation and the federal entities.

94. The Mexican Government has demonstrated a constant concern with the quality of education and has carried out affirmative projects to deal with ad hoc problems of infrastructure, for example, as in the case of the “Quality Schools” programme.

95. The Government has also carried out experiments such as “Full-Time Schools” and “Always-Open Schools”, which have made it possible to maximize the available learning time in many communities. In addition, the Government has offered salary bonuses to teaching personnel and has rewarded effort in many different ways.

96. Lastly, it has promoted the “Alliance for Quality in Education”, which addresses crucial topics of public education and which actually embraces core obligations of the State already set out in the Constitution and in the instruments of international law which Mexico has ratified.

97. This Alliance has been criticized by various population groups and in several federal entities because it is not the outcome of a public debate or of a broad social consensus but is instead a political agreement between the SNTE and the Ministry of Public Education. One of the most controversial aspects of the Alliance was the introduction of a mechanism for entering and advancing in the teaching profession by means of public competitions. This mechanism was used for the first time in 2008; on that occasion dissident groups in the profession opposed its use in Michoacán, Morelos, Guerrero and Oaxaca.

98. In 2009 the Ministry of Public Education and the SNTE created the Federal Independent Evaluation Board (OEIF), which has 70 members, including representatives of the Ministry, the SNTE and the states. The competition in that year attracted 124,000 candidates, 31,000 of whom were classified as “acceptable”. No competitions were held in Michoacán or Oaxaca (where the trade union shops are not aligned with the SNTE).

99. The design and conduct of these competitions do not reflect a systematic public policy built around the fight against discrimination in education or indeed an education model which caters for the diversity and addresses the need for education opportunities to be consistent with the purposes established in international human rights law.

100. The main problem is that the social inequalities, which affect primarily the marginalized population groups, are not taken into account in the provision of education and that this provision does not include structural measures to cater to their needs more effectively or sufficient resources to provide them with a better service. Although important measures have been introduced, such as for example the “Learning Communities” programme, it would appear that the system reproduces these inequalities or makes only slow progress towards their elimination.

K. Testing the education proposals

101. In response to the State’s concern to address the problems of quality in education, the Federal Government and the federal entities have made progress in con-

structing systems of indicators, and they are currently applying standardized tests (PISA, ENLACE, EXCALE).⁵⁸

102. However, the quality of education cannot be addressed or improved by applying standardized tests: although such tests may be useful, being standardized they cannot offer responses to the variety of social and cultural expression or take into account the many different nuances at the grass roots. In practice, the tests have had a problematic effect, for they unfairly project a bad image of teachers, giving the impression that the problems of educational efficiency are attributable solely to them and not to an education system which is slow to implement consistent public policies. What it appears may happen is that teachers will end up teaching for the tests, which would be a most undesirable development.

L. Incorporating the humanities in the curriculum and achieving the purposes of education

103. It must be remembered that the ultimate purpose of education is to improve the quality of life in all senses. There is therefore a need to bolster the curriculum with content designed to deliver comprehensive knowledge and to educate individuals; it is thus important to provide for the study of philosophy, the humanities, ethics and aesthetics as subjects which develop creativity and a critical outlook in students, especially in secondary and upper secondary education.

104. The Government's initiatives with respect to the formulation of a national plan for human rights education must therefore be reactivated and a welcome given to contributions from the academic world and civil society.

M. Participation

105. The Special Rapporteur noted during his visit that civil society organizations are not involved in the effort to meet the needs in education. With some exceptions, it would appear that few attempts are made to encourage the involvement of society in decision-making.

106. Such involvement has in fact been encouraged in the governmental context through the social participation councils, which are regulated by law. These councils are barely operational in many federal entities and, what is even worse, the National Social Participation Council has not met for 10 years.

107. The Special Rapporteur considers that social participation in education should not be limited to the concrete problems of the schools but should spread itself wider to fuel the debate about education policies; this is a task which the National Commission on Human Rights (CNDH) should facilitate. Making provision for the direct participation of children is an obligation set down in the Convention on the Rights of the Child and should be directly promoted by the education authorities. To this end it is a matter of genuine urgency to create a State institution responsible for the promotion and protection of the rights of children.

⁵⁸ PISA: Programme for International Student Assessment.
ENLACE: National Evaluation of Academic Achievement.
EXCALE: Evaluation of Quality and Educational Achievement.

V. Recommendations

108. In the light of the foregoing discussion the Special Rapporteur recommends that:

(a) The measures to eliminate completely the payment of fees for education should be reinforced and fixed targets should be set for achieving gradual compliance with the obligation to allocate 8 per cent of GDP to education, with annual 0.5 per cent increases until the level established by law is attained;

(b) Emergency action should be taken to combat educational deficits in persons aged over 15;

(c) An increasing budget should be provided for the programmes and departments concerned with indigenous education and intercultural education. In the latter case an effort should also be made to amend the legal framework of public education so as to spell out the principles on which the attainment of an inclusive society should be based and deliver education which acknowledges the importance of the country's linguistic and cultural diversity;

(d) Investment and the production of infrastructure, educational materials and support resources for schools for persons with disabilities should be stepped up, with a view to these persons' gradual integration in the normal education system;

(e) The humanities should be incorporated or strengthened at all levels and in all modalities of education, and the World Programme for Human Rights Education should be introduced, with the emphasis placed on gender equality and with account taken of the country's linguistic and cultural diversity;

(f) A widespread process of consultation involving civil society should be introduced to discuss the needs and challenges of quality in education and the changes required in the existing programmes;

(g) Plans should be formulated to regularize education services in rural areas, including the education and training and the supply of professional teaching personnel, and to provide quality infrastructure in sufficient quantity to guarantee exercise of their right to education by rural dwellers. A transitional process should be introduced to this end, so that the education services currently provided by the National Council for the Promotion of Education (CONAFE) are gradually taken over by the public education authorities;

(h) The services for families who migrate within the country, known as day labourers (*jornaleros*), should be strengthened in order to provide them with opportunities to obtain quality education, the school terms should be brought into line with the farming seasons, and the coverage should be expanded to include secondary education. It is also essential to harmonize the education service with the work obligations of working parents and young people;

(i) The projects and programmes for promoting civic participation, including participation by civil society organizations and children, should be strengthened in all areas of education;

(j) The National Commission on Human Rights should devise consistent and systematic emergency programmes to defend the right to education, chiefly in three specific respects: the invocation and assertion of the right at law,

the encouragement of participation, and the oversight of legality in a context of the implementation of rights-based education policies;

(k) The technical independence of the National Institute for the Evaluation of Education (INEE) should be reinforced, in order that it may continue to produce external evaluations of the quality of education and thus help to improve Mexico's education system. This means that INEE will have to be covered by ordinary legislation providing it with a sounder legal foundation;

(l) Consistent, adaptable and flexible institutional arrangements should be established in the education sector for examining and discussing the findings of the INEE studies and their implications and the suggestions which they make concerning education policy;

(m) The legal foundations should be laid for recognizing and legitimizing independent and plural trade union movements in the education sector;

(n) More detailed diagnoses should be made of the educational needs of the indigenous peoples and of rural areas in general;

(o) Immediate steps should be taken to ensure that all civil registry procedures and services are entirely free of charge.
