

Mexico

Mid-term

Implementation

Assessment



UPR-INFO.ORG
PROMOTING AND STRENGTHENING THE UNIVERSAL PERIODIC REVIEW



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also more specifically to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC).

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are willing to follow and implement their commitments: civil society should monitor the implementation of the recommendations that States should implement.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 24 February 2012

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/mexico>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports, as well as the unedited comments can be found at the same internet address.

11 NGOs were contacted. Both the Permanent Mission to the UN in Geneva and the State were contacted. The domestic NHRI was contacted as well.

5 NGOs responded to our enquiry. The State under Review could not comply with the format requested, but produced an assessment addressing human rights in general which is available at the following address:

<http://followup.upr-info.org/session4/mexico/Mexico-InformHR.pdf>

The domestic NHRI chose to not respond to our enquiry, but will in few months publish its own report.

IRI: 94 recommendations are not implemented, 39 recommendations are partially implemented, and 1 recommendation is fully implemented. No answer was received for 6 out of 159 recommendations.

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	Poverty	page 8	not impl.
2	Rights of the Child, Right to education, Migrants, Indigenous peoples,	page 10	not impl.
3	Poverty, Indigenous peoples,	page 12	not impl.
4	Torture and other CID treatment	page 12	not impl.
5	Women's rights, Rights of the Child,	page 13	not impl.
6	Indigenous peoples	page 19	not impl.



rec. n°	Issue	page	IRI
7	Women's rights, Human rights education and training,	page 21	not impl.
8	National plan of action	page 23	not impl.
9	Justice	page 24	not impl.
10	Human rights defenders, Freedom of the press,	page 27	not impl.
11	Torture and other CID treatment, Impunity, Human rights violations by state agents,	page 29	not impl.
12	International instruments	page 30	partially impl.
13	Indigenous peoples	page 31	partially impl.
14	Poverty, Indigenous peoples,	page 31	not impl.
15	Right to health, Right to food, Indigenous peoples,	page 31	not impl.
16	Poverty	page 32	not impl.
17	Women's rights	page 33	not impl.
18	Torture and other CID treatment, Rights of the Child,	/	no comment
19	Freedom of the press Torture and other CID treatment, Impunity, Human rights violations by state agents,	page 33	not impl.
20	by state agents,	page 33	not impl.
21	Women's rights	page 21	not impl.
22	Migrants, Indigenous peoples,	page 34	not impl.
23	Justice	page 34	partially impl.
24	Trafficking	page 36	partially impl.
25	Rights of the Child	page 36	partially impl.
26	Corruption	page 37	not impl.
27	Impunity	page 37	not impl.
28	Women's rights, Human rights defenders,	page 37	not impl.
29	Impunity, Justice,	page 38	not impl.
30	International instruments	page 38	partially impl.
31	Women's rights, Impunity, Indigenous peoples,	page 39	not impl.
32	International instruments, Indigenous peoples,	page 39	not impl.
33	Women's rights, Indigenous peoples,	page 42	not impl.
34	Poverty	page 8	not impl.
35	International instruments	page 42	not impl.
36	Justice, Human rights violations by state agents,	page 42	not impl.
37	Civil society	page 43	partially impl.
38	Justice	page 43	not impl.
39	Poverty	page 8	not impl.
40	Development	page 46	not impl.
41	Public security, Justice,	page 43	not impl.
42	Other	page 39	partially impl.
43	Women's rights	page 21	partially impl.
44	Enforced disappearances	page 46	-
45	Impunity, Human rights violations by state agents,	page 44	not impl.
46	Poverty	/	no comment
47	Corruption	page 44	not impl.



rec. n°	Issue	page	IRI
48	Freedom of the press	page 49	not impl.
49	Freedom of opinion and expression	page 49	partially impl.
50	Torture and other CID treatment, Impunity,	page 44	not impl.
51	Development	page 49	not impl.
52	Women's rights	page 50	not impl.
53	Impunity, Justice, Indigenous peoples,	page 51	not impl.
54	Torture and other CID treatment, Impunity,	page 51	not impl.
55	Detention conditions	page 51	not impl.
56	Freedom of association and peaceful assembly	page 52	not impl.
57	Torture and other CID treatment, Special procedures,	page 46	not impl.
58	Human rights defenders, Freedom of the press,	page 52	not impl.
59	Human rights defenders	page 52	not impl.
60	Civil society	page 52	not impl.
61	Freedom of the press	page 52	not impl.
62	International instruments	page 39	partially impl.
63	Torture and other CID treatment, Migrants, Human rights violations by state agents,	page 53	partially impl.
64	Special procedures, Migrants,	page 53	-
65	Special procedures, Indigenous peoples,	page 54	not impl.
66	Labour	page 46	not impl.
67	Women's rights, Right to health, Indigenous peoples,	page 54	not impl.
68	Poverty	page 8	not impl.
69	UPR process	/	no comment
70	Poverty	page 8	not impl.
71	Poverty, Indigenous peoples,	page 8	not impl.
72	Women's rights, Right to health, Indigenous peoples,	page 55	partially impl.
73	Public security	page 44	-
74	Women's rights, Rights of the Child,	page 50	not impl.
75	Justice, Detention conditions,	page 44	-
76	Women's rights	page 22	partially impl.
77	Detention conditions	page 44	-
78	Justice, International instruments,	page 44	-
79	Justice	page 34	partially impl.
80	Torture and other CID treatment, Justice, Civil society,	page 44	not impl.
81	Human rights education and training	page 44	-
82	Women's rights, Extrajudicial executions,	page 44	-
83	Human rights violations by state agents, Corruption,	page 45	not impl.
84	Women's rights	page 22	-
85	Torture and other CID treatment, Impunity,	page 46	not impl.
86	Women's rights, Indigenous peoples,	page 56	not impl.
87	Torture and other CID treatment	page 46	not impl.
88	Right to food	page 57	-
89	Right to housing	page 58	not impl.



rec. n°	Issue	page	IRI
90	Migrants, International instruments,	page 39	partially impl.
91	International instruments	page 59	partially impl.
92	Women's rights	page 22	partially impl.
93	Justice, Freedom of the press,	page 59	not impl.
94	Freedom of the press	page 59	not impl.
95	Freedom of the press	page 60	not impl.
96	Women's rights, Justice,	page 22	partially impl.
97	Women's rights	page 22	-
98	Indigenous peoples, Human rights education and training,	page 60	-
99	Detention conditions	page 45	not impl.
100	Justice	page 50	-
101	Public security	page 60	-
102	Detention conditions	page 61	not impl.
103	UPR process	page 62	not impl.
104	Freedom of the press, Civil society,	page 62	not impl.
105	Human rights defenders, Freedom of the press,	page 63	not impl.
106	Human rights defenders, Freedom of the press,	page 63	not impl.
107	Justice, Human rights defenders, Freedom of the press,	page 63	not impl.
108	Special procedures, Indigenous peoples,	page 64	not impl.
109	Women's rights	page 50	not impl.
110	Rights of the Child	/	no comment
111	Women's rights	/	no comment
112	Migrants	page 64	partially impl.
113	Impunity, Corruption,	page 45	-
114	Justice	page 45	not impl.
115	UPR process, Civil society,	page 62	not impl.
116	Indigenous peoples	page 64	not impl.
117	Women's rights, Impunity, Torture and other CID treatment, Justice, Enforced disappearances,	page 22	partially impl.
118	Detention conditions,	page 45	not impl.
119	Freedom of the press	page 63	not impl.
120	Justice, Human rights violations by state agents,	page 34	partially impl.
121	Poverty, Indigenous peoples,	page 8	not impl.
122	Rights of the Child, Right to education,	page 64	-
123	Trafficking, Rights of the Child,	page 36	partially impl.
124	Detention conditions	page 45	not impl.
125	Torture and other CID treatment	page 46	not impl.
126	Human rights education and training, Detention conditions,	page 47	not impl.
127	Trafficking, Public security, International instruments, Treaty bodies, Torture and other CID treatment, Human rights	page 65	not impl.
128	violations by state agents,	page 34	partially impl.
129	Human rights violations by state agents	page 34	partially impl.
130	Justice	page 34	partially impl.



rec. n°	Issue	page	IRI
131	Freedom of the press	page 66	not impl.
132	Human rights violations by state agents	page 34	partially impl.
133	Right to health, Right to education,	page 66	partially impl.
134	International instruments	page 39	partially impl.
135	Justice, International instruments,	page 39	partially impl.
136	Impunity, Freedom of the press,	page 66	not impl.
137	Torture and other CID treatment, Rights of the Child,	/	no comment
138	Women's rights	page 22	partially impl.
139	International instruments	page 43	partially impl.
140	Human rights education and training	page 45	-
141	Detention conditions	page 61	not impl.
142	Rights of the Child	page 36	partially impl.
143	Women's rights	page 22	-
144	International instruments	page 39	partially impl.
145	Public security	page 45	not impl.
146	Justice	page 45	fully impl.
147	Women's rights	page 22	partially impl.
148	Human rights defenders, Civil society,	page 66	not impl.
149	Impunity	page 45	not impl.
150	Freedom of the press	page 67	not impl.
151	Women's rights, Rights of the Child, Minorities, Indigenous peoples,	page 50	not impl.
152	Enforced disappearances	page 47	-
153	International instruments	page 39	partially impl.
154	Justice, Human rights violations by state agents,	page 35	partially impl.
155	Human rights violations by state agents	page 45	not impl.
156	Torture and other CID treatment	page 47	not impl.
157	Migrants	page 53	partially impl.
158	Torture and other CID treatment	page 47	not impl.
159	Right to health, Right to food, Poverty, Indigenous peoples,	page 67	partially impl.

3. Feedbacks on recommendations

Recommendation n°1: *Combat extreme poverty* (Recommended by *Algeria*).

IRI: *not implemented*

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Recommendation n°34: *Strengthen efforts to fight against poverty* (Recommended by *Brazil*).

IRI: *not implemented*

+

Recommendation n°39: *Strengthen programmes to fight against poverty* (Recommended by *Canada*).

IRI: *not implemented*

+

Recommendation n°68: *Continue efforts to eradicate extreme poverty* (Recommended by *the Holy See*).

IRI: *not implemented*

+

Recommendation n°70: *Combat extreme poverty* (Recommended by *Honduras*).

IRI: *not implemented*

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Recommendation n°71: *Take measures to reduce the problem of extreme poverty affecting indigenous people* (Recommended by *Honduras*).

IRI: *not implemented*

+

Recommendation n°121: *Pay special attention to the situation of indigenous people in programmes-strategies to reduce-eradicate poverty* (Recommended by *the Philippines*).

IRI: *not implemented*

Red Nacional de Organismos Civiles de Derechos Humano (RTDTH) response:

[...] The three branches of government in their different areas must use the maximum available resources while the scarcity of resources does not relieve the states of certain essential obligations. The UPR recommendations focus on reducing inequalities and, in particular, on guaranteeing the ESCR of vulnerable groups such as indigenous peoples, children and migrants.

Reduction of inequality - To be able to achieve a reduction in inequality requires a set of coordinated economic and social policies between the different institutions and levels of government. However, overall there is no visible progress that is having an impact on reducing inequalities, as promoted by the recommendations. The Organization of Economic Cooperation and Development (OECD) stated in a 2011 report that Mexico ranks second in income inequality in OECD countries and has the highest level of relative poverty (one in five Mexicans are poor, compared to only one in ten on average in the OECD countries). Almost half of Mexicans find it difficult or very difficult to make ends meet. For its part, the United Nations Development Programme (UNDP) has documented huge differences between the regions and the 32 states of the country in terms of health, education and income, even when Mexico



is placed on the threshold of the most developed countries according to the Human Development Index (HDI). The Northeast of the country is the area with the highest HDI, this is where the state of Nuevo Leon is located and is ranked second in the HDI; together with Mexico City it has a HDI close to the HDI of some European countries. On the other hand, the southern region, where Chiapas is located, has the lowest HDI. Chiapas occupies the last place on the HDI and, together with Oaxaca, does not surpass the index of the Occupied Territories of Palestine. Among the causes of this inequality, UNDP underlines the precariousness of the investment and the obstacles that the public administration is facing at local level; this in turn prevents the individual from exercising his/her the rights and liberties. Regional inequality can also be observed in the phenomenon of internal and external migration. In fact, regional differences are such that "there are areas that offer better living conditions than those in their place of origin." In contrast, Forbes Magazine published in March 2011 that the Mexican tycoon Carlos Slim Helú topped the list of billionaires. His fortune is estimated at 74 billion USD; it increased by 20.5 billion dollars in one year. In addition to Carlos Slim three other Mexicans are among the 100 richest worldwide.

Growth, employment and Jobs inspection - against all progressive harmonization logic on the subject of labor rights, the latest reform proposals contravene UPR recommendations on the subject of labor. The new proposals seek to downplay the enforceability of collective agreements; pay hourly wages according to number projects and productivity; to dispose of working hours according to market needs; reduce economic benefits, abolish the seniority premium and try to inhibit as much as possible the right to strike. The Mexican government has favored a vision of productivity in poor working conditions. From 2007 to 2010 the unemployment rate rose from 3.7 to 6.3 percent, leaving young and working women primarily in a grave situation of vulnerability. Only in March 2011 there were 957,071 job seekers in the Job Opportunities website of the Ministry of Labour and Social Security, out of which 173.399 were placed in a job. In 2011, 1.09% of the total budget was allocated to labor issues while 6.30% was allocated to business matters.

The problem of unemployment is compounded by its precariousness. Out of the 44.6 million people employed in the country, 28.8 million do not have access to health care institutions (7.9% more than in the administration of President Vicente Fox). In addition, there is a sector of 29.2 million subordinate and paid workers and only 17.5 million have benefits (11.7 million do not have them), only 15.3 million have a contract while 13.7 million works without it; 14.2 million work 35 to 48 hours a week and eight million work more than 48 hours a week. Working hours are extended beyond the provisions of the law, there is an increase in outsourcing that affects mainly young people, and there is a reverse process on the right to social security. The wage level has generated a loss in purchasing power parity which leaves workers unable to access their right to adequate housing, food, education and health among others. Regarding the recommendation to strengthen the work of authorities on labor inspection, the head of the Ministry of Labour and Social Welfare said in 2011 that in Mexico there is not even one inspector for every 100,000 workers. Labour inspection aims to ensure fair working conditions and protect the workers. The International Labour Organization has established as an indicator that the



number of inspectors per worker "should be about one inspector per 10,000 workers in industrial countries with market economies, one inspector per 15,000 workers in countries undergoing economic industrialization, one inspector for every 20,000 workers in transition countries and one inspector per 40,000 workers in the least developed countries.

Recommendation n²: *Ensure the effective access of all children to education, in particular migrant and indigenous children, and take effective measures to combat their exclusion from the education system (Recommended by Algeria).*

IRI: *not implemented*

RTD TT response:

Despite its acceptable educational indicators, Mexico faces the problem of a poor quality education provided by the state and the exclusion that many children and youth in the educational system are subjected to. It seems that there is a tendency to provide a poor education to the poor. The education provided by the state lacks the quality required by the job market and is not thought as an education meant to dignify the human being. The level of education limits them to become low skilled labor, cheap and uncritical. Our leaders have lacked vision and interest in investing in the education system in order to have an educated, competitive, productive and capable of thinking population that will build a democratic state of law and that respects human rights. In 2010 the Rapporteur for the Right to Education indicated that 8 out of 10 indigenous people do not have primary education. The budget to meet the needs of indigenous peoples and communities is still very limited. In addition, the educational model is insufficient to be able to rescue and empower indigenous languages and cultures; there is lack of training for teachers and it is common for them not to know the languages of the students they educate. In the case of indigenous peoples, not even 1% of population that enters primary school manages to enter university, as opposed to 17% of the national population. According to the Rapporteur the main problem that the education authorities are facing is to provide quality education; the "education supply does not meet the social inequalities that mainly affect marginalized populations, it also does not introduce structural measures that address more effectively their needs, nor does it invest sufficient resources for their care." Although there are important initiatives, it would appear as if the system was reproducing these inequalities or it is very slow in removing them.

Consortio Para el Dialogo Parlamentario y la equidad (CPDPE) response:

Descripción general sobre la problemática

A pesar de las reiteradas recomendaciones realizadas al Estado Mexicano en materia de Educación Indígena, por parte de agencias especializadas y relatores especiales de la ONU, al menos cinco indicadores reflejan la discriminación en la educación que se ofrece a los Pueblos Originarios en México: la discriminación en la infraestructura, las niñas, niños y adolescentes indígenas asisten a las escuelas que se encuentran en situaciones lamentables, con la falta de mobiliario adecuado y materiales didácticos pertinentes y útiles; la discriminación en capacitación, significa que al profesorado que trabaja en este sector educativo no se le capacita para una educación con pertinencia lingüística y cultural; discriminación en inversión, se calcula que se invierte menos de dos terceras partes en la educación de un niño indígena con relación a un niño del sistema normal urbano; la discriminación en los



contenidos curriculares y la aplicación de formas de evaluación como la prueba Enlace; y la discriminación institucional que excluye, invisibiliza, niega o margina a los pueblos originarios en cuanto a la atención que las instituciones están obligadas a ofrecerles.

En el año 2008 un conjunto de organizaciones, escuelas, y pueblos indígenas agrupados en el Congreso Nacional de Educación Indígena Intercultural, apoyaron la demanda en contra de la Secretaría de Educación Pública, por discriminación en la aplicación de la prueba Enlace, interpuesta por maestros indígenas de la escuela primaria El Porvenir en Chiapas, México. Esta queja presentada ante el Consejo Nacional para Prevenir la Discriminación demostró una práctica constante de discriminación institucional en contra de los Pueblos indígenas, citamos parte de la motivación de resolución dictada dos años después de la presentación de la demanda: “Del análisis de las evidencias recabadas por el CONAPRED se tiene la convicción de que en el presente caso, en el área de la Secretaría de Educación Pública responsable de diseñar e implementar la primera versión de la prueba enlace como un medio de evaluación estandarizado en todo el país, se generó un acto de discriminación indirecta, en razón de que en su momento se omitió adecuar dicha evaluación (reactivos aplicados) a las necesidades, características propias y a la diversidad cultural de los pueblos y comunidades indígenas, y consecuentemente evaluar los efectos que ocasionaría a dicho grupo de población. El efecto de los exámenes estandarizados fue que, sin tratar de hacer diferencias, sí generó un tratamiento inequitativo al ser aplicada a niñas y niños en las escuelas de comunidades indígenas, donde principalmente predomina su lengua materna y cuyo contexto cultural es distinto al de las comunidades infantiles urbanas. Los resultados de dicha prueba además hicieron evidente que, el aprovechamiento escolar en las escuelas rurales, particularmente las indígenas, eran consistentemente más bajos que en el resto de las escuelas del país, derivado de múltiples factores que van desde los socioeconómicos hasta las condiciones de las escuelas, la preparación de los maestros y las bases académicas de las niñas y niños. A partir, entonces, de la aplicación de la prueba enlace, se pudo medir con claridad la situación de asimetría desventajosa”

Avances

A la fecha la SEP aceptó la recomendación del CONAPRED, pero no ha tomado compromisos ni acciones suficientes para resolver la causa de la discriminación.

Pendientes

En México, si bien se ha avanzado en el fortalecimiento de instituciones como el Consejo Nacional para Prevenir la Discriminación, los principales obstáculos siguen siendo la política pública homogénea, la falta de asignación presupuestal a la educación indígena y una reforma profunda al sistema educativo mexicano.

International Indian Treaty Council (IITC) response:

In 2011, the Mexican government proposed substantial cuts in the National budget earmarked for Indigenous Peoples. Although the previous budget was restored by the Mexican legislature, no additional funds were provided for Indigenous Peoples



national programs including education. To our knowledge, no additional measures have been taken to improve or include indigenous education.

Recommendation n°3: *Pay special attention to the situation of indigenous people in programmes-strategies to reduce-eradicate poverty* (Recommended by Algeria).

IRI: *not implemented*

RTDTT response:

To be able to achieve a reduction in inequality requires a set of coordinated economic and social policies between the different institutions and levels of government. However, overall there is no visible progress that is having an impact on reducing inequalities, as promoted by the recommendations. The Organization of Economic Cooperation and Development (OECD) stated in a 2011 report that Mexico ranks second in income inequality in OECD countries and has the highest level of relative poverty (one in five Mexicans are poor, compared to only one in ten on average in the OECD countries). Almost half of Mexicans find it difficult or very difficult to make ends meet. For its part, the United Nations Development Programme (UNDP) has documented huge differences between the regions and the 32 states of the country in terms of health, education and income, even when Mexico is placed on the threshold of the most developed countries according to the Human Development Index (HDI). The Northeast of the country is the area with the highest HDI, this is where the state of Nuevo Leon is located and is ranked second in the HDI; together with Mexico City it has a HDI close to the HDI of some European countries. On the other hand, the southern region, where Chiapas is located, has the lowest HDI. Chiapas occupies the last place on the HDI and, together with Oaxaca, does not surpass the index of the Occupied Territories of Palestine. Among the causes of this inequality, UNDP underlines the precariousness of the investment and the obstacles that the public administration is facing at local level; this in turn prevents the individual from exercising his/her the rights and liberties. Regional inequality can also be observed in the phenomenon of internal and external migration. In fact, regional differences are such that "there are areas that offer better living conditions than those in their place of origin." In contrast, Forbes Magazine published in March 2011 that the Mexican tycoon Carlos Slim Helú topped the list of billionaires. His fortune is estimated at 74 billion USD; it increased by 20.5 billion dollars in one year. In addition to Carlos Slim three other Mexicans are among the 100 richest worldwide.

IITC response:

See [response to recommendation n°] 6 below. To our knowledge, no additional or improvement measures have been taken.

Recommendation n°4: *Take all necessary measures to ensure the effective application of the Federal Act to prevent and punish Torture* (Recommended by Algeria).

IRI: *not implemented*

RTDTT response:

Torture in Mexico is a systematic practice despite the existence of a legal basis since 1991 to prevent and punish it. Therefore, the recommendations on torture focus in



the need for effective and efficient measures to prevent and punish torture and combat impunity. In its final report, however, the Mexican government simply stated that the General Law of the National Public Safety from January 2009 prohibits the use of torture by personal security institutions. From 2009 to date, the Committee against Torture and Impunity (CATI) has recorded 204 cases of allegations of torture, out of which 71 are women and 133 men. The increase in these cases has been linked primarily to security policies directed at fighting organized crime and the use of arraigo. In practice the use of arraigo severely limits the possibilities of a legal defence since it is commonly used to manufacture crimes; furthermore, during the arraigo other series of human rights violations are committed including torture and other cruel, inhuman and degrading treatments. Despite being a reprehensible act, the figure of arraigo was legislated only for cases related to organized crime; nevertheless the authorities have applied it to cases where there is not necessarily a link with organized crime groups. In this context, the implementation of the Federal Law to Prevent and Punish Torture has not been ensured. One serious problem is the lack of impartiality in the investigations because the same instance that allegedly committed the crime is in charge of the investigation. The same problem exists in the implementation of the Istanbul Protocol regarding the necessary evidence to prove alleged acts of torture since the experts who carry out the tests are adhered to the Public Prosecutor's Office. Most allegations of torture do not proceed because of a lack of efficacy and willingness on the part of public prosecutors. To date there is a very small number of convictions for torture in the country. The visit in 2008 by the Subcommittee on the Prevention of Torture led to a detailed analysis of the situation of persons deprived of their liberty in relation to torture and ill treatment. The recommendations of its final report include strengthening the legal framework and to provide the necessary human and material resources for the National Mechanism for the Prevention of Torture (Mecanismo Nacional de Prevención de la Tortura, MNP). Furthermore, the Subcommittee recommends ensuring the Mechanism's autonomy, independence and institutionalization. One of the faculties of the Subcommittee is to provide assistance on the development and performance of the bodies designated by the States Parties to make regular visits to detention centers, known as national preventive mechanisms against torture; in the case of Mexico and after a controversial process this responsibility resides on the National Commission of Human Rights.

IITC response:

To our knowledge, no measures have been taken.

Recommendation n°5: *Continue efforts to eradicate and address cases of domestic violence and child abuse (Recommended by Algeria).*

IRI: not implemented

RTDIT response:

The concerns and recommendations expressed on women's rights were reaffirmed a year later by the Human Rights Committee during the review of the International Covenant on Civil and Political Rights in 2010. The Committee considered that the State should further intensify its efforts to combat violence against women and address the root causes of this problem.



General Law on Women's Access to a Life Free of Violence

The General Law on Women's Access to a Life Free of Violence (Ley General de Acceso a la Mujeres a una Vida Libre de Violencia, LGAMVLV) is the federal legislation that establishes the principles upon which a life free of violence should be guaranteed to women. At the state level, local laws that have been approved have omitted several provisions of the General Law such as femicide violence or have deleted the legal figure of protection orders. Therefore, it is not enough to point out quantitatively the enactment of such laws but it is necessary to analyze their content to determine whether or not they are in compliance with the General Law. The Human Rights Committee reaffirmed the need to take "measures to ensure that the legislation of every state is fully consistent with the General Law, in particular the prohibition of sexual harassment and the provisions concerning the establishment of a database with information on cases of violence against women, creating an early warning mechanism on gender-based violence." One of the provisions of the General Law (LGAMVLV) is the creation of a National Data and Information Bank on Cases of Violence against Women (Banco Nacional de Datos e Información sobre Casos de Violencia contra las Mujeres, BANAVIM). The Public Security Secretary, responsible for BANAVIM justified its failure to operate stating that the states do not add data or do not have the complete information on the variables being measured. So far the system has not made contributions in the prevention and eradication of violence against women. The Mexican government has no accurate information on this problem even though it recognized the problem more than 17 years ago.

Protection Mechanisms for women

Within the framework of legal protection for women, two types of mechanisms of protection provided for in the General Law (LGAMVLV) and in the correlative legislation of the states have been established: protection orders and the issuance of a gender alert. The National Citizens' Observatory of Femicide (Observatorio Ciudadano Nacional del Femicidio, OCNF) has identified a number of obstacles that have hindered and prevented the implementation of these two mechanisms. *Protection Orders* - Since their creation, protection orders included in the states' legislation of access to justice for women have had shortcomings since they do not specify the authority that is responsible for issuing them. This has meant that the authorities in charge of the enforcement and administration of justice do not assume the responsibility of implementing these orders. The mechanism is not disseminated by the authorities and there is no way of assessing the imminent risk; therefore the consideration of whether the woman's life is at risk is left at the official's discretion. Protection orders are only issued in cases of family violence and thus, in cases of violence at the workplace, by personnel or in community no special measures apply. In states such as Chihuahua and Coahuila this measure is not considered at all while in Campeche reference is made to the protection orders but they are not divided into emergency, civil and preventive orders providing no more specifications in this respect. Even when it is pointed out that the orders will be issued by the competent authority, violence against women is not criminalized in the Penal Code, let alone the protection orders.



Declaration of a Gender Alert - The Declaration of Gender Alert has been considered one of the most innovative mechanisms to protect the rights of women and it is defined as "a set of emergency governmental measures to confront and eradicate femicide in a given territory." The civil society has formally requested the application of this mechanism three times:

- On the 30th of April 2008 femicide was reported in the Triqui region of the state of Oaxaca due to political conflicts between the indigenous communities of the area in which women had been taken as the spoils of war; murders and disappearances were also reported. The authorities in charge of raising the Gender Alert did not even process the request arguing that it did not meet the requirements and there was no sufficient evidence (records and testimony, etc.) to demonstrate the systematic violence referred.
- In May 2009 the request filed was regarding unfair treatment in the state of Guanajuato. The request denounced the vulnerability of women victims of sexual violence because the body of law itself violated their human rights. Although the Penal Code permits abortion in cases of rape, the state does not provide for legal abortion and for the administration of justice to victims. It should be noted that this request was dismissed by the competent authority not in accordance with the procedure established by the law and its regulations.
- The request filed on the 8th of December 2010 sought to safeguard the lives and safety of women in the State of Mexico. From January 2005 to August 2010 there were 922 cases of femicide; in 526 cases the identity of the murderer remains unknown. The alert also intended to identify irregularities incurred by the justice system to detect the pattern of impunity and systematic violence which prevents and hinders the progress in the investigations so that the victims of violence and femicide can have access to justice. This application was declared admissible by the Executive Secretariat of SNPASEVM since it fulfilled the legal requirements established in the LGAMVLV. However, on the 11th of January 2011, during an extraordinary session, the SNPASEVM unfoundedly decided to deny the validity of the request putting forward arguments irrelevant to the context of the alert giving no assessment of the facts and of the evidence accompanying the application.

Sexual Violence

The National Citizens' Observatory of Femicide (OCNF) has monitored the implementation of NOM 046 which is in force since 2009. Through this law the Mexican government agreed to modify its system of care for women victims of sexual violence. It is worrying that health departments in the states do not have a systematization of the information concerning comprehensive care according to the criteria of the NOM 046, and thus, it is impossible to know the magnitude of the problem and the type of care they provide. On the other hand, the lack of coordination between the health departments and the public prosecutors in the states becomes an obstacle for women victims of rape seeking access to comprehensive care and to a legal termination of a pregnancy resulting from rape. Specialized Centers of Attention to Violence are not available to all women because many live in marginalized communities or of difficult access and that are far away from these centers. The Special Prosecutor for Crimes of Violence against Women and Human Trafficking (Fiscalía Especial para los Delitos de Violencia contra las Mujeres y Trata



de Personas, FEVIMTRA) has been unable to serve as an institution firmly committed with the rights of women and it has shown that it is insensitive to the adverse effects of gender violence. In the case of Atenco, the Special Prosecutor did not diligently investigate as demonstrated by the lack of expertise to gather the medical examinations in a prompt and adequate manner and through specialized female medical staff; furthermore, the complaint of sexual torture was reclassified and minimized and the victims have had difficulty at various times to access the investigation files. FEVIMTRA, which answers to the Attorney General's Office declined jurisdiction of the case in favor of the Attorney General of the State of Mexico in July 2009. Almost two years later, the investigation continues without having brought any of the officials responsible before a judge.

Femicide

The OCNF documented that from January 2009 to June 2010, 1728 intentional homicides of women were reported in 18 states of the country, 11 of these states provided partial information on the cases. It is presumed that 890 cases are femicide. In 576 cases (64% of the femicide cases) the victims were killed as a result of violent acts involving excessive use of physical force (head injuries, injuries caused by sharp objects, bruises, burns and fractures). Regarding the age of the victims, they were mostly between 11 and 30 years old (41%). The data on the victim/offender relationship reveals that in 20% of the cases the perpetrator was a spouse, a relative or an acquaintance of the victim, while in 40% the offender remains unknown. It is important to mention that in half of the documented cases the relevant authority does not provide the motive behind the murder. The OCNF states that violent deaths against women in Mexico reflect a widespread phenomenon that is tolerated by the state, creating an atmosphere of permissiveness by the authorities towards these crimes. This situation indicates the lack of due diligence in preventing, investigating and punishing violence against women. In the process of administration of justice in the murders of women, the authorities are still doing a poor job and have not implemented comprehensive strategies besides the processes related to the judiciary level. The situation continues to place the state as a part of the chain of violence experienced by women. The state is to be held accountable for institutional violence from the moment it delays, impairs or prevents the enjoyment and exercise of the human rights of women, in particular of their right to life and security. Proof of this is that after a year and a half after the judgment of the Inter-American Court in the case Campo Algodonero against Mexico in which the Court mandated through its operative clause number 12 the investigation and sanction of those responsible for the murders of the young women González Herrera and Ramos, no progress has been made. According to representatives of the victims in the records there are no new actions by the authorities since 2009. With regards to operative paragraph number 13 on the trial of the officers who committed serious misconducts in the investigations, the Chihuahua Attorney General's Office reported that in June 2010 a procedure for administrative responsibility started against six public officials, involved in failed investigations, including one case in which the time prescribed for state authorities to exercise their authority in order demand accountability. In two cases the officers were acquitted; in two other cases, officials were disqualified for one year while in a couple of other cases the officials were banned from office for 2 years. The main concern in this case however, is that the Chihuahua state authorities have



indicated that there are difficulties to carry out this Court's resolution because the relevant legislation provides that the crime prescribes after two years of the events. In Guanajuato for example, although femicides are accounted for as "resolved" they are far from being so: officials, members of the judiciary and the police have failed to eradicate gender stereotypes which permeate the performance of their duties and thus, have carried out investigations that are biased against the murdered women subjecting the family of the victim to discriminatory and offensive questions.

CPDPE response:

Descripción general de la problemática

Violencia feminicida: La violencia extrema contra las mujeres se ha disparado alarmantemente del 2009 a la fecha y las organizaciones vemos con sumamente preocupación el aumento de las cifras de feminicidios en el estado. En lo que va el año, de enero al 07 de Noviembre del 2011 83 mujeres fueron asesinadas, entre ellas embarazadas, niñas y jóvenes. Este número es por mucho mayor que en los años pasados, donde se cometieron un promedio de 46 homicidios contra mujeres al año. Las organizaciones civiles observan con preocupación la forma cada vez más cruel en cuál las mujeres fueron asesinadas y en muchas de los casos sus cuerpos muestran signos de sufrimiento excesivo antes de ser asesinadas. En la violencia sexual y la violencia intrafamiliar Oaxaca ocupa los primeros rangos al nivel nacional, como también en la muerte materna. Estadísticas de violencia contra mujeres en Oaxaca:

- 46% de las mujeres casadas han sido objeto de violencia por su pareja durante su relación.
- Una de cada cuatro mujeres ha sufrido agresión sexual, teniendo Oaxaca los primeros lugares de violencia sexual a nivel nacional en los últimos años.
- 28.4% de mujeres violentadas han padecido violencia extrema por parte de su pareja.
- 40% de las mujeres casadas o unidas habla lengua indígena, de ellas el 40% fue violentada por su pareja durante su relación.

MUJERES ASESINADAS						
Gobierno de Ulises Ruiz En seis años: total de 261					Gabino Cué En un año: total de 83	
2005	2006	2007	2008	2009	2010 (ENE-NOV)	DIC 2010 7 NOV 2011
38	38	28	43	58	51	83

Tipos de violencia en los últimos años:

Año	Asesinatos	Suicidios	Desparecidas	Violencia Sexual	Violencia familiar
2009	64	14	19	799	1706
2010	56	14	33	497	883
2011	45 (Julio)	----	----	132 (Marzo)	207 (Marzo)

[...]

Ley Estatal de Acceso de las mujeres a una vida libre de violencia - El congreso de Oaxaca tardó más que un año, después de entrar en vigor la Ley General al nivel federal, para aprobar la ley estatal en 2008. Los y las diputados no contaron con asesoría especializada, ni recogieron la intención de fondo de la ley federal, así que podemos destacar inconsistencias y vacíos de esta ley, los principales son:

- No se prohíbe la conciliación en casos de violencia, tal como se establece en las recomendaciones internacionales, lo cuál pone en riesgo a las mujeres que sufren violencia.
- No se establece la obligación del estado y de los municipios de asignar presupuesto suficiente para el cumplimiento de la ley.
- No se establece con claridad la obligación de los agresores a asistir a un centro de reeducación, dejándolo como una opción voluntaria y solo obligatorio si alguna autoridad judicial lo ordena. (arts. 90 y 91)

El reglamento de la Ley Estatal de acceso de las mujeres a una vida libre de violencia de género finalmente salió en abril del 2010, pero aún está pendiente su implementación.

Acceso a la justicia - El marco legal es inconsistente y insuficiente y los códigos civiles y penales con graves vacío. Ante esta situación solo se puede confiar en la sensibilidad del poder judicial para investigar y sancionar la violencia que sufren las mujeres y para garantizar su seguridad. Sin embargo numerosos son los casos que quedan pendientes por investigar y sancionar, de tal manera que se pone en riesgo la vida de las mujeres y se fomenta la impunidad. De los últimos años quedan aún pendiente más que 400 casos de violencia de género por investigar en la Fiscalía Especializada de Delitos de Violencia de género, a los cuales se suman más casos cada día. En el refugio para víctimas de violencia hay mujeres que desde hace meses no pueden salir, debido a que su agresor aún esta en libertad. Esta situación conlleva a que el refugio no puede acoger a otras mujeres que están en riesgo. Incluso en los casos extremos de violencia, los feminicidios, no hay mayor respuesta en las investigaciones, así que la mayoría de los responsables siguen en libertad.

Avances

- El Instituto de la Mujer Oaxaqueña (IMO) está empujando programas de prevención, atención, erradicación y sanción de la violencia de género, sin embargo no pueden dar resultados inmediatos.



- En julio del año en curso, se elevó la Fiscalía Especializada para Delitos de Violencia de Género al nivel de Sub Procuraduría, lo cual le da mas facultad ante los Ministerios Públicos en la investigación de los casos. Además se trasladaron las instalaciones, antes fuera de la ciudad, al centro para que sean más accesibles para las mujeres que vienen a denunciar.
- En 2011, por iniciativa del Instituto de la Mujer Oaxaqueña (IMO) y organizaciones civiles, se ha elaborado una propuesta de reformas legislativas para tipificar el feminicidio, la violencia familiar y la violencia obstétrica, así como la iniciativa de decreto que reforma la Ley Estatal de Acceso de las Mujeres a una Vida Libre de Violencia de Género. En agosto del año presente se entregó el paquete de reformas al congreso estatal y se está esperando su debate y aprobación en este año.

Pendientes

- A pesar del compromiso por parte del gobierno en marzo de este año, a “gestionar y canalizar por lo menos 590 millones de pesos en el primer año de gobierno en apoyo a las mujeres”, hasta el momento no existen recursos etiquetados para implementar el programa urgente para prevenir, atender, sancionar y erradicar la violencia de género.
- La Sub Procuraduría especializada carece de un presupuesto suficiente para garantizar la investigación y sanción de la violencia contra mujeres.
- El poder judicial local y Ministerios Públicos carecen de personal capacitado sobre género y prevención de la violencia hacia las mujeres. Igualmente no hay una instancia especializada que institucionalice la perspectiva de género en la administración de justicia, tal como lo establece el artículo 55 de la Ley Estatal de Acceso de las Mujeres a una Vida libre de Violencia de Género.
- Aún no existe un sistema único y confiable de registro e información sobre la violencia de género y que de seguimiento a los casos. Por lo tanto el Colectivo Huaxyacac se ve obligada de seguir con su investigación hemeográfica.
- Aún y a pesar del artículo sexto transitorio de la Ley, no ha iniciado la armonización de la legislación, de tal manera que estamos ante un marco legal con vacíos y contradicciones que no garantizan la impartición de justicia y fomentan la impunidad.
- Después de un año del gobierno de alternancia y de un congreso “plural”, no se aprobó un presupuesto etiquetado y mucho menos se han realizado reformas mínimas para hacer efectivos y reales los derechos humanos de las mujeres. Sino por el contrario las propuestas que se han presentado no han prosperado.

IITC response:

To our knowledge, no measures have been taken.

Recommendation n°6: *Adopt appropriate legislation in full conformity with international standards on the rights of indigenous peoples (Recommended by Argentina).*

IRI: not implemented

RTD TT response:

The recent enactment of the constitutional reform on human rights is also an important step forward in the recognition of the rights of indigenous peoples. This reform should now consider the contents of Convention 169 of the International Labour Organization (ILO). Again there is an urgent need to review the



implementation of Article 2 of the Constitution. It should be recalled that to date the recommendations of the UN Special Rapporteur on Human Rights and Fundamental Freedoms of Indigenous People have not been addressed that call the State to reopen the debate about indigenous matters in accordance with the principles in the San Andres agreements and with international standards. The Rapporteur's report touches upon several key aspects of the rights of indigenous peoples in Mexico; one of the main themes is the access to justice. The lack of protection of indigenous peoples in Mexico with regards to due process and a fair trial is evident. The indigenous people that are involved in a legal process face a discriminatory system alien to their culture and concepts of justice, besides being of an inquisitorial nature and expensive. Most processes present startling irregularities which start from the moment of detention, the vast majority of which were carried out arbitrarily. The police interrogations are often carried out under pressure and in many cases involve torture. The justice system is characterized by being biased and unfair. In everyday life, indigenous people are unaware of the judicial process and procedure which they are undergoing and the different stages of it. There is also a lack of interpreters of their language and according to their culture, which has become one of the most frequent irregularities in the judicial process. Furthermore, most lawyers do not know the language and culture of their clients. On the other hand, judges give sentences ignoring the legal norms of indigenous peoples and even unaware of the international human rights instruments that protect them, in particular of the United Nations Declaration on the Rights of Indigenous Peoples. When speaking of justice, however, the right of these groups to access their own indigenous jurisdiction should not be overlooked, this jurisdiction is based on the regulatory systems of the indigenous people. These are explicitly mentioned in both Article 2 of the Constitution and the ILO Convention 169 and should be recognized by national authorities. However, the expressions of community justice are often unknown and even persecuted. In Guerrero, where the indigenous peoples of the Coast Mountain have organized themselves around the Regional Coordinator of Community Authorities (CRAC) to find an alternative community justice and security in the region, the promoters of this grassroots system often go through interrogations by the formal authorities that often translate into criminal processes. The recognition and implementation of the right of consultation of indigenous peoples in Mexico has been a long struggle that has not yet been implemented. Convention 169 states in its article 6 that in applying the provisions of this convention, governments have a duty to "consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly" and that such consultations "shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures". Currently, the projects that affect indigenous communities are being developed and carried out without consultation and prior informed consent. An example of this is the Mesoamerica Project or the mining concessions that have been granted to national and international companies for the exploitation of soils within the territory of indigenous communities. In recent years one of the most intense in the struggles for recognition of their indigenous rights has been that of the wixárika community. During the Permanent Forum's session under the UN Economic and Social Council (ECOSOC), which ended on May 27th 2011, the Rapporteurs warned of the UN's



concern on issues that endanger indigenous peoples because of the absence of recognition of the consultations. The Permanent Forum highlighted those issues related to extractive industries, the commoditization of water, forced displacement by armed conflict or megaprojects and the extinction of indigenous languages. The historically continued practices and the great discourses by each specific indigenous group represent their culture, that is, we have the worldview of a group embodied in its great narratives such as art, religion, science, law, traditions and customs. From this and based on the role of the modern political state, democratic governments should seek alternatives to consolidate, reproduce, create and promote spaces designed for culture. For example, the government of Chiapas is not interested in culture; their priority instead is the image of culture and its translation into tourism and economic exploitation and thus people and communities are belittled. This is demonstrated in the Chiapas government's decree of December 2010, in which it ordered the demise of the State Center for Indigenous Languages, Arts and Literature (CELALI) and its dismantling by the end of March 2011. The CELALI now has been included in the Secretary of Indian Peoples. Throughout its short existence, the CELALI was a space of expression and of promotion of indigenous peoples' culture in Chiapas as well as of multiculturalism. It had had its successes and failures, as well as processes that required greater vitality and monitoring of continuity. Finally, it is important to note that the participation of the armed forces in public security tasks is also endangering the safety of these communities. The complaints against the Army in states like Guerrero and Chiapas remain. There is a pattern of discrimination, particularly against indigenous women, and it attempts against their community organization.

IITC response:

No measures have been taken on the federal level. The Mexican Constitution leaves it up to the States of the Union to define and guarantee indigenous peoples' rights and their implementation. This is the problem.

Recommendation n°7: *Provide adequate funding for investigations of violence against women, victim support programmes for affected women, and special training for the police to sensitize them to the problem of violence against women (Recommended by Austria).*

IRI: *not implemented*

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Recommendation n°21: *Tackle incidences of domestic violence and femicide through a multi-pronged approach, including effective legal measures and social awareness programmes (Recommended by Bangladesh).*

IRI: *not implemented*

+

Recommendation n°43: *Undertake the Law's implementation by all relevant authorities, at the federal, state and municipal levels, including in the prevention and eradication of violence against women, as well as care for victims (Recommended by Chile).*

IRI: *partially implemented*

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Recommendation n°76: *Assist and encourage the Federal state's authorities to implement the General Law for Women's Access to a Life Free of Violence as a matter of urgency, and where it has been incorporated in states' legislation, ensure that appropriate regulations are elaborated to ensure its effective implementation (Recommended by Ireland).*

IRI: *partially implemented*

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Recommendation n°84: *Effectively implement as soon as possible the Comprehensive Program to Prevent, Address, Punish and Eliminate Violence against Women (Recommended by Japan).*

IRI: -

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Recommendation n°92: *Bring state laws and federal legislation in line with the framework established by the General Law for Women's Access to a Life Free of Violence (Recommended by the Netherlands).*

IRI: *partially implemented*

+

Recommendation n°96: *Commit to promptly repealing such legislation, with priority attention paid to family law that results in real or de facto discrimination against women and girls, and to legislation that prevents women's access to justice, particularly in respect of the reporting and prosecution of family violence (Recommended by New Zealand).*

IRI: *partially implemented*

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Recommendation n°97: *Conduct a time-bound review of legislation at state level which discriminates against women (Recommended by New Zealand).*

IRI: -

+

Recommendation n°117: *Maintain its priority to end impunity for perpetrators of all forms of acts of violence against women, whatever their social condition; give more information on progress to prevent such violations. (Recommended by Panama).*

IRI: *partially implemented*

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Recommendation n°138: *Continue efforts to eradicate and address cases of violence against women (Recommended by Sweden).*

IRI: *partially implemented*

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Recommendation n°143: *Effectively implement across the country the Comprehensive Program to Prevent, Address, Punish and Eliminate Violence against Women (Recommended by Turkey).*

IRI: -

+

Recommendation n°147: *Ensure effective investigation and punishment of the crimes of murder of women, and adopt additional measures to combat this phenomenon and raise awareness about such threat (Recommended by Ukraine).*

IRI: *partially implemented*

RTDTT response:

See [response to] recommendation n°5.

CPDPE response:

See [response to] recommendation n°5.

Recommendation n°8: *Further strengthen the mechanisms for the effective implementation of the National Human Rights Programme at all levels of government (Recommended by Austria).*

IRI: *not implemented*

RTDTT response:

During the administration of President Felipe Calderon a new National Human Rights Program (NHRP) for 2008-2012 was developed, which was directed specifically at the Federal Public Administration. In December 2008 the Monitoring and Evaluation Subcommittee of the National Human Rights Program was established whose Technical Secretariat was in charge of the Unit for the Promotion and Defense of Human Rights (UPDDH) of the Ministry of Interior. This Subcommittee is part of the Commission on Government Policy on Human Rights Issues, a body that seeks to coordinate the various activities of the federal government on human rights and that maintains a dialogue with the civil society. To date there is no systematic information that can be used to observe the progress in the implementation of the NHRP. The work has been slow and adequate methodologies and indicators to monitor and evaluate public policies on human rights have not yet materialized despite proposals from civil society organizations involved and the contributions of the Mexico's Office of the High Commissioner for Human Rights. In addition the Unit has undergone constant changes by their directors and in the view of civil society organizations it has not been active, effective and efficient to coordinate efforts. In 2010 the Unit (UPDDH) presented the first Follow-up Report without having consulted it with the most critical civil society organizations and academic institutions present during the process. In addition to this, the federal government unilaterally decided that the Subcommittee should assume the follow up of the UPR recommendations. Subsequently, the Subcommittee also undertook the fulfilment of the Millennium Development Goals. These decisions were made without a clear methodology and with limited financial and human resources. It was not considered, for example, that the NHRP and recommendations made by the UPR require different levels of analysis, actions, agreements and monitoring and evaluation methodologies. The civil society organizations participating in the Subcommittee are currently dormant and in the process of deciding to leave this space. The described situation has led to the alienation and distrust of the Subcommittee and of the Unit besides the weariness caused by the lack of results and the continuity of a process that dates back to at least 2004. Added to this, many organizations have stopped participating in the processes of articulation and dialogue with the Federal Government due to increased human rights violations and the position of the authorities towards issues like the militarization of public safety, femicide, women's rights, torture, enforced disappearances or the situation of migrants.

Centro Mexicano de Derecho Ambiental (CEMDA) response:

A nivel local, en 2009 se presentó el Programa de Derechos Humanos del Distrito Federal, una novedosa herramienta para planear, programar, presupuestar, coordinar y articular las políticas públicas de la ciudad desde el enfoque de los derechos humanos. Sin embargo, la implementación de este programa se ha visto



obstaculizado por la falta de voluntad política, falta de mecanismos de indicación y avance de resultados así como por el desconocimiento de los ciudadanos de sus derechos fundamentales. Por ello, es viable decir que si bien al menos en el Distrito Federal se cuenta con un programa de derechos humanos, lo que falta es el diálogo con la sociedad civil así como la publicidad tanto del programa como de los derechos.

IITC response:

To our knowledge, no measures have been taken, Grave situations of violence continue, both on the part of state and local police as well as groups the government is unable or unwilling to control.

Recommendation n°9: *Continue the Public Security and the Criminal Justice System reforms and ensure that it is being implemented quickly to ensure that human rights violations by the security forces are systematically investigated, perpetrators are brought to justice and victims are compensated (Recommended by Austria).*

IRI: not implemented

RTDTT response:

Given the problem of organized crime that the country is facing, the government of Felipe Calderón adopted mainly a police strategy that has led to the militarization of the public security and the deployment of armed forces in large areas of the country. The recommendations on public safety and militarization are focused on preventing violations and abuses committed by police and the army, as well as promoting the reform of the criminal justice system to combat impunity.

Public Security and Militarization - In its response to the recommendations relating to public safety, the Mexican government said that the 2009 General Law of National Public Security provides the basis for the professionalization of police in the three levels of government. However, the training process does not consider external participation or monitoring from specialized civil society organizations. The federal government also stated in its responses to the recommendations that the Federal Police Act "recognizes the investigation capabilities of the police..." However, the law has been questioned because it empowers the police to conduct covert operations without the necessary controls. It has also led to possible effects on the individuals' rights to privacy, inviolability of the home and to private communications or the right of defendants to know the name of his/her accusers. The National Human Rights Commission (CNDH) filed an action challenging the constitutionality of this law. Furthermore, in Mexico the so-called "quasi flagrancy" or "compared flagrancy" figure is still applicable. This is contrary to international standards that protect human rights since this type of arrest makes room for arbitrariness as it gives a sort of 'blank check' to detain people. Currently the major concerns focus on the reform of the National Security Act. In April 2011 several organizations expressed their concern about three key issues with regards to the discussion on the reform:

- 1) the regularization of the participation of the Permanent Armed Forces (PAF) in jobs that constitutionally do not correspond them;
- 2) the criminalization of peaceful social protests, of the defense of human rights and the exercise of freedom of expression;



3) the absence of democratic controls over the actions of the PAF in the actions against alleged "adverse effects on the internal security", this is reflected in the extension of the military jurisdiction to offenses that constitute human rights violations against civilians and

4) the absence of monitoring and control mechanisms from Congress, the Judiciary and the autonomous public agencies. The Mexican State should incorporate international standards and recommendations on the subject public safety so that the security it provides is the result of a holistic approach that understands the social, political and economic dimensions of the security issues that the country is facing today, and not only gives priority to the use of force. This includes the progressive withdrawal of the armed forces from public security tasks, as has been recommended in numerous occasions. As noted by the WGEID, "the logic of the army and the police are different and therefore military operations undertaken in the context of public safety should be strictly restricted and properly supervised. Military personnel are trained to deal with hostile foreign forces and not to perform police activities or interact with civilians. ". The constitutional reform on criminal justice and security came into force the 19th of June 2008; from that moment an eight year process began to fully implement it. To date, nearly three years later, the progress is as follows: Federal Level - The Code of Criminal Procedure has not yet been legislated: In 7 states the accusatory system is operating (Chihuahua, Oaxaca, Durango, Zacatecas, State of México, Morelos and Baja California); In 4 states it will start operating in 2011 (Hidalgo, Guanajuato, Yucatán and Puebla); 14 entities are in the process of planning its implementation (Campeche, Chiapas, Colima, Guerrero, Jalisco, Michoacán, Nuevo León, Querétaro, San Luís Potosí, Sonora, Tabasco, Tamaulipas, Tlaxcala and Mexico City); In 7 states there has been no progress (Aguascalientes, Baja California Sur, Coahuila, Nayarit, Quintana Roo, Sinaloa and Veracruz).

At the federal level the new accusatory system does not exist. In less than a quarter of the states the new system is already operating although in some only partially. On the other hand, two thirds of the states are either in the beginning stages of the implementation process or have not done anything about it. A scenario seems to be setting up where most states want to do everything at the last minute or might as well end up pushing for an extension and will further delay the effective access to justice for citizens. Another aspect of the reform is the figure of a judge in charge of enforcing the penalties. According to the fifth transitory paragraph of the reform, the judges should be taking office no later than the 20th of June, 2011. At the federal level the respective law has not yet been approved and therefore an appropriate legal framework is non-existent. The Federal Judicial Council reported that it will resolve the issue with a general agreement and foresee the entry of 16 federal judges on the matter. Besides the lack of legislation it must be noted that there are no budget plans for this stage. In the case of Mexico City in early May 2011 the law on judgment enforcement was approved. However, the selection of the judges is quite delayed so that it is a possibility that only two or three judges will be working from the start and not the 25 that are needed. Furthermore, there is no planned budget for the essential infrastructure or the salaries. To date there is no proposal to enforce the provisions of Article 18 which reads as follows: "The prison system is organized on the basis of work, the training to carry it out, education, health and sports as means to achieve the reintegration of those imprisoned to society." This



implementation process is meeting with resistance and opposition. In previous months, as a result of the acquittal judgment issued by the judges in the case of Ruby Marisol Frayre in the state of Chihuahua, a series of criticisms, launched by the President Felipe Calderon and the Governor of the state, began against oral trials which accused the system of being a revolving door for criminals as well as of having too many guarantees. This type of questioning keeps the possibility of a counter-reform alive and also acts as an update on the risk of executive intervention in the tasks of the judiciary. In this case, the Chihuahua state governor had an influence on the judges sitting on the cases being subjected to an investigation process and on the court of appeal reversing the judgment to meet the social pressure. Regarding social participation, this is almost nonexistent. At the federal level only one member of the crime victims' organizations is part of the SETEC Council and Implementation Committees are exclusively composed of government officials. There is no one general plan, in many cases the actions are improvised and the social expectation to have a new justice system is null. Three years into the process there is no dissemination strategy which leads to the marginalization of the society in the process. Following its visit to Mexico, the Special Rapporteur on the independence of judges and lawyers concluded in its report that "the successful implementation of these reforms will rely on the political leadership and the redoubled efforts on the part of all relevant institutions and stakeholders, as well as on the necessary economic investments and other specific actions that need to be carried out immediately.

Asociación Mexicana de Derecho a la Información (AMEDI) response:

Fallas estructurales en el sistema de justicia perpetúan los niveles de impunidad en los que se encuentran las agresiones y violaciones a los derechos humanos sufridas por personas que tienen como una de sus principales funciones el ejercicio del derecho a la libertad de expresión. Esto es particularmente evidente en los casos de asesinatos y desapariciones de periodistas. Este contexto repercute en el incremento de dichos actos. Numerosas organizaciones de derechos humanos, defensa de la libertad de expresión y gremiales periodísticas han apuntado, desde el momento de su creación, las carencias de la fiscalía especial creada para la atención de estas agresiones (ver informes y comunicaciones de Reporteros Sin Fronteras y Article 19). Su marco de funcionamiento le impide en la mayoría de los casos ejercer la facultad de atracción, sea porque no existen líneas en las investigaciones que vinculen los hechos con delitos federales o porque encuentran elementos de relación con la delincuencia organizada en cuyo caso lo asume otra instancia de la procuraduría General de Justicia creada para estos efectos pero no para la investigación de hechos que tienen conexión con el ejercicio del derecho a la libertad de expresión. Muchas de las carencias de la Fiscalía podrían subsanarse a partir del trabajo legislativo, lo cual no ha sucedido hasta el momento, sin embargo el Poder Ejecutivo Federal tiene dentro de sus posibilidades fortalecer esta instancia, entre otras cosas, mediante la modificación del acuerdo a través de la cual fue creada. El hecho de que esto no haya sucedido es muestra de la falta de voluntad política para prestar la debida atención a estos hechos.

IITC response:

See [response to recommendation n°] 17.



Recommendation n°10: *Investigate cases of attacks and threats against journalists and human rights defenders* (Recommended by Azerbaijan).

IRI: *not implemented*

RTD TT response:

The context for the defense of human rights and the exercise of freedom of expression has worsened over the past two years. The documentation of attacks shows the seriousness of the situation as well as the lack of a tangible progress in the investigation and punishment of those responsible. The State has not carried out comprehensive strategies to prevent the attacks and protect human rights defenders, journalists and media channels at risk. There has also been no progress in the legal reforms that ensure the information's diversity and pluralism in the country as stated in the recommendations.

Human Rights Defenders - In 2009 the Mexico Office of the High Commissioner for Human Rights (OHCHR) published a report on the situation of human rights defenders in Mexico. The study documented 128 cases of alleged attacks and acts of aggression against defenders between 2006 and August 2009, including 10 homicides, and found that the impunity and lack of punishment are prevalent in over 98% of cases. The report was expanded and updated in 2010; it stated that from September 2009 to October 2010 there were a total of 37 alleged aggressions. The OHCHR found an increment in harassment, threats and attacks against defenders and reaffirmed the high degree of impunity in all the cases, which constitutes "the factor that increases the most the risk of attacks against human rights defenders since it leaves them in a situation of helplessness and vulnerability". Furthermore, there was an increase in granted interim measures of protection to defenders at risk by the National Commission on Human Rights and the Inter-American Commission on Human Rights with respect to the previous year. It can be observed in this diagnosis that most of the victims' advocates in the analyzed cases work in isolated, marginalized or high risk areas due to the absence of safety conditions. The fields on which the defenders were working were related primarily to the rights of indigenous peoples, natural resources and the denunciation of abuses committed by the military. The highest number of denunciations has been registered in the states of Chihuahua, Chiapas, Oaxaca and Guerrero. The origin of the attacks is uncertain in most cases because there are no prompt and efficient investigations. However, some evidence points to three types of alleged perpetrators: government officials whose interests are affected by the activities of the defenders; criminals who see these activities as an obstacle to their interests and transnational corporations that, driven by the desire for profit, undermine the resistance of communities affected by their activities. For its part, the National Network of Human Rights Organizations "All Rights for All" (Red TDTT) has recorded 15 cases of attacks on defenders between 2009 and 2010; these attacks were reported by the organizations members of the Network (Red TDTT) itself. They all remain in impunity. In the state of Guerrero, for example, it has been documented how prosecutors often use a double standard in the proceedings related to defenders. On the one hand, the investigation aimed at investigating threats, harassment or other crimes against activists are significantly delayed when it comes to presenting advancements and often remain without any progress at all. On the other hand, the investigations in which the activists have been falsely accused in



order to criminalize them are dealt with unusual diligence. This situation is also an example of the complete absence of investigation processes and the denial of access to justice as well as the lack of a clear, coordinated and effective policy for a comprehensive implementation of protective measures for the defenders. Usually it is the authorities (especially local authorities) who, in the absence of clear responsibilities, do not implement such measures effectively, this is particularly serious given the urgency to protect these groups and individuals and the unprecedented number of defenders who have been forced to request protection measures.

The OHCHR report included recommendations that, in line with the UPR, promoted the recognition of the defenders' work; it also urged the State to investigate the attacks and put an end to the impunity that prevails in these cases. Furthermore, it requested the creation of specific mechanisms of protection in consultation with the civil society organizations that would include defenders and other groups particularly vulnerable, including journalists. In the case of the protection mechanism the Ministry of Interior, the National Commission on Human Rights and the OHCHR launched a forum held on the 11th and 12th of February 2010 with the participation of the civil society. Among the agreements it was decided to create a comprehensive mechanism of prevention, protection and research that would be subsidiary and complementary to existing state obligations. This mechanism would ensure the participation of the civil society and would take into consideration defenders and journalists, addressing the respective specificities. However, the Ministry of Interior has not maintained the dialogue with civil society organizations to implement such a mechanism, as it had been agreed. Meanwhile, a group of organizations prepared a proposal for a mechanism able to implement preventive and protection measures, and generate efficient research. The proposal gathers the experiences from various countries to propose a comprehensive mechanism that can respond to the various identified problems and, in this manner, respond to the UPR recommendations. To date, federal authorities have been reluctant to re-establish a space for dialogue to be able to implement the project.

Freedom of Expression - During the years 2009 and 2010 at least 19 journalists have been killed and 2 more are still missing. The situation of violence against the press in some states is acute, especially against the local journalism that covers issues of corruption, organized crime, drug trafficking, and public safety. At the same time public denunciation of the attacks has weakened because of threats and the lack of investigation by the state. In order to strengthen the investigation of cases of aggression, the Special Prosecutor's Office for Crimes against Freedom of Expression (FEADLE) replaced in 2010 the Special Prosecutor for Investigating Crimes Committed Against Journalists (FEADP) created in 2006. In the new agreement some shortcomings and limitations remain such as discretionary powers to bring cases; the ambiguity in the definition of the passive subject of the aggression (victim) and constraints in the knowledge of crimes, such as the requirement that they be federal crimes or related to them, that they carry a prison sentence and the crimes are not presumed to be committed by the organized crime. Only in 2010, the FEADLE brought 7 cases before a judge (that implicated 17 suspects but no conviction has been made yet) which is an increase compared to 4 cases recorded



between 2006 and 2009 (in which 1 case ended in a conviction). These numbers are still insufficient compared to the total volume of recorded attacks. Furthermore, as stated in the recommendations by the UPR, efforts to federalize crimes against freedom of expression have not yet materialized and this in turn continues to limit the work of the FEADLE.

However, the fight against impunity also requires an effort of the states in the task of equipping their law enforcement bodies and their judges with more and better performance guarantees, including greater autonomy, resources and technical strengthening. In November 2010, in relation to the progress on protection mechanisms, the Ministry of Interior announced the "Coordination Agreement on the implementation of preventive actions and the protection of journalists"; an interagency agreement that envisaged the creation of a Consultative Committee and Operational and Functioning Guidelines with "the criteria for the adoption, implementation, preservation, modification or termination of preventive measures and protection of journalists." The Committee took office on the 3rd of December. However, the guidelines, which should have been finished before the 3th of January, 2011, have not yet been published. With respect to ensuring the diversity and plurality of the media in the country, following their visit to Mexico, the freedom of expression Rapporteurs of the UN and the OAS considered that still a "legal uncertainty prevails regarding the regulation of broadcasting in the country". The Rapporteur also considered necessary, in order to promote the diversity and plurality of the media, to adopt "structural measures such as the establishment of a broadcasting regulatory body that is autonomous from the government" and "to ensure the existence public media that are truly independent from the government with the purpose of promoting diversity and guaranteeing to the society, among others, certain educational and cultural services." In addition, they stressed the urgent need to "approve legislation that responds to the ruling of the Supreme Court and to international standards, so that community radio stations can obtain authorization to broadcast, as well as to establish a clear legal framework for their operations".

AMEDI response:

See response to recommendation n°9.

IITC response:

Structural changes meant to broaden the authority of Mexico's special prosecutor's office to investigate crimes against journalists are still insufficient to address the grave free expression crisis in Mexico, according to the Committee to Protect Journalists.

Recommendation n°11: *Investigate the alleged cases of torture and other human rights abuses committed by police, military and security personnel and put an end to the climate of impunity (Recommended by Azerbaijan).*

IRI: not implemented

RTDIT response:

See [response to] recommendation n°9.

IITC response:

The climate of impunity persists unabated.

Recommendation n°12: *Effectively incorporate the provisions of the international human rights instruments into national legislation* (Recommended by Azerbaijan).

IRI: *partially implemented*

RTDIT response:

The first block of recommendations corresponds to legislative issues which mainly include the harmonization of federal and state laws with international human rights standards; the withdrawal of reservations to certain international instruments and the effective implementation of these standards by the administrative and judicial authorities at the different levels of government. On the 8th of March 2011 –eight years after the Office of the High Commissioner to the United Nations in Mexico issued its recommendations, the Congress approved a constitutional reform in the subject of human rights. The approval of this reform is a decisive step towards a full harmonization of the domestic regulatory framework with the highest international standards in human rights, which favors the fulfilment of the commitments made by Mexico to the international community. The United Nations System in Mexico (UN Mexico) recognized the importance of this reform. Among the developments it highlighted: the elevation to constitutional rank of the human rights recognized in international treaties; the prevalent application of the rule most favorable to the person (pro homine principle); the consecration of the obligations of the authorities, both administrative and judicial, not to interpret the rules which elaborate on human rights in a strict manner (principle of progressivity); the enunciation of human rights at the center of education, of the prison system and of foreign policy; the strictest scope applied to the concept of state of emergency; amending Article 33 to recognize the right of audience to foreigners who are to be expelled from the country; the strengthening of human rights bodies and improving the system of compliance with the Constitution in the abstract level. On the 18th of May 2011 the reform attained the minimum necessary for its approval in terms of section 135 of the Constitution: 22 states had approved the reform in the local Congresses and only Guanajuato had voted against it. On the 9th of June a Presidential Decree was issued that gave life to the content of the reform. The present challenges consist in implementing the transitory articles of the reform regarding the law on reparations, on the state of emergency, on the right of asylum and the deportation of foreigners, as well as secondary laws that allow for its implementation. Meanwhile, the House of Representatives must approve the budget for the implementation of some aspects of reform such as amending the Organic Law of the National Commission on Human Rights and the local legislatures will have to start the process of harmonization of the local constitutions with the content of the reform. This whole process must ensure the full participation of civil society. Another important development is the enactment of the reforms of Articles 94, 100, 103, 107 and 112 of the Constitution related to the amparo trial (amparo is a legal action to constitutionally challenge human rights violations). Citizens will now be able to start an amparo trial when they consider that their human rights that are guaranteed not only under the Constitution but also in international treaties ratified by Mexico have been violated.

IITC response:

There is still no effective legislation guaranteeing human rights at the federal level in Mexico.

Recommendation n°13: *Increase efforts to improve the whole system with regard to the indigenous peoples* (Recommended by Azerbaijan).

IRI: *partially implemented*

RTDIT response:

See [response to] recommendation n°6.

IITC response:

Indigenous peoples are still the poorest most marginalized social group in Mexico. Few efforts have been made.

Recommendation n°14: *Pay special attention to the situation of indigenous people in programmes-strategies to reduce-eradicate poverty* (Recommended by Azerbaijan).

IRI: *not implemented*

RTDIT response:

See [responses to] recommendations n°1 and 6.

IITC response:

To our knowledge, no special attention has been given the poverty of Indigenous Peoples in Mexico.

Recommendation n°15: *Put more efforts and financial resources to eradicate high level mortality and malnutrition rates, especially in rural areas and among indigenous peoples* (Recommended by Azerbaijan).

IRI: *not implemented*

RTDIT response:

Right to the highest level of health - Communities and indigenous peoples in Mexico are characterized for living in the marginalized areas of our country (even those living in urban centers), a situation which leads to a high degree of discrimination regarding their right to health. Many communities still suffer from the so-called "diseases of poverty." The main causes are the lack of physical access to basic services that allow an adequate quality of life, such as drinking water, as well as the lack of physical and economic access to medical facilities or basic health services, these are problems that make it difficult for them to timely and quality the attention to this sector, which is critical because many of the diseases, preventable or curable diseases in their early stages, can become fatal in the patients. An example of this is that three of the leading causes of death among the indigenous peoples are gastrointestinal diseases and respiratory infections (diarrhea, pneumonia, etc.). Added to this, women in indigenous communities have the highest maternal mortality rate. This is linked to the little exercise of their sexual and reproductive rights, access to contraceptives and of appropriate health care during pregnancy and childbirth. The states of Oaxaca, Guerrero and Chiapas stand out since their population mainly indigenous accounts for almost half of the maternal deaths nationwide.



Right to mental health - On the 17th of December 2010 the Legislative Assembly of Mexico City approved the Mental Health Act; which is an acknowledgment of mental health as a fundamental human value and the protection of the rights of persons with mental disabilities as a state obligation. This represents the first step towards the creation and adoption of policies, plans and programs that benefit this group especially vulnerable and towards the improvement of the lives and mental well-being of the inhabitants of Mexico City. While this new law takes up certain human rights elements that any comprehensive legislation should contain there are provisions which are contrary to or simply ignore international standards, particularly those established in the Convention on the Rights of Persons with Disabilities. Among other things, people or groups who have mental disorders should not be associated with groups that go against social norms or alter the social stability. To do so would be to incur not only in the risk of not saying the truth but, more importantly, these judgments contribute to perpetuate the social stigma and discrimination which these people are already being subjected to. A Mental Health Act in line with international standards is critical to update our country in this subject and it will represent a milestone in the fight for the rights of persons with disabilities, given that Mexico was one of the main promoters of the United Nations Convention on the Rights of Persons with Disabilities.

Right to Food - In May 2011, the House of Representatives approved an amendment that raises to a constitutional level the right to nutritious, adequate and good-quality food. Article 4 of the Constitution has been amended to state that "everyone has the right to nutritious, adequate and good-quality food. The state shall guarantee this." Article 27 on the other hand states that "the comprehensive and sustainable rural development referred to in the previous paragraph will have among its purposes that the State guarantees an adequate and timely supply of the staple foods established by law." The constitutional changes are a step forward in the progressive realization of the right to food for the Mexican population in line with the UPR recommendations. The right to adequate food is a fundamental component for the enjoyment of other human rights including the right to an adequate standard of living.

IITC response:

We are not aware of any efforts or additional financial resources adequate to this task.

Recommendation n°16: *Put more financial resources to eradicate poverty, especially in rural areas* (Recommended by Azerbaijan).

IRI: not implemented

RTDIT response:

See [response to] recommendation n°1.

IITC response:

We are not aware of any efforts or additional financial resources adequate to this task.



Recommendation n°17: *Take effective measures to combat violence and discrimination against women, including cases of murder and disappearances* (Recommended by Azerbaijan).

IRI: *not implemented*

RTDTT response:

See [response to] recommendation n°5.

CPDPE response:

See [response to] recommendation n°5.

IITC response:

These crimes remain at a very high level.

Recommendation n°19: *Guarantee journalists and media personnel safety and security, when they are discharging their professional duties* (Recommended by Bangladesh).

IRI: *not implemented*

RTDTT response:

See [response to] recommendation n°10.

AMEDI response:

A pesar de la publicación de un convenio de coordinación para la implementación de acciones para la prevención y protección de periodistas, esta recomendación continua sin cumplirse cabalmente debido a diversas carencias de origen de las cuales adolece este mecanismo. Desde el momento de su publicación organizaciones de la sociedad civil manifestaron estas falencias, entre ellas como una de las principales, la falta de participación de las víctimas, personas en riesgo, y organizaciones que las acompañan en los espacios de evaluación de riesgo y toma de decisiones sobre las medidas a implementar a fin de garantizar la seguridad de periodistas y medios de comunicación en funciones. Adicionalmente, no está claro el proceso para la evaluación de riesgo.

IITC response:

No effective guarantees are in place.

Recommendation n°20: *Seriously deal with the allegation of systematic and excessive use of force and torture by law enforcing agencies, to end the culture of impunity* (Recommended by Bangladesh).

IRI: *not implemented*

RTDTT response:

See [response to] recommendation n°9.

IITC response:

No effective guarantees are in place.

Recommendation n°22: *Undertake measures to redress marginalization of indigenous and migrant populations, in line with the prominent role of Mexico in the international scene* (Recommended by Bangladesh).

IRI: *not implemented*

RTDTT response:

See [response to] recommendation n°6.

IITC response:

No effective redress is in place.

Recommendation n°23: *Ensure that the primacy of the civil legal system prevail over military judicial process across the entire territory* (Recommended by Bangladesh).

IRI: *partially implemented*

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Recommendation n°79: *Extend the jurisdiction of civil courts in cases involving violations of human rights by the military* (Recommended by Ireland).

IRI: *partially implemented*

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Recommendation n°120: *Review the relevant legal provisions to ensure that all offences committed against human rights by military forces may also be submitted to civil courts* (Recommended by Peru).

IRI: *partially implemented*

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Recommendation n°128: *Follow-up on the recommendations of Committee against Torture and OHCHR to empower civil courts to try offences against human rights, in particular torture and cruel, inhuman or degrading treatment committed by military personnel, even when it is claimed that they were service-related* (Recommended by Portugal).

IRI: *partially implemented*

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Recommendation n°129: *Grant jurisdiction to its civil authorities over the acts committed by members of armed forces when performing law enforcement functions* (Recommended by the Republic of Korea).

IRI: *partially implemented*

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Recommendation n°130: *If the military involvement in combating organized crimes is necessary, the expanded role of the military must be counterbalanced by measures to reinforce the protection of human rights* (Recommended by the Republic of Korea).

IRI: *partially implemented*

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Recommendation n°132: *Grant jurisdiction to its civil courts over the human rights violations committed by members of armed forces when performing law enforcement functions* (Recommended by the Russian Federation).

IRI: *partially implemented*

+



Recommendation n°154: *Review the relevant legal provisions to ensure that all offences committed against human rights by military forces may also be submitted to civil courts (Recommended by Uruguay).*

IRI: *partially implemented*

RTDTT response:

The Mexican government said that the recommendations to ensure the primacy of the civil over the military justice had been fulfilled since the civil legal system prevails over the military. It argued that any resolution of a military court can be appealed in a civil court through an amparo. However, although a military official who has been convicted may appeal against any decision through the regular procedures and even through filing an amparo, civilian victims and their representatives do not have the possibility to appeal a resolution absolving a soldier, applying a derisory penalty or that leave a case in impunity. It should not be overlooked that the amparo is an extraordinary means of judicial review; however, in the military courts there is no ordinary appeal that can be used to review the decisions of a military body in a civil court. In accordance with Article 13 of the Constitution the military jurisdiction should be applied only to crimes that are related to military discipline, such as insubordination or desertion. In contrast, when a crime violates human rights or when the same facts constitute violations to military discipline and human rights, the competence over the of human rights violations should correspond to the civil courts. It also states that military courts can not extend their jurisdiction over a civilian.

However, the Code of Military Justice includes as offenses to military discipline, among others, all offenses "committed by military personnel on active service or in connection with active service." Through this provision, the Code of Military Justice turns the military jurisdiction system into a personal jurisdiction applicable, in practice, to all crimes committed by military personnel in active service. The Inter-American Court of Human Rights has stated that this article "is a wide-ranging and imprecise provision that prevents determination of the exact connection between a crime that falls under the ordinary jurisdiction and military service objectively assessed." Furthermore, the Court also notes that under that article, the military jurisdiction in Mexico "is a rule and not an exception." Human rights violations are routinely investigated and judged in the military system but this system lacks independence. The investigating and judicial authorities belong to the same institution as the accused that committed the abuse (the Ministry of National Defense, SEDENA). The evidence supports this lack of independence, according to data by the Interior Ministry there is only one conviction against a soldier for the human rights violations committed in the Calderon's administration. The Ministry of National Defense advocates for the military jurisdiction stating that it is legal and in compliance with international standards despite the large number of special Rapporteurs and other human rights bodies including Inter-American Court, which have made it clear that the military courts in Mexico are not independent and impartial and should not investigate human rights abuses. The IACHR judgments establish unequivocally that the State should amend the Code of Military Justice to be in line with the American Convention on Human Rights. This is required by a legal obligation of the State and as a practical measure to give victims of military abuses the possibility to access justice. It is worrying that in August 2010 the Supreme Court refused to go into the analysis of the merits of a case on the constitutionality of the



Code of Military Justice in the cases in which the military authorities investigate and prosecute human rights violations committed against civilians. The Court ruled that victims of human rights violations have no standing to request a review of the application of the military jurisdiction to their cases. The decision of the Supreme Court eliminated all possibilities for victims to prevent their case from being examined by military authorities. Furthermore, this eliminates all the internal resources that can protect victims' rights to due process. The Mexican state thus is violating the international law of human rights in a context of an increasing participation of armed forces in public security tasks.

Reform Proposal on the subject of Military Justice - On the 18th of October 2010 the Executive Branch sent to Congress a draft to reform the system of procurement and administration of military justice. The initiative establishes the possibility of the ministerial investigating military authority as the one that will determine which cases will be referred to the civil courts. This authority shall also be responsible for carrying out the first proceedings aimed at verifying the corpus delicti and the probable responsibility of the perpetrator. The proposal ignores international standards on the subject that have been confirmed in the resolutions of the Inter-American Court, which are legally binding. It aims to exclude from the Code of Military Justice only three crimes: forced disappearance, torture and rape. This proposal would open the door for intentional crimes that classify as negligence, to serious injuries that are not taken as such, or even to a deliberately manipulation of the evidence, as has happened in many recent cases according to the National Commission of Human Rights itself. The Rapporteur on the independence of judges and lawyers considered the reform as insufficient and recommended that: "In addition to reforming the Code of Military Justice, persons affected by judgments issued by military courts should have an effective judicial remedy for contesting or challenging them." The reform of the military jurisdiction must exclude any offense that allegedly is constitutive of one or more human rights violations and not only to cases of torture, rape or forced disappearances.

Recommendation n°24: *Take measures to include the crime of trafficking in persons in all parts of the federation and strengthen the resource basis for the protection of victims* (Recommended by Belarus).

IRI: *partially implemented*

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Recommendation n°25: *Continue efforts to eradicate sexual exploitation of children* (Recommended by Belarus).

IRI: *partially implemented*

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Recommendation n°123: *Strengthen measures to protect and provide assistance to victims of trafficking in persons, with special emphasis on children victims* (Recommended by the Philippines).

IRI: *partially implemented*

+

Recommendation n°142: *Address prostitution, pornography and trafficking of children and adolescents for the purpose of sexual exploitation.* (Recommended by Syria).

IRI: *partially implemented*

RTD TT response:

The General Law to Prevent and Punish Human Trafficking entered into force in 2007. Currently 28 states throughout the country have typified this crime in their penal codes and 11 have local legislation on the subject. As part of the dissemination activities, the federal government issued the "Blue Heart Campaign" against human trafficking. One of the states where the legislative process has not yet taken place is the state of Guanajuato, where there is no law on the subject. Even though non-governmental organizations have documented the crime in the state, no one has been convicted for this crime. The case of the state of Tlaxcala is a telling one on the challenges posed by the issue and the need to address the problem in a holistic manner. From January 2009 to February 2011 in various states' and national printed media, electronic sources and official statements issued on the website of the prosecutor's office, a total of 34 human trafficking cases for sexual exploitation which mainly involved children, adolescents and women, were reported in Chiapas, Mexico City, Michoacán and Puebla. In all of them the state of origin of the victims and of the traffickers was identified as the state of Tlaxcala; it is also identified as the place where the victims took temporary shelter or of the residence of the sons or daughters of the victims and as a place of exploitation and demand. In February 2010 the State Council against Human Trafficking of Tlaxcala was established through the participation of civil society organizations which, among other things, have highlighted the need for training of public officials responsible for handling cases of victims of human trafficking. They have also stressed the need to carry out actions aimed at eradicating the problem in specific municipalities in the state. In this sense, the actions must envisage specific strategies and programs to reduce demand in the terms established by the Palermo Convention.

Recommendation n°26: *Continue to develop and ensure an effective policy in combating organized crime and corruption (Recommended by Belarus).*

IRI: *not implemented*

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Recommendation n°27: *Combat impunity as one of the Government's priorities (Recommended by Belgium).*

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°9.

IITC response:

No effective policy (or actions) is perceived by Civil Society.

Recommendation n° 28: *Set up structural measures to address systematically violence and violation of fundamental rights, of which women and human rights defenders are victims (Recommended by Belgium).*

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°5.

CODPEO response:

See [response to] recommendation n°5.

IITC response:

No effective policy (or actions) is perceived by Civil Society.

Recommendation n° 29: *Re-establish the Special Prosecutor's office for past-political and social movements or create a similar office, which would be a strong signal towards combating impunity for victims and their families (Recommended by Belgium).*

IRI: *not implemented*

RTDTT response:

Despite its limitations, the [Fiscalía especial para movimientos sociales y políticos del pasado (FEMOSPP)] was the only avenue opened by the state to be able to access truth and justice regarding the state crimes committed during the sixties and seventies, which is why many civil society organizations and victims' families contributed to the investigations.⁸⁸ The administration of Felipe Calderón eliminated the FEMOSPP in 2006 and referred all the pending inquiries to the General Coordination of the Assistant Attorney-General for Federal Crimes Investigation (Coordinación General de Investigación, CGI) under the Attorney General's Office (Procuraduría General de la República, PGR). The Mexican government's argument for not restoring the FEMOSPP was that the CGI "had the same faculties, coupled with others, as the FEMOSPP on investigation and prosecution of crimes so that with the transfer, the course of the investigations was maintained and the rights of victims were left intact." However, the preliminary investigations carried out by the PGR have not made significant progress. There are also no mechanisms to ensure the right to truth and reparations for victims. This was recently corroborated by the Working Group on Enforced or Involuntary Disappearances (WGEID), who included in its report that, in relation to enforced disappearances, the PGR "did not provide any specific information regarding the research lines, the substantive progress in the investigations, the possibility of new charges and the channels of communication with the relatives of the forcibly disappeared persons". The WGEID recommended some measures in relation to past crimes. Among them, to immediately circulate the FEMOSPP report, which was not made public at the time; clarify the location of all the documents received by this instance and transfer the military files to the National Archives to ensure full access to them. For its part, the Human Rights Committee recommended the re-establishment of the Special Prosecutor to address the human rights violations committed during this period. In the absence of internal mechanisms, the relatives of missing persons and victims of human rights violations during the period of the "Dirty War" have been forced to resort to international instances of protection of human rights for justice. On the 23rd of November 2009, the Inter-American Court of Human Rights issued a guilty verdict against the Mexican government for the forced disappearance of Rosendo Radilla Pacheco in 1974. The judgment includes a series of reparation and non-repetition measures that have not yet been fully met by the Mexican state.

Recommendation n° 30: *Harmonize federal and state laws with international human rights instruments (Recommended by Bolivia).*

IRI: *partially implemented*

+

Recommendation n°42: *Eliminate all discriminatory elements still present in some state laws* (Recommended by *Chile*).

IRI: *partially implemented*

+

Recommendation n°62: *Harmonize federal and state laws with international human rights instruments* (Recommended by *Guatemala*).

IRI: *partially implemented*

+

Recommendation n°90: *Continue to promote the ratification of the International Convention on the Rights of Migrant Workers and Member of Their Families* (Recommended by *Morocco*).

IRI: *partially implemented*

+

Recommendation n°134: *Harmonize federal and state laws with international human rights instruments, and equal protection and guarantees, at federal and state levels* (Recommended by *Spain*).

IRI: *partially implemented*

+

Recommendation n°135: *Complete its institutional efforts ensuring that international human rights norms adopted by Mexico have constitutional status and are applied as supreme law in courts proceedings* (Recommended by *Spain*).

IRI: *partially implemented*

+

Recommendation n°144: *Harmonize federal and state laws with international human rights instruments, in order to ensure their effective implementation, at federal and state levels* (Recommended by *Turkey*).

IRI: *partially implemented*

+

Recommendation n°153: *Harmonize federal and state laws with international human rights instruments* (Recommended by *Uruguay*).

IRI: *partially implemented*

RTD TT response:

See [response to] recommendation n°12.

Recommendation n°31: *Adopt necessary measures to eradicate impunity for human rights violations, particularly against women and indigenous population* (Recommended by *Bolivia*).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°9.

IITC response:

No effective measures have been put in place.

Recommendation n°32: *Take necessary measures to ensure the right of indigenous peoples affected by planned economic or development projects to be adequately and*

fairly consulted, in accordance with the commitments undertaken by ratifying ILO Convention No. 169 concerning Indigenous and Tribal Peoples (Recommended by Bolivia).

IRI: not implemented

RTDTT response:

See [response to] recommendation n°6.

CPDPE response:

Descripción general de la problemática

A partir 2009 la Oficina en México del Alto Comisionado de Naciones Unidas para los Derechos Humanos, realizó una serie de actividades encaminadas a elaborar un instrumento que contuviera los estándares internacionales que contemplan el Derecho a la Consulta y el Derecho al Territorio de pueblos y comunidades ante proyectos de gran escala como: presas, minas, carreteras, etc. Este instrumento tiene el objetivo que el Estado Mexicano garantice el respeto y cumplimiento de estos derechos. En el 2010 se presentaron dos iniciativas de ley de Consulta para Pueblos y Comunidades Indígenas. Una de ellas fue presentada a la Cámara de Diputados por Teófilo Manuel García Corpus Presidente de la Comisión de Asuntos Indígenas y la otra a la Cámara de Senadores por Andrés Galván Rivas Presidente de Asuntos Indígenas. Por acuerdo de las comisiones de Asuntos Indígenas de ambas cámaras, las iniciativas fueron analizadas y discutidas bajo la figura de Conferencia Parlamentaria. Finalmente se formuló una propuesta denominada Ley Federal de Consulta a Pueblos y Comunidades Indígenas. Esta iniciativa fue dictaminada el 23 de mayo de 2011 por la Comisión de Asuntos Indígenas de la Cámara de Diputados del H Congreso de la Unión de la LXI Legislatura. En México en los tres últimos años se han anunciado una serie de proyectos a gran escala en territorio indígenas y campesinos como: la explotación minera a cielo abierto en los estados de Guerrero, Oaxaca, Chiapas, Guanajuato ampliación de parques eólicos en el Istmo de Tehuantepec; Oaxaca, construcción de presas hidroeléctricas y de abastecimiento de agua en Nayarit, Oaxaca, Guerrero, Veracruz, Tabasco, Jalisco y Chiapas.

Avances

- De parte del estado mexicano no hay avances en el tema de derechos territoriales y derecho a la consulta. En la actualidad el territorio indígena se ve como “mercancía”, mercancía que se puede explotar y vender por empresas extranjeras sin informar y consultar a las comunidades y pueblos que habitan los territorios donde se pretende construir estos proyectos.
- Por otro lado, quienes presentaron la iniciativa de ley de consulta no contemplaron la interlocución con la población en general, con los pueblos indígenas o instancias representativas de los pueblos y comunidades.
- En resumen, en México se legisla para beneficiar a las empresas y no para proteger y salvaguardar los derechos colectivos de los pueblos y comunidades indígenas.

Pendientes

- Armonizar los estándares internacionales con las leyes federales y estatales con el objetivo de respetar el derecho a la consulta y el derecho al territorio de los pueblos y comunidades indígenas ante la amenaza de proyectos a gran escala.



- Respetar los derechos colectivos de las comunidades y pueblos indígenas reconocidos en el Convenio 169 y en la Declaración de Naciones Unidas sobre Derechos de los Pueblos Indígenas.
- Respetar a los indígenas y campesinos como sujetos de derechos y no como objetos.
- Pleno reconocimiento e implementación de los derechos al Territorio y la consulta en México.

Observaciones generales

- El estado mexicano manipula el derecho a la consulta de los pueblos y comunidades indígenas de México en la implementación de megaproyectos e iniciativas de leyes de consulta, realizando reuniones informativas con algunos actores de las poblaciones y notificando esas reuniones como “consultas”.
- El Estado Mexicano sigue violentando los tratados internacionales que contemplan el derecho al territorio y a la consulta.
- El Estado Mexicano privilegia los intereses de las empresas ante el despojo de los territorios indígenas por proyectos de minas, presas, carreteras, etcétera.
- El Estado Mexicano no reconoce el derecho al territorio, como derecho colectivo de los pueblos y comunidades indígenas.

CEMDA response:

En México el derecho a la consulta y participación de las comunidades indígenas y campesinas no está garantizado. No existe legislación que otorgue ese derecho y los mecanismos existentes no son eficaces. En México, el territorio y los recursos naturales han sido objeto de fuertes conflictos entre las comunidades campesinas e indígenas propietarias de las tierras, el Estado y las empresas que obtienen concesiones estatales, debido a la falta de información, consulta y participación de las comunidades afectadas sobre los proyectos de explotación y extracción de los recursos naturales, la cual es realizada con la aprobación de la Secretaría de Medio Ambiente y Recursos Naturales. Ejemplo evidente es el caso de El Zapotillo, represa en construcción para abastecer de agua a los agricultores del Estado de Guanajuato, la cual desplazará a los habitantes de las comunidades de Temacapulín, Acasico y Palmarejo. En ese caso, la Comisión Nacional de Agua (CONAGUA) solicitó la autorización de impacto ambiental de la represa con una cortina de 80 metros, proyecto que no desplazaba a las comunidades y que fue aprobado sin informarlas y consultarlas. Sucesivamente CONAGUA presentó una ampliación al proyecto determinando que la cortina de la represa fuera de 105 metros, lo cual causará el desplazamiento forzado de los habitantes de las comunidades de Temacapulín, Acasico y Palmarejo. La SEMARNAT decidió autorizar ese proyecto sin requerir una nueva manifestación de impacto ambiental - que hubiera concedido el derecho a solicitar la consulta pública por los afectados - porque, a su consideración, no causaba un impacto ambiental diferente. Esta situación fue reconocida por el poder judicial que sentenció la suspensión de la construcción de la represa El Zapotillo mientras no se realice una consulta pública de las comunidades, sentencia que no está siendo cumplida.

IITC response:



Few if any adequate, fair, or good faith consultations have occurred. Indigenous Peoples remain without an effective right of Consultation or Free, Prior and Informed Consent. The government continues to license mega development projects and Indigenous Peoples are organizing a national organization, composed of Indigenous Nations and communities to struggle for their right to consent or not to development imposed by the national government.

Recommendation n°33: *Harmonize national and regional legislation in order to avoid discriminatory practices against women and indigenous peoples (Recommended by Brazil).*

IRI: *not implemented*

RTDIT response:

See [response to] recommendation n°12.

IITC response:

There is a wide disparity between the Federal States and their guarantees of non-discrimination. There is no effective harmonization of anti-discriminatory laws, and the practice continues.

Recommendation n°35: *Consider progressively withdrawing its reservations to international human rights instruments (Recommended by Brazil).*

IRI: *not implemented*

RTDIT response:

See [response to] recommendation n°12.

IITC response:

We are not aware of any such considerations by the Mexican Government.

Recommendation n°36: *Fully investigate all allegations of human rights violations committed by elements of the military and security forces, including the adoption of recommendations made by Mexico National Human Rights Commission (Recommended by Canada).*

IRI: *not implemented*

RTDIT response:

See [response to] recommendation n°9.

IITC response:

Impunity persists. For example at the end of 2011, state of Gererro indigenous peoples called for governmental investigation and justice for assassinated students Abriel Erik Echeverria Jesus and Alexis Herrera Pino, for the forced disappearance at the hands of the Army, environmentalists Eva Marcial Bautista Alarcon and in the town of Tecpan de Galeana Dec. 8, for the murder of teammate Jose Trinidad Ostula, Michoacán, community member of the guard at the hands of paramilitaries protected by the army and police of the government, December 6, for the murder of Julia Marichal, a member of the Caravan for Peace, December 3, who was found dismembered in the water tank of his house for the killing in Sonora Nepomuceno Muñoz Moreno, member of the caravan for Peace, for the murder of Carlos Cuevas Sinuhe, Oct. 26, an activist of the Faculty of Philosophy and Letters, UNAM, for the



murder of Pedro Leyva, Ostula commoner of Michoacan, a member of the communal guards; for the murder of journalists and Contralinea Yarce Marcela Gonzalez on September 1, and for so many crimes at the hands of the state.

Recommendation n°37: *Ensure concrete implementation of international human rights standards at all levels through the adoption of policies, laws and other measures at the federal and state levels and through regular consultations with key stakeholders, including states, civil society organizations and others* (Recommended by Canada).

IRI: *partially implemented*

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Recommendation n°139: *Ensure concrete implementation of international human rights standards at all levels* (Recommended by Switzerland).

IRI: *partially implemented*

RTDTT response:

See [response to] recommendation n°12.

CEMDA response:

En general existen diversos espacios de participación para la sociedad civil sobre política ambiental, como la Subcomisión de Derechos Humanos y Medio Ambiente de la Comisión de Política Gubernamental en Materia de Derechos Humanos o los Grupos de Trabajo para la actualización de las normas dentro del Comité Consultivo de Normalización de la Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT). Sin embargo, esos espacios no funcionan debidamente a causa del bajo perfil de los funcionarios que asisten, a su rápida rotación, a la lentitud de los procesos, al largo intervalo temporal entre las reuniones y a la poca capacidad de decisión de los asistentes, lo que nos hace considerar que esos espacios sirven más para validar ciertas decisiones tomadas en otros ámbitos que para escuchar las propuestas de los expertos de la sociedad civil, la cual muchas veces no es debidamente informada sobre la existencia del mismo espacio.

Aunado a lo anterior existen espacios de participación social dentro de las Legislación Ambiental, como es la participación en la creación de los ordenamientos ecológicos, en los decretos de áreas naturales protegidas, en el proceso de Evaluación de Impacto Ambiental, sin embargo dichos espacios de participación, necesitan ser debidamente regulados y estructurados en una ley reglamentaria para que realmente sean efectivos y fungan como verdaderos espacios de participación social.

Recommendation n°38: *Promote the implementation of the police and the judiciary reforms* (Recommended by Canada).

IRI: *not implemented*

+

Recommendation n°41: *Allocate sufficient financial and human resources for the implementation of the new system of public security and criminal justice, including adequate dissemination of information for users as well as the respective training of judges and lawyers* (Recommended by Chile).

IRI: *not implemented*

+



Recommendation n°45: *Investigate and prevent impunity in cases of human rights violations committed by law enforcement officials, throughout the national territory* (Recommended by Cuba)

IRI: *not implemented*

+

Recommendation n°47: *Redouble efforts in combating corruption at all levels* (Recommended by Cuba).

IRI: *not implemented*

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Recommendation n°50: *Step up efforts to halt torture and ill-treatment, eradicate impunity for such acts and ensure that alleged perpetrators are brought to justice* (Recommended by Denmark).

IRI: *not implemented*

+

Recommendation n°77: *Evaluate the use of arraigo* (Recommended by Ireland).

IRI: -

+

Recommendation n°78: *Review the Code of Military Justice in order to align it more closely with international human rights obligations* (Recommended by Ireland).

IRI: -

+

Recommendation n°80: *Carry out a prompt implementation of the judicial reform to ensure that complaints in cases of torture, in strict conformity with international human rights standards and adequately involve civil society in this process* (Recommended by Italy).

IRI: *not implemented*

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Recommendation n°73: *Strengthen and share with countries of the region the Government's policies and strategies to combat organized crime at the regional level, and continue regional workshops to share experience for the transfer of knowledge in systems of public security and criminal justice* (Recommended by Honduras).

IRI: -

+

Recommendation n°75: *Devote sufficient resources to the criminal justice and prison systems in an effort to reduce the sentencing backlog* (Recommended by Ireland).

IRI: -

+

Recommendation n°81: *Include human rights aspects in all training programmes and extend them to all police units* (Recommended by Italy).

IRI: -

Recommendation n°82: *Ensure that murder of women in Ciudad Juarez are fully clarified, that those responsible and their accomplices, including civil servants who might have not conducted investigations, are brought to justice and that effective measures are taken to prevent such crimes in Ciudad Juarez* (Recommended by Italy).

IRI: -

+



Recommendation n°83: *Strengthen measures against corruption and police excesses* (Recommended by *Italy*).

IRI: *not implemented*

+

Recommendation n°99: *Ensure that the rights of detainees are respected* (Recommended by *New Zealand*).

IRI: *not implemented*

+

Recommendation n°113: *Take firm action to eliminate corruption and impunity in the judicial, security and executive branches* (Recommended by *Pakistan*).

IRI: -

+

Recommendation n°114: *Continue working towards the professionalization and the modernization of the judicial system in all areas, including law enforcement and administration of justice* (Recommended by *Palestine*).

IRI: *not implemented*

+

Recommendation n°118: *Carry out a prompt implementation of the judicial reform to ensure that complaints in cases of torture, arbitrary detention and forced disappearances are exhaustively investigated* (Recommended by *Peru*).

IRI: *not implemented*

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Recommendation n°124: *Fully investigate abuses and human rights violations by law enforcement officials in prisons and ensure that perpetrators are duly punished* (Recommended by *Portugal*).

IRI: *not implemented*

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Recommendation n°145: *Fight against organized crime through effective policies* (Recommended by *Turkey*).

IRI: *not implemented*

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Recommendation n°146: *Continue the Public Security and the Criminal Justice System reforms* (Recommended by *Turkey*).

IRI: *fully implemented*

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Recommendation n°149: *Make a concerted effort to tackle impunity nationwide* (Recommended by *the United Kingdom*).

IRI: *not implemented*

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Recommendation n°140: *Ensure proper training on human rights to members of armed forces, the police, and prison staff and court staff* (Recommended by *Switzerland*).

IRI: -

+

Recommendation n°155: *Investigate all allegations of human rights violations particularly in relation to persons who were detained during police operations and ensure that perpetrators are properly brought to justice and punished* (Recommended by *Uzbekistan*).

IRI: *not implemented*

RTDTT response:

See [response to] recommendation n°9.

Recommendation n°40: *Continue to strengthen programmes aimed at creating growth and employment* (Recommended by *Canada*).

IRI: *not implemented*

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Recommendation n°66: *Continue enhancing the working conditions of temporary agricultural labourers and strengthen the work of labour inspection authorities* (Recommended by *Guatemala*).

IRI: *not implemented*

RTDTT response:

Growth, employment and Jobs inspection - against all progressive harmonization logic on the subject of labor rights, the latest reform proposals contravene UPR recommendations on the subject of labor. [...]

Regarding the recommendation to strengthen the work of authorities on labor inspection, the head of the Ministry of Labour and Social Welfare said in 2011 that in Mexico there is not even one inspector for every 100,000 workers. Labour inspection aims to ensure fair working conditions and protect the workers. The International Labour Organization has established as an indicator that the number of inspectors per worker "should be about one inspector per 10,000 workers in industrial countries with market economies, one inspector per 15,000 workers in countries undergoing economic industrialization, one inspector for every 20,000 workers in transition countries and one inspector per 40,000 workers in the least developed countries.

Recommendation n°44: *Continue promoting the bill on enforced disappearances* (Recommended by *Colombia*).

IRI: -

+

Recommendation n°57: *Take the necessary measures to prevent the use of torture, in particular by security forces in prisons, as noted by a number of special rapporteurs* (Recommended by *France*).

IRI: *not implemented*

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Recommendation n°85: *Ensure the timely, effective, and impartial investigations of all allegations concerning torture and combat impunity in this regard* (Recommended by *Japan*).

IRI: *not implemented*

+

Recommendation n°87: *Take the necessary measures to prevent the use of torture* (Recommended by *Japan*).

IRI: *not implemented*

+

Recommendation n°125: *Take all necessary measures to ensure the effective application of the Federal Act to prevent and punish Torture* (Recommended by *Portugal*).

IRI: *not implemented*

+



Recommendation n°126: *Continue to develop measures to improve the situation in prisons and the training of prison officials* (Recommended by *Portugal*).

IRI: *not implemented*

+

Recommendation n°152: *Extend to other federative entities, the categorization of the crime of forced disappearance and the full compensation mechanism for victims and members of their families* (Recommended by *Uruguay*).

IRI: -

+

Recommendation n°156: *Ensure the timely, effective, and impartial investigations of all allegations concerning torture* (Recommended by *Uzbekistan*).

IRI: *not implemented*

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Recommendation n°158: *Take the necessary measures to prohibit the use of ill-treatment* (Recommended by *Uzbekistan*).

IRI: *not implemented*

RTD TT response:

The increase in gross human rights violations such as forced disappearances, torture and arbitrary detention is directly linked to the deployment of armed forces to combat organized crime. In this context, no progress has been registered in the implementation of the UPR recommendations directed to end these practices and the impunity that surrounds them.

Forced Disappearances - After its visit to Mexico, the Working Group on Enforced or Involuntary Disappearances (WGEID) again recommended the Mexican government to "guarantee that the crime of enforced disappearance be included in the criminal codes of all the states and to promptly pass a General Law on enforced or involuntary disappearances." In its diagnosis, the WGEID observed that there is no comprehensive public policy to address the various aspects of prevention, investigation, punishment and reparation for victims of enforced disappearances. The victims "do not trust the justice system or the government ministries, nor the police and the armed forces. Impunity is a chronic pattern present in the cases of enforced disappearances and no sufficient efforts have been carried out to determine the fate or whereabouts of the missing persons, to punish those responsible, or to provide reparations". Even in states like Guerrero, one of the 8 states that has a specific law, the investigation of events where the commission of an enforced disappearance may be presumed are not formally initiated for this crime and in its development they do not adopt the relevant parameters to investigate events with these particular characteristics. Therefore, the lines of inquiry that could lead to the demarcation of the criminal liability of public servants are not exhausted. This situation is of particular concern because, even though the forced disappearance of persons is not a new phenomenon, the number has increased in recent years. The National Human Rights Commission recorded a steady increase in the number of complaints, from 4 in 2006 to 77 in 2010. In states such as Chihuahua, civil society organizations have documented a series of cases that illustrate the phenomenon. Nevertheless, there are no reliable statistics on the subject due to the lack of independent, impartial and effective investigations.



Torture - Torture in Mexico is a systematic practice despite the existence of a legal basis since 1991 to prevent and punish it. Therefore, the recommendations on torture focus in the need for effective and efficient measures to prevent and punish torture and combat impunity. In its final report, however, the Mexican government simply stated that the General Law of the National Public Safety from January 2009 prohibits the use of torture by personal security institutions. From 2009 to date, the Committee against Torture and Impunity (CATI) has recorded 204 cases of allegations of torture, out of which 71 are women and 133 men. The increase in these cases has been linked primarily to security policies directed at fighting organized crime and the use of arraigo. In practice the use of arraigo severely limits the possibilities of a legal defense since it is commonly used to manufacture crimes; furthermore, during the arraigo other series of human rights violations are committed including torture and other cruel, inhuman and degrading treatments. Despite being a reprehensible act, the figure of arraigo was legislated only for cases related to organized crime; nevertheless the authorities have applied it to cases where there is not necessarily a link with organized crime groups. In this context, the implementation of the Federal Law to Prevent and Punish Torture has not been ensured. One serious problem is the lack of impartiality in the investigations because the same instance that allegedly committed the crime is in charge of the investigation. The same problem exists in the implementation of the Istanbul Protocol regarding the necessary evidence to prove alleged acts of torture since the experts who carry out the tests are adhered to the Public Prosecutor's Office. Most allegations of torture do not proceed because of a lack of efficacy and willingness on the part of public prosecutors. To date there is a very small number of convictions for torture in the country. The visit in 2008 by the Subcommittee on the Prevention of Torture led to a detailed analysis of the situation of persons deprived of their liberty in relation to torture and ill treatment. The recommendations of its final report include strengthening the legal framework and to provide the necessary human and material resources for the National Mechanism for the Prevention of Torture (Mecanismo Nacional de Prevención de la Tortura, MNP). Furthermore, the Subcommittee recommends ensuring the Mechanism's autonomy, independence and institutionalization. One of the faculties of the Subcommittee is to provide assistance on the development and performance of the bodies designated by the States Parties to make regular visits to detention centers, known as national preventive mechanisms against torture; in the case of Mexico and after a controversial process this responsibility resides on the National Commission of Human Rights.

Penitentiary System - In Mexico a high rate of incarceration and overcrowding in prisons prevails. The Human Rights Committee recommended in 2010 that, to improve living conditions in prisons, the State party should "harmonize the prison legislation of all states and expedite the establishment of a single database for all penitentiaries throughout its territory with a view to ensuring a more even distribution of the prison population. Moreover, it should ensure that courts apply alternative forms of punishment." This situation especially affects women who face, both in their legal process and in the prison conditions, serious obstacles that stem directly and repeatedly from their gender and which result in violence against them and in a violation of their human rights. The civil society organizations have indicated that the effective separation of men and women prisoners should be ensured and regulations



should be available for the treatment of prisoners with the issuance of specific rules to protect the rights of women prisoners and of the victims of discrimination and abuse. It is particularly notable that the number of detainees who have not yet been sentenced represents 41.5% of the prison population. Therefore, detention on remand is not only a measure that contravenes the Constitution but its abuse by the judges represents the inefficient deployment of human resources, financial and material, within the Mexican criminal justice system and the prison system.

Recommendation n°48: *Guarantee journalists and media personnel safety and security* (Recommended by Denmark).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°19.

AMEDI response:

No se han aplicado las políticas públicas adecuadas tendientes a cumplimentar esta recomendación, lamentablemente la prueba más contundente es que persisten las agresiones contra periodistas y han aumentado aquellas que atentan contra la vida e integridad física: asesinatos y desapariciones.

Recommendation n°49: *Step up efforts to ensure that investigation of attacks on voices for freedom of expression become a federal issue* (Recommended by Denmark).

IRI: *partially implemented*

RTD TT response:

See [response to] recommendation n°19.

AMEDI response:

El 11 de noviembre de este año, el Pleno de la Cámara de Diputados aprobó el dictamen que adiciona al artículo 73 fracción XXI de la Constitución Federal, para introducir la siguiente redacción: "las autoridades federales podrán también conocer de fuero común cuando éstos tengan conexión con delitos federales o delitos contra periodistas, personas o instalaciones que afecten, limiten o menoscaben el derecho a la información o a las libertades de expresión o imprenta". Esta reforma no ha sido aun aprobada por Cámara de Senadores.

Recommendation n°51: *Take necessary measures to ensure the right of other marginalized communities affected by planned economic or development projects to be adequately and fairly consulted* (Recommended by Denmark).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°6.

CEMDA response:

En México el derecho a la consulta y participación de las comunidades indígenas y campesinas no está garantizado. No existe legislación que otorgue ese derecho y los mecanismos existentes no son eficaces.



En México, el territorio y los recursos naturales han sido objeto de fuertes conflictos entre las comunidades campesinas e indígenas propietarias de las tierras, el Estado y las empresas que obtienen concesiones estatales, debido a la falta de información, consulta y participación de las comunidades afectadas sobre los proyectos de explotación y extracción de los recursos naturales, la cual es realizada con la aprobación de la Secretaría de Medio Ambiente y Recursos Naturales. Ejemplo evidente es el caso de El Zapotillo, represa en construcción para abastecer de agua a los agricultores del Estado de Guanajuato, la cual desplazará a los habitantes de las comunidades de Temacapulin, Acasico y Palmarejo. En ese caso, la Comisión Nacional de Agua (CONAGUA) solicitó la autorización de impacto ambiental de la represa con una cortina de 80 metros, proyecto que no desplazaba a las comunidades y que fue aprobado sin informarlas y consultarlas. Sucesivamente CONAGUA presentó una ampliación al proyecto determinando que la cortina de la represa fuera de 105 metros, lo cual causará el desplazamiento forzado de los habitantes de las comunidades de Temacapulin, Acasico y Palmarejo. La SEMARNAT decidió autorizar ese proyecto sin requerir una nueva manifestación de impacto ambiental - que hubiera concedido el derecho a solicitar la consulta pública por los afectados - porque, a su consideración, no causaba un impacto ambiental diferente. Esta situación fue reconocida por el poder judicial que sentenció la suspensión de la construcción de la represa El Zapotillo mientras no se realice una consulta pública de las comunidades, sentencia que no está siendo cumplida.

Recommendation nº52: *Bolster the Office of the Federal Special Prosecutor on violence against women so that it may better investigate cases, and that cases falling within local jurisdiction be investigated with due diligence* (Recommended by Finland).

IRI: *not implemented*

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Recommendation nº74: *Continue efforts to eradicate and address cases of violence against women and child abuse* (Recommended by Indonesia).

IRI: *not implemented*

+

Recommendation nº100: *From the federal level, to provide guidance to all states on the adoption of practical measures to ensure the implementation of these legislative changes at the local level* (Recommended by New Zealand).

IRI: -

+

Recommendation nº109: *Address discrimination and violence against women through education and specific legislation both in the public and private sectors.* (Recommended by Pakistan).

IRI: *not implemented*

+

Recommendation nº151: *Take further steps to address discrimination against, protect and provide assistance to women and vulnerable groups including children, minorities and indigenous peoples* (Recommended by the United Kingdom).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation nº5.

Recommendation n°53: *Place high on the agenda the human rights of indigenous peoples when addressing questions of impunity, and improve access to justice for indigenous peoples, including by strengthening public defense for indigenous peoples and providing better translation services (Recommended by Finland).*

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°9.

CEMDA response:

La impunidad en los casos de pueblos indígenas es un reto pendiente para el Estado Mexicano. En el caso de la Comunidad Indígena de Santa Catarina Cuexcomatlán, a 3 años de la comisión de varios delitos ambientales y de la destrucción de algunas de las propiedades de la comunidad por parte de las autoridades estatales, esas acciones siguen impunes, a pesar de la existencia de una sentencia de amparo que obliga a la reparación del daño causado.

IITC response:

In a report issued by the state of Hidalgo Human Rights Commission, the State prisons of Hidalgo detain 290 indigenous prisoners. Most of them are not fluent in Spanish, legal procedures. The report concluded that their economic situation does not allow them proper legal representation and with their lack of education results in unjust sentences. This conclusion by the Human Rights Commission of Hidalgo was based on a study conducted in 2010, and recently delivered to the state governor, Francisco Olvera Ruiz at the end of 2011.

Recommendation n°54: *Ensure the timely, effective, and impartial investigations of all allegations concerning torture and combat impunity in this regard (Recommended by France).*

IRI: *not implemented*

RTD TT response:

See Recommendation n°44.

IICT response:

Three state prisons have the highest concentration of indigenous prisoners. Such is the case of the Social Rehabilitation Center (Cereso) Tenango, which has a population of 114 prisoners of which 63 are indigenous. In the Huasteca Cereso has a population of 159 people of which about 61 are indigenous. And in the Ixmiquilpan Cereso there are 46 Indian prisoners in a population of 111 inmates.

Recommendation n°55: *Improve living conditions in prisons (Recommended by France).*

IRI: *not implemented*

RTD TT response:

See Recommendation n°44.

IITC response:



According to the document, indigenous prisoners "do not have the basic necessities for their defense as a translator, which is why the authorities should take special care by linking skilled workers, this population with government institutions and support to ensure respect for fundamental rights and legal security for this vulnerable group of the prison population." The prison system in the state of Hidalgo is comprised of 12 centers for social rehabilitation. The capacity of prisons in the state is 2 000 401 for internal and existing real population is 2 000 669, ie, there is an overpopulation of 268 people corresponding to a 11.16 per cent.

Recommendation n°56: *Take measures to guarantee freedom of demonstration and ensure protection of demonstrators* (Recommended by France).

IRI: *not implemented*

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Recommendation n°58: *Investigate cases of violence and threats against journalists and human rights defenders, in order to bring the perpetrators to justice* (Recommended by Germany).

IRI: *not implemented*

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Recommendation n°59: *Increase the effectiveness of the precautionary measures to protect human rights defenders* (Recommended by Germany).

IRI: *not implemented*

RTD TT response:

See Recommendation n° 19.

Recommendation n°60: *Strengthen the publicity, implementation and monitoring of the National Human Rights Programme and step-up dialogue with civil society in this regard* (Recommended by Germany).

IRI: *not implemented*

RTD TT response:

See Recommendation n° 8.

CEMDA response:

A nivel local, en 2009 se presentó el Programa de Derechos Humanos del Distrito Federal, una novedosa herramienta para planear, programar, presupuestar, coordinar y articular las políticas públicas de la ciudad desde el enfoque de los derechos humanos. Sin embargo, la implementación de este programa se ha visto obstaculizado por la falta de voluntad política, falta de mecanismos de indicación y avance de resultados así como por el desconocimiento de los ciudadanos de sus derechos fundamentales. Por ello, es viable decir que si bien al menos en el Distrito Federal se cuenta con un programa de derechos humanos, lo que falta es el diálogo con la sociedad civil así como la publicidad tanto del programa como de los derechos.

Recommendation n°61: *Strengthen the rights of journalists and free media. the state as well as the municipal governments should fulfil their responsibility to protect a free media* (Recommended by Germany).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°19.

AMED I response:

[...]

Recommendation n°63: *Take all necessary measures to protect the rights of migrant workers and members of their families, particularly by ensuring their access to an effective remedy before a competent authority for the protection of their rights and prosecute and punish civil servants responsible for acts of ill-treatment and offences against them* (Recommended by Guatemala).

IRI: *partially implemented*

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Recommendation n°64: *Give priority to the recommendations made by the Special Rapporteur on the human rights of migrants* (Recommended by Guatemala).

IRI: -

+

Recommendation n°157: *Take all necessary measures to protect the rights of migrant workers and members of their families, particularly by ensuring their access to justice* (Recommended by Uzbekistan).

IRI: *partially implemented*

RTD TT response:

Since the conclusion of the UPR there have been a number of legal and administrative reforms on immigration issues. In January 2011 the Law on Refugees and Complementary Protection was approved and the reform of Article 67 of the General Population Law is in effect since the 23th of November 2010. With these recently added or reformed laws, an investigation into a human rights violation complaint as well as access to justice cannot be denied or restricted to foreigners who so require, regardless of their immigration status.

These reforms are occurring in the context of a "humanitarian tragedy" for undocumented migrant workers who come from the southern border and who are victims of kidnappings and extortion as well as of serious acts of torture and cruel, inhuman and degrading treatment, disappearances and deaths. This has been amply documented by the National Human Rights Commission of Mexico in two reports published in 2009 and 2011. Last April, the Committee to Protect the Rights of All Migrant Workers and their Families expressed concern at this situation as well as at the high level of impunity in these cases. The Committee urged the Mexican government to increase its efforts to prevent the kidnapping of undocumented migrant workers and other serious human rights abuses they face, in addition to investigating seriously and diligently and punish those responsible for these crimes with penalties appropriate to the seriousness of the offense. In cases where officials are involved the appropriate administrative sanctions should also be applied. Indeed, the kidnappers of migrants usually belong to organized crime organizations. However, the involvement of authorities in the three spheres of government has been proven as they work in collusion with these groups. Municipal police have been identified as accomplices to the responsible groups and take advantage of their authority to arrest immigrants, handing them over to the kidnappers. Federal Police



and officers of the National Migration Institute have also been implicated for acting in collusion with criminal groups or for tolerating this practice. The 2008 reform of the General Population Law (LGP) does not criminalize the undocumented entry into the country of migrant workers although it does classify it as an administrative offense. Thus the state de facto criminalizes migrants by denying them legal entry into the country. This situation means that migrants have to enter through dangerous clandestine routes that often have a high crime rate. In addition, human rights violations by agents of the National Migration Institute and the Federal Police are still being reported and documented during operations to verify the immigration status of people traveling through Mexico. These violations include: theft, extortion, threats, and use of excessive force or cruel and degrading treatment, among others. The General Population Law no longer penalizes with imprisonment those who enter the country without documents; nevertheless, those who do are still being deprived of their liberty at the migrant checkpoints (the detention centers for migrants). The 8th of October 2009, an agreement issuing the standards for the operation of the migrant checkpoints entered into force. However, conditions in some places of detention are poor and a lack of medical care has been reported as well as restrictions on communication and even cruel, inhuman and degrading treatments that remain unpunished. Furthermore, the right to due process is not guaranteed. Regarding the training of staff, biases are still being documented as well as the lack of preparation or judicial training, insensitivity ignorance towards the subject of immigration. This leaves foreigners subjected to immigration detention or opened judicial proceedings in an absolute state of helplessness and violates their right to due process and access to justice. In 2011, following the discussion on the reform of the Migration Act, non-governmental organizations expressed their concern on the lack of some necessary measures for protection, as demanded by the UPR recommendations. For example, the bill does not detach the issue of immigration from the national security issue; it does not provide guarantees for migrant workers to enforce their right to due process and access to justice; it does not provide specific measures of recognition and protection to the work of human rights defenders; it does not include transparency measures and of access to information and it does not include a gender perspective nor the protection of unaccompanied migrant children.

Recommendation n°65: *Continue addressing the recommendations made by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (Recommended by Guatemala).*

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°6

CPDPE response:

See response to recommendation n°32.

Recommendation n°67: *Redouble efforts to reduce the number of maternal deaths by training birth attendants and establishing more obstetric clinics, with particular attention to indigenous women and peoples (Recommended by the Holy See).*

IRI: *not implemented*



RTD TT response:

Right to the highest level of health - Communities and indigenous peoples in Mexico are characterized for living in the marginalized areas of our country (even those living in urban centers), a situation which leads to a high degree of discrimination regarding their right to health. Many communities still suffer from the so-called "diseases of poverty." The main causes are the lack of physical access to basic services that allow an adequate quality of life, such as drinking water, as well as the lack of physical and economic access to medical facilities or basic health services, these are problems that make it difficult for them to timely and quality the attention to this sector, which is critical because many of the diseases, preventable or curable diseases in their early stages, can become fatal in the patients. An example of this is that three of the leading causes of death among the indigenous peoples are gastrointestinal diseases and respiratory infections (diarrhea, pneumonia, etc.). Added to this, women in indigenous communities have the highest maternal mortality rate. This is linked to the little exercise of their sexual and reproductive rights, access to contraceptives and of appropriate health care during pregnancy and childbirth. The states of Oaxaca, Guerrero and Chiapas stand out since their population mainly indigenous accounts for almost half of the maternal deaths nationwide.

Recommendation n°72: *Continue to extend and strengthen the system of primary healthcare and improve the quality of such services, with particular attention to indigenous women and peoples (Recommended by Honduras).*

IRI: *partially implemented*

RTD TT response:

Right to the highest level of health - Communities and indigenous peoples in Mexico are characterized for living in the marginalized areas of our country (even those living in urban centers), a situation which leads to a high degree of discrimination regarding their right to health. Many communities still suffer from the so-called ""diseases of poverty."" The main causes are the lack of physical access to basic services that allow an adequate quality of life, such as drinking water, as well as the lack of physical and economic access to medical facilities or basic health services, these are problems that make it difficult for them to timely and quality the attention to this sector, which is critical because many of the diseases, preventable or curable diseases in their early stages, can become fatal in the patients. An example of this is that three of the leading causes of death among the indigenous peoples are gastrointestinal diseases and respiratory infections (diarrhea, pneumonia, etc.). Added to this, women in indigenous communities have the highest maternal mortality rate. This is linked to the little exercise of their sexual and reproductive rights, access to contraceptives and of appropriate health care during pregnancy and childbirth. The states of Oaxaca, Guerrero and Chiapas stand out since their population mainly indigenous accounts for almost half of the maternal deaths nationwide.

Right to mental health - On the 17th of December 2010 the Legislative Assembly of Mexico City approved the Mental Health Act; which is an acknowledgment of mental health as a fundamental human value and the protection of the rights of persons with mental disabilities as a state obligation. This represents the first step towards the creation and adoption of policies, plans and programs that benefit this group especially vulnerable and towards the improvement of the lives and mental well-



being of the inhabitants of Mexico City. While this new law takes up certain human rights elements that any comprehensive legislation should contain there are provisions which are contrary to or simply ignore international standards, particularly those established in the Convention on the Rights of Persons with Disabilities. Among other things, people or groups who have mental disorders should not be associated with groups that go against social norms or alter the social stability. To do so would be to incur not only in the risk of not saying the truth but, more importantly, these judgments contribute to perpetuate the social stigma and discrimination which these people are already being subjected to. A Mental Health Act in line with international standards is critical to update our country in this subject and it will represent a milestone in the fight for the rights of persons with disabilities, given that Mexico was one of the main promoters of the United Nations Convention on the Rights of Persons with Disabilities.

Recommendation n°86: Take more concrete measures to eliminate employment and wage gaps, to increase school enrolment rates of indigenous children, and review the justice system (Recommended by Japan).

IRI: not implemented

RTD TT response:

Growth, employment and Jobs inspection - Against all progressive harmonization logic on the subject of labor rights, the latest reform proposals contravene UPR recommendations on the subject of labor. The new proposals seek to downplay the enforceability of collective agreements; pay hourly wages according to number projects and productivity; to dispose of working hours according to market needs; reduce economic benefits, abolish the seniority premium and try to inhibit as much as possible the right to strike. The Mexican government has favored a vision of productivity in poor working conditions. From 2007 to 2010 the unemployment rate rose from 3.7 to 6.3 percent, leaving young and working women primarily in a grave situation of vulnerability. Only in March 2011 there were 957,071 job seekers in the Job Opportunities website of the Ministry of Labour and Social Security, out of which 173.399 were placed in a job. In 2011, 1.09% of the total budget was allocated to labor issues while 6.30% was allocated to business matters. The problem of unemployment is compounded by its precariousness. Out of the 44.6 million people employed in the country, 28.8 million do not have access to health care institutions (7.9% more than in the administration of President Vicente Fox). In addition, there is a sector of 29.2 million subordinate and paid workers and only 17.5 million have benefits (11.7 million do not have them), only 15.3 million have a contract while 13.7 million works without it; 14.2 million work 35 to 48 hours a week and eight million work more than 48 hours a week. Working hours are extended beyond the provisions of the law, there is an increase in outsourcing that affects mainly young people, and there is a reverse process on the right to social security. The wage level has generated a loss in purchasing power parity which leaves workers unable to access their right to adequate housing, food, education and health among others. Regarding the recommendation to strengthen the work of authorities on labor inspection, the head of the Ministry of Labour and Social Welfare said in 2011 that in Mexico there is not even one inspector for every 100,000 workers. Labour inspection aims to ensure fair working conditions and protect the workers. The International Labour Organization has established as an indicator that the number of inspectors per



worker "should be about one inspector per 10,000 workers in industrial countries with market economies, one inspector per 15,000 workers in countries undergoing economic industrialization, one inspector for every 20,000 workers in transition countries and one inspector per 40,000 workers in the least developed countries.

Right to education - Despite its acceptable educational indicators, Mexico faces the problem of a poor quality education provided by the state and the exclusion that many children and youth in the educational system are subjected to. It seems that there is a tendency to provide a poor education to the poor. The education provided by the state lacks the quality required by the job market and is not thought as an education meant to dignify the human being. The level of education limits them to become low skilled labor, cheap and uncritical. Our leaders have lacked vision and interest in investing in the education system in order to have an educated, competitive, productive and capable of thinking population that will build a democratic state of law and that respects human rights. In 2010 the Rapporteur for the Right to Education indicated that 8 out of 10 indigenous people do not have primary education. The budget to meet the needs of indigenous peoples and communities is still very limited. In addition, the educational model is insufficient to be able to rescue and empower indigenous languages and cultures; there is lack of training for teachers and it is common for them not to know the languages of the students they educate. In the case of indigenous peoples, not even 1% of population that enters primary school manages to enter university, as opposed to 17% of the national population. According to the Rapporteur the main problem that the education authorities are facing is to provide quality education; the "education supply does not meet the social inequalities that mainly affect marginalized populations, it also does not introduce structural measures that address more effectively their needs, nor does it invest sufficient resources for their care." Although there are important initiatives, it would appear as if the system was reproducing these inequalities or it is very slow in removing them.

Recommendation n°88: Fully implement the Rural Food Support and Supply Programme, the Social Milk Programme, the Living Better Food Supplement Programme and the Comprehensive Food Aid Strategy, with a view to meeting the food requirements of the most vulnerable sections of society (Recommended by Malaysia).

IRI: -

RTDTT response:

Right to Food - In May 2011, the House of Representatives approved an amendment that raises to a constitutional level the right to nutritious, adequate and good-quality food. Article 4 of the Constitution has been amended to state that "everyone has the right to nutritious, adequate and good-quality food. The state shall guarantee this." Article 27 on the other hand states that "the comprehensive and sustainable rural development referred to in the previous paragraph will have among its purposes that the State guarantees an adequate and timely supply of the staple foods established by law." The constitutional changes are a step forward in the progressive realization of the right to food for the Mexican population in line with the UPR recommendations. The right to adequate food is a fundamental component for the enjoyment of other human rights including the right to an adequate standard of living.



Recommendation n°89: *Continue efforts aimed at providing adequate financing for housing to the poorest segments of the population (Recommended by Malaysia).*

IRI: *not implemented*

RTDTT response:

Right to housing - Indigenous communities suffer multiple violations to their right to housing because their communities are confined to areas far from major urban centers and service infrastructure. However, in recent decades it has been the big corporations and in various occasions, the mega-projects often imposed by federal and local authorities, that have threatened and violated this rights the most. Due to their location in areas of great natural wealth, these regions are the main target of private, mainly foreign, investments that are trying to exploit these areas commercially. Through the imposition of large infrastructure projects such as dams, wind farms, mines, trade corridors and tourism, the families in the communities are being forcefully displaced. Nevertheless, these actions are imposed on the population and are carried out without the consent of the communities who are also denied any information. As an example of dams we have the cases of El Cajon y la Yesca in Nayarit, the icacho dam in Sinaloa and Cerro de Oro in Oaxaca. Likewise, the mines have been another example of how the intervention of multinational corporations has affected the housing rights of rural communities in our country. One example is the company Vista Gold, a Canadian company that seeks to exploit the mine Paredones Amarillos in the Biosphere Reserve of Sierra Laguna, Baja California. This will lead to the pollution of water aquifers and drinking water sources violating the right of access to water. A similar case is taking place in the Ejido Huizopa in the municipality of Madera, Chihuahua. Residents have opposed the mine and are fighting the arbitrary proposal by the Canadian transnational Minefinders to evict them from their village. The villagers of Mazapil in Zacatecas, have also been affected by mining activities carried out by the transnational Gold Corp Inc., whose mining operations have poisoned the water as well as hundreds of residents in Zacatecas. Local people who have spoken out against the mine have been threatened. In general, mining companies come with threats or promises of payments and infrastructure to the indigenous peasants and then they do not comply with their promises, as it happened in the case of Blackfire Chicomuselo. Similarly, in Chiapas, the Canadian transnational Linear Gold has become the largest concession holder in number of hectares (328 000 160). The hectares are distributed in 15 municipalities in the state such as Copainalá, Ixhuatan, Pichucalco, Rayon, Villa Comaltitlán, Motozintla, La Concordia, Amatenango del Valle, Ángel Albino Corzo, Escuintla, Huixtla, Mapastepec, Motozintla, Tapilula and Villa Flores.

Right to Housing in Mexico City - The extreme poverty that affects indigenous communities has forced many families to migrate to Mexico City in search of better opportunities. However, many of them have not seen their rights guaranteed. In Mexico City more than thirteen thousand indigenous homes do not have drainage and drinking water, an issue that is resented the most by women whose social role makes them responsible of the home. In addition, the indigenous population is discriminated against in the access to mechanisms and public policies on housing due to, in large part, the fact that their work situation does not allow them to individually acquire funding to purchase a home. The rules of operation of



homeownership programs for indigenous people require them to demonstrate a legal organizational form to manage the credits. This requirement only generates exclusion and therefore, the groups that cannot comply with it are discriminated against in any opportunity to be supported by housing agencies to access credit. The result is an indigenous population crowded in slums or abandoned buildings, and without basic services for their survival. Furthermore, indigenous people are also discriminated against in being able to exercise, through their own worldview, their right to housing. The way housing is constructed, the materials used and the public policies generally do not allow them to replicate the expressions of each ethnic group, and thus the cultural identity and diversity of indigenous housing is being threatened. The authorities are not respecting the identities of these people and are not taking into account the element of cultural adaptation of housing, which in the end constitutes a substantial part in the construction of the collective conscience and the right to non discrimination in access to housing."

Recommendation n°91: Pursue with reforms initiated to ensure the full enjoyment of human rights and fundamental freedoms to its citizens, in particular the harmonization of domestic legislation with its international commitments (Recommended by Morocco).

IRI: partially implemented

RTD TT response:

See [response to] recommendation n°12.

CEMDA response:

A pesar del reconocimiento constitucional del derecho al medio ambiente, de la existencia de leyes y reglamentos ambientales y de algunas buenas propuestas de políticas públicas, la política ambiental mexicana en muchas ocasiones no es eficaz y no es sustentable por 1) ser técnicamente equivocada; 2) no ser armonizada con otros sectores y políticas sociales; o 3) no ser cumplida, afectando diversos derechos protegidos por instrumentos regionales de derechos humanos.

Recommendation n°93: Create the proper legal framework that gives the Special Prosecutor for Crimes Against Journalists sufficient jurisdiction to investigate and indict perpetrators with greater independence (Recommended by the Netherlands).

IRI: not implemented

RTD TT response:

See [response to] recommendation n°10.

AMED I response:

Si bien se llevaron a cabo algunas modificaciones en el acuerdo de creación de la Fiscalía, no fueron suficientes para darle las facultades adecuadas que le permitan investigar y colaborar en las investigaciones de las agresiones cometidas contra las personas que ejercen el derecho a la libertad de expresión.

Recommendation n°94: Follow-up on the Supreme Court's ruling for a new legal framework permitting diversity in the media. (Recommended by the Netherlands).

IRI: not implemented

RTD TT response:

See [response to] recommendation n°10.

AMED I response:

Hasta el momento no se han modificado las disposiciones necesarias contenidas en la legislación en materia de radio, televisión y telecomunicaciones a fin de dar cumplimiento a lo resuelto por la Suprema Corte de Justicia de la Nación (SCJN) en su sentencia relativa a la Acción de Inconstitucionalidad 26/2006. Salvo el otorgamiento de permisos para la operación de radios comunitarias, el Poder Ejecutivo Federal, en lugar de implementar políticas públicas acordes con la sentencia emitida por el máximo órgano de justicia, ha llevado a cabo acciones que van en contrasentido de dicha decisión judicial. En la sentencia referida, las y los ministros consideraron que el refrendo de concesiones no sujeto al procedimiento de licitación es inconstitucional porque "implica un privilegio para los concesionarios, porque no tendrían que licitar para renovar el beneficio del título de concesión, relevándoseles de competir en igualdad de circunstancias con los demás interesados, sin que exista razón objetiva y razonable que lo justifique." Además, el Estado no tendrá el beneficio de la contraprestación económica por la explotación comercial de un bien concesionado. No obstante esta decisión judicial, entre el año 2008 y el 2010 el Poder Ejecutivo Federal otorgó más de 150 refrendos a concesionarios radiofónicos con fines comerciales sin que mediara licitación. Otros hechos, como el conocido como "licitación 21" a finales del 2010, aseguran mayor concentración para las empresas que ya cuentan con concesiones en telecomunicaciones al adjudicar mayor espectro a costos injustificadamente bajos.

Recommendation n°95: *Review legislation governing radio, television and communication.* (Recommended by *the Netherlands*).

IRI: *not implemented*

AMED I response:

El Congreso ha tenido numerosas oportunidades para adecuar la legislación en materia de radio, televisión y telecomunicaciones a la sentencia de la Suprema Corte de Justicia de la Nación, sin embargo hasta el momento no lo ha llevado a cabo debido a los intereses relacionados con las empresas que concentran la industria de radio, televisión y telecomunicaciones.

Recommendation n°98: *Strengthen efforts at the federal level to raise awareness of indigenous rights, language and customs, by providing guidance and training to military and local officials, including the police, judiciary, and members of the legal community, particularly in rural areas* (Recommended by *New Zealand*).

IRI: -

RTD TT response:

See [response to] recommendation n°6.

Recommendation n°101: *Recognize the centrality of human rights and the rule of law in its approach to improving public security* (Recommended by *New Zealand*).

IRI: -

RTD TT response:

See [response to] recommendation n°9.



Recommendation n°102: *Abolish the practice of arraigo as soon as possible* (Recommended by *New Zealand*).

IRI: *not implemented*

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Recommendation n°141: *Abolish the practice of arraigo* (Recommended by *Switzerland*).

IRI: *not implemented*

RTD TT response:

The recommendation to eradicate the practice of arraigo was rejected. Recently, both the Working Group on Enforced or Involuntary Disappearances, the Subcommittee on Prevention of Torture and the Rapporteur on the independence of judges and lawyers have spoken in similar terms about the need to eradicate practice of arraigo: "It is an arbitrary legal figure incompatible with the presumption of innocence and the right to personal liberty. In addition, this figure is in itself contrary to the oral adversarial model that Mexico has adopted". According to the Mexican government, the 2008 Constitutional Reform limits the practice of arraigo to organized crime groups of a federal order and subjects it to strict controls by a specialized federal judicial authority. However, neither paragraph 8 nor paragraph 14 of amended Article 16 of the Constitution states that the scope of this figure will only be federal, or that the decision of its implementation will fall exclusively in the jurisdiction of a federal judicial authority. In fact, several states retain and make use of arraigo; in the case of Nuevo Leon for example, the person can be arraigado for up to 90 days, in contravention of the constitutional reform that limited the use of arraigo for up to 80 days. The accused thus is in a defenseless position against the resolution ordering the arraigo, and though the Mexican Government states that in these cases the amparo proceeds, it should be noted that the beginning of this process will not prevent the application of the measure if the person was already detained. This is because the effects of a possible amparo suspension do not go as far as to order the release of the accused but only to "make it available to the district judge" (amparo judge), who will oversee the detention but cannot put an end to the arraigo until the amparo is resolved. This procedure usually lasts longer than 80 days, so in most cases the resolution on the amparo is issued when the arraigo has ended and the judge is obliged to dismiss it because of "a change in the legal status" of the person; thus, in practice there is no effective remedy against the arraigo. The Mexican government affirms that in the implementation of the arraigo, confinement, intimidation or torture are prohibited. Furthermore, the detainees should be informed of the charges against them and of their rights and access to a lawyer must be guaranteed. In reality, people under arraigo do not enjoy the rights of due process enshrined in Article 14 of the International Covenant on Civil and Political Rights since they are not indicted at the time of their arrest; neither are they brought before a judicial authority. Moreover, the period of custody under arraigo ranges from 40 to 80 days, which exceeds by far the period of 96 hours established in Article 16 paragraph 10 of the Constitution for the retention of the accused in the Public Prosecutor's custody. The arraigo is also in violation of the guarantee provided for in Article 14 of the Constitution, under which a person may not be deprived of his or her liberty without a trial before a previously established court in which the essential formalities of the procedure are complied with and in accordance with the laws



enacted prior to the facts. This however is not fulfilled, because those under arraigo are deprived of their liberty without a trial before a competent judge. In practice, it has been documented that the arraigo is usually preceded by an arbitrary detention; those under arraigo do not have access to lawyers; have no contact with their families; are subjected to conditions of detention inconsistent with international standards (arrest are carried out without a warrant, or without the existence of flagrante delicto and with great violence, the detainees are also left in a state of incommunicado) and are often subjected to torture and other cruel, inhuman and degrading treatment. In the case of a group of police officers in Nuevo Leon, they were arrested for obstructing a public road and remained under arraigo in the premises of the State Academy Police from the 17th of June to the 17th of July 2009. In this case, the constitutional requirement for the use of arraigo that it be a crime related to organized crime was not established, this requirement defines an organization as made up of three or more people to commit crimes on a permanent or reiterated manner. According to the constitutional description and the definition given by the Mexican state, the figure of arraigo is used to investigate complex crimes. In practice, it is actually used when the authority does not have the sufficient elements to arrest the person according to the law respecting his/her individual rights. What the Mexican state is saying through their response is that, in its negligence towards the use of modern investigation and intelligence techniques, it is necessary to deprive citizens of their liberty for being suspects alone and with no evidence against them to be able to investigate and interrogate them and to create a record that did not exist before the arbitrary deprivation of liberty. Needless to say, this is in violation of the constitutional principle of presumption of innocence, of the guarantee to personal liberty and the right to due process; these rights are also protected by the treaties ratified by the Mexican State.

Recommendation n°103: *Establish an effective and inclusive process to follow up on the UPR recommendations* (Recommended by Norway).

IRI: *not implemented*

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Recommendation n°115: *Increase dialogue and consultations with civil society organizations in the design of follow-up measures and implementation of the UPR towards strengthening the impact of the human rights policies, as set out in Resolution 5-1 of the Council* (Recommended by Panama).

IRI: *not implemented*

CEMDA response:

Al respecto se desconoce cuáles han sido, o fueron, las medidas por las que optó el gobierno mexicano para dar seguimiento a las recomendaciones.

Recommendation n°104: *Invite NGOs working on press freedom to a constructive dialogue on how Mexico can stop the violence against journalists and ensure press freedom* (Recommended by Norway).

IRI: *not implemented*

RTDIT response:

See [response to] recommendation n°10.

AMEDI response:

No se ha llevado a cabo adecuadamente, la prueba es que el "mecanismo" que se aprobó para proteger a las y los periodistas (y defensores de derechos humanos) no tomó en cuenta las propuestas y observaciones de las organizaciones de la sociedad civil.

Recommendation nº105: *Ensure that crimes and violations against human rights defenders, journalists and lawyers are effectively investigated and prosecuted; that those responsible are punished* (Recommended by Norway).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation nº10.

AMEDI response:

No se ha llevado a cabo, y tampoco se han implementado las adecuaciones a las instancias encargadas de las investigaciones a fin de que lleven a cabo su labor.

Recommendation nº106: *Increase the effectiveness of the precautionary measures to protect human rights defenders, including through adopting effective and comprehensive prevention strategies, at central and local levels, to prevent attacks and protect the life and physical integrity of human rights defenders and journalists, and ensure that such programs are backed by a strong political commitment and provided with adequate resources* (Recommended by Norway).

IRI: *not implemented*

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Recommendation nº119: *Provide greater guarantees to journalists and media personnel, guarantee their safety and security, in particular those that investigate and report cases of drug trafficking and corruption* (Recommended by Peru).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation nº10.

Recommendation nº107: *That complaints of threats, harassment and intimidation of human right defenders, journalists and lawyers receive a prompt response and that adequate measures for their safety are taken* (Recommended by Norway).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation nº10.

AMEDI response:

No hay pruebas de que el "mecanismo" creado para estos fines funcione, lamentablemente la prueba de esto es la continuidad de las agresiones contra periodistas y medios de comunicación, incluyendo el incremento de las más graves como los asesinatos y desapariciones.



Recommendation n°108: *Invite the relevant special rapporteurs to visit Mexico and make necessary recommendations to uplift the lot of indigenous communities, in line with its commitments and relevant international instruments (Recommended by Pakistan).*

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°6.

CPDPE response:

See response to recommendation n°32.

Recommendation n°112: *Ensure the full realization of the rights of migrants on its territory by enacting legislation and providing training to concerned officials (Recommended by Pakistan).*

IRI: *partially implemented*

RTD TT response:

See [response to] recommendation n°63.

Recommendation n°116: *Persevere efforts to build a truly inclusive democracy by fully recognizing the rights of indigenous peoples (Recommended by Panama).*

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°6.

CEMDA response:

No existe en México legislación alguna que otorgue el derecho a la consulta por proyectos de desarrollo a los pueblos indígenas. Es necesaria, 1) la expedición de una ley que contemple El deber de notificación de cualquier procedimiento administrativo a todos los afectados directos por un proyecto de desarrollo y 2) El establecimiento de un proceso de consulta que tenga por lo menos 3 etapas (información, consulta y seguimiento) con plazos razonables, con la debida información y participación de todos los afectados a causa de un proyecto de desarrollo.

Recommendation n°122: *Seek to improve the enrolment rate of girls in primary and secondary schools (Recommended by the Philippines).*

IRI: -

RTD TT response:

Right to education - Despite its acceptable educational indicators, Mexico faces the problem of a poor quality education provided by the state and the exclusion that many children and youth in the educational system are subjected to. It seems that there is a tendency to provide a poor education to the poor. The education provided by the state lacks the quality required by the job market and is not thought as an education meant to dignify the human being. The level of education limits them to become low skilled labor, cheap and uncritical. Our leaders have lacked vision and interest in investing in the education system in order to have an educated, competitive, productive and capable of thinking population that will build a democratic state of law and that respects human rights. In 2010 the Rapporteur for the Right to



Education indicated that 8 out of 10 indigenous people do not have primary education. The budget to meet the needs of indigenous peoples and communities is still very limited. In addition, the educational model is insufficient to be able to rescue and empower indigenous languages and cultures; there is lack of training for teachers and it is common for them not to know the languages of the students they educate. In the case of indigenous peoples, not even 1% of population that enters primary school manages to enter university, as opposed to 17% of the national population. According to the Rapporteur the main problem that the education authorities are facing is to provide quality education; the "education supply does not meet the social inequalities that mainly affect marginalized populations, it also does not introduce structural measures that address more effectively their needs, nor does it invest sufficient resources for their care." Although there are important initiatives, it would appear as if the system was reproducing these inequalities or it is very slow in removing them.

Recommendation n°127: *Enact a definition of organized crime consistent with the United Nations Convention against Transnational Organized Crime (Recommended by Portugal).*

IRI: not implemented

RTDTT response:

The Mexican government did not accept the recommendation concerning the definition of organized crime arguing that the definition in the Mexican Constitution is in accordance with the Convention of the United Nations Convention against Transnational Organized Crime (Palermo Convention). However, the definition in the Constitution does not fulfill all the requirements provided in the Convention to define an "organized criminal group."

Palermo Convention (PC): Structured group ≠ Amended Article 16 of the Constitution (Art. 16): De facto organization.

PC: Three or more people = Art. 16: Three or more people.

PC: Existing in a defined period of time ≠ Art. 16: In a permanent or reiterated manner.

PC: Acting in a concerted manner ≠ Art. 16: ---.

PC: With the goal of committing one or more serious crimes ≠ Art. 16: To commit crimes.

PC: In the terms of the Convention ≠ Art. 16: In the terms established by law.

PC: To obtain a material or financial benefit ≠ Art. 16: ---.

The Convention includes a reference to the type of benefit a criminal group seeks. Article 2 of the Convention defines an 'organized criminal group' as a "structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit".

This is an important safeguard that is absent in the definition used in the Constitution and of particular concern considering that Mexico has documented cases in which,

for reasons more political than legal, innocent people and members of social movements are falsely accused of belonging to organized crime.

Recommendation n°131: *Undertake legal reforms to ensure openness and transparency of the media in the country* (Recommended by the Russian Federation).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°10.

AMED I response:

Por lo explicado antes, no se ha cumplimentado.

Recommendation n°133: *Continue efforts and strengthen the national programme to ensure the right to health and to education* (Recommended by Saudi Arabia).

IRI: *partially implemented*

RTD TT response:

See [responses to] recommendations n°72 and 122.

CPD PE response:

See response to recommendation n°2.

Recommendation n°136: *Adopt necessary measures to eradicate impunity for human rights violations, particularly against journalists*. (Recommended by Sweden).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°9.

AMED I response:

Por lo explicado antes, no se ha cumplimentado.

Recommendation n°148: *Publicly recognise the important role of human rights defenders and NGOs in the protection of human rights in Mexico*. (Recommended by United Kingdom).

IRI: *not implemented*

RTD TT response:

See [response to] recommendation n°10.

CEMDA response:

Por cuanto se ha reconocido públicamente la importancia del trabajo de los defensores, el 26 de julio de 2011, el Secretario de Marina, el almirante Mariano Francisco Saynez Mendoza durante la ceremonia de graduación de cadetes de la Heroica Escuela Nava declaró: “Considero importante manifestar que los grupos delictivos tratan de manchar el prestigio y el buen nombre de las instituciones, utilizando grupos ciudadanos que, mediante engaños, pretenden que caigan en el juego perverso de los criminales, ya que al utilizar la bandera de los derechos humanos intentan dañar la imagen de las instituciones, con el fin malévolo de

obstruir la participación de las mismas en su contra y así tener el campo abierto a su maldad”.

Por otro lado, la situación de los defensores ambientales es grave. La defensa del medio ambiente en México es una actividad peligrosa: en nuestra investigación hemos registrado 35 casos de ataques a defensores y defensoras ambientales en contra de 55 personas, 6 ejidos y 4 organizaciones de la sociedad civil mexicana. Es de destacar que las agresiones a defensores y defensoras del derecho a un medio ambiente sano en México no son dirigidas exclusivamente a integrantes de las ONG sino también a las autoridades gubernamentales pertenecientes a la Procuraduría Federal Ambiental (PROFEPa). Hemos registrado 86 incidentes de seguridad, tales como detención arbitraria, uso desproporcionado de la fuerza, intimidaciones, amenazas, hostigamientos, asesinatos, agresiones, operativos militares, enjuiciamiento arbitrario, criminalización de la protesta, desalojos violentos, despojo de su propiedad personal y tortura.

En ese marco, CEMDA junto con varias ONG, hemos solicitado al Estado Mexicano la conformación de un mecanismo de protección de los defensores de derechos humanos, presentando una propuesta completa. Sin embargo, más de un año después de la presentación de esa propuesta el Estado mexicano no ha implementado ese mecanismo, limitándose a aprobar un acuerdo entre sus dependencias en el cual se aclara que no hay presupuesto para las medidas de protección.

Recommendation n°150: *Put into place more effective measures to tackle violence against journalists and media personnel* (Recommended by the United Kingdom).

IRI: *not implemented*

RTD TT response:

See [responses to] recommendation n°10.

AMED I response:

Por lo explicado antes, no se ha cumplimentado.

Recommendation n°159: *Continue efforts and take further steps to strengthen the national programme to ensure the right to food, to health, particularly for the vulnerable groups living in extreme poverty, including indigenous people* (Recommended by Viet Nam).

IRI: *partially implemented*

RTD TT response:

See [response to] recommendation n°15.

CPDPE response:

Descripción general sobre la problemática

Actualmente las variedades de semillas de maíz en México se encuentran en grave riesgo debido a la autorización de siembra experimental de maíz transgénico desde 2009 en los estados de Chihuahua, Sinaloa, Tamaulipas, Sonora, Coahuila y Durango. En Marzo de 2011 fue autorizada la fase de siembra piloto en el estado de Tamaulipas; según datos de la SAGARPA, la siembra comercial de maíz transgénico



en el territorio nacional estaría iniciando en otoño de 2012. En el estado de Oaxaca, se descubrió contaminación transgénica desde el 2001 en los maíces nativos de las regiones de Valles Centrales, Sierra Sur e Istmo; Debido a los programas federales como el Programa Rural de Apoyo a Alimentos (DICONSA) y el Proyecto Estratégico de Seguridad Alimentaria (PESA). A nivel nacional se están impulsando legislaciones estatales basadas en la Ley de Bioseguridad y Organismos Genéticamente Modificados y la Ley Federal de Variantes Vegetales que pretenden (según sus promotores) sentar las bases para la regularización y protección de las semillas nativas de los estados que son centros de origen del maíz; Sin embargo, análisis realizados por diversas redes y organizaciones el objetivo de dichas iniciativas es legalizar la entrada del maíz transgénico, al autorizar su almacenamiento, comercialización y distribución.

Avances

Por invitación del gobierno mexicano el Relator Especial de las Naciones Unidas sobre el Derecho a la Alimentación, el señor Olivier De Schutter, llevó a cabo su misión oficial del 13 a 20 de junio de 2011. Producto de esta visita es una declaración final de la misión y un informe que presentará en Marzo de 2012. En su Declaración Final de la Misión el Relator Especial de Alimentación observa que el cultivo de maíz transgénico en México plantea graves riesgos a la diversidad de variedades nativas de maíz. El Relator considera que La expansión de los cultivos de maíz transgénico a escala comercial, y la consiguiente desaparición gradual de las variedades locales, podría aumentar la dependencia de los agricultores en una tecnología que va a transferir recursos a las empresas de semillas portadoras de las patentes sobre las variedades, lo cual hace de la agricultura excesivamente cara. Concluye que la continuación del programa que conducirá a la introducción de maíz transgénico en México podría ser un paso atrás en la realización del derecho a la alimentación en México.

Pendientes

En sus observaciones el Relator de Alimentación comenta lo siguiente:

Declarar el regreso de la moratoria sobre las pruebas de campo y en el cultivo comercial de maíz transgénico con el fin de proteger la biodiversidad del maíz en México. Mejorar el acceso a la información sobre las pruebas de campo existentes y la elaboración de un análisis independiente de sus impactos ecológicos, agronómicos, económicos y sociales. Hasta ahora no se ha informado sobre los resultados de la siembra experimental de maíz transgénico, por el contrario se ha aprobado la segunda fase (siembra piloto) en algunos estados. De acuerdo al análisis realizado por diferentes redes y organizaciones, existe un grave retroceso en la legislación a nivel federal y estatal en materia de protección al maíz nativo por lo que demandan al estado mexicano:

- Declaración de todo el territorio Mexicano como centro de origen del maíz, y no a nivel estatal/regional como actualmente se ha realizado y frenar la siembra experimental y piloto, ya que son un paso previo para la siembra comercial de maíz transgénico en el territorio mexicano.
- Fortalecer los esfuerzos de los campesinos a través de programas de apoyo que incentiven la producción de maíces nativos.



- Fortalecer la práctica de diversos agricultores consistente en almacenar, resembrar e intercambiar semillas que contribuyen a la biodiversidad agrícola y no limitar dichas prácticas como se plantea en la Ley Monsanto y en las leyes estatales aprobadas en Tlaxcala y Michoacán.

Observaciones

Aunado a las observaciones realizadas por el Relator de Alimentación en relación a la protección de semillas nativas y transgénicos, se encuentran también recomendaciones generales tendientes a mejorar la coordinación entre las instancias gubernamentales y reorientar los programas que apoyan la producción agrícola (PROCAMPO, PESA) debido a que benefician de manera desproporcionada a los sectores más ricos de los estados más prósperos del país, aumentando la desigualdad en los sectores más empobrecidos. Además de la reasignación de una fracción importante de los gastos actuales destinados para presas a gran escala e infraestructuras hidrológicas por la promoción de técnicas de cosecha de agua pluvial.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted both the delegate who represented the State at the UPR and the Permanent Mission to the UN in Geneva or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage using the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the



recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index** (IRI) is an individual recommendation index. Its purpose is to show both disputed and agreed recommendations.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is noted as 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review says the recommendation has been fully implemented and a stakeholder says it has been partially implemented, score is 0.75.

Then the score is transformed into an implementation level, according to the table hereafter:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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