



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

Distr.: General  
7 December 2010  
English  
Original: Spanish

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under  
article 9 of the Convention**

**Combined sixteenth and seventeenth periodic reports of  
States parties due in 2008**

**Mexico\***, \*\*, \*\*\*

[29 June 2010]

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\* This document contains the sixteenth to seventeenth periodic reports of Mexico, due on 22 March 2008. For the twelfth to fifteenth periodic reports and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/473/Add.1 and CERD/C/SR.1731 and 1732.

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

\*\*\* The annexes to this report may be consulted in the files of the secretariat.

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## I. Introduction

1. The International Convention on the Elimination of All Forms of Racial Discrimination was adopted and opened for signature and ratification by the United Nations General Assembly on 21 December 1965. In accordance with article 19, the Convention entered into force on 4 January 1969. Mexico signed the Convention on 1 November 1966 and ratified it on 20 February 1975.

2. On 16 September 1996, Mexico accepted the amendments to article 8 of the Convention which had been adopted on 15 January 1992 at the fourteenth meeting of the States parties to the Convention.

3. On 17 January 2002, the decree approving the declaration made by Mexico recognizing the competence of the Committee on the Elimination of Racial Discrimination in accordance with article 14 of the Convention was published in the *Diario Oficial de la Federación*.

4. In accordance with article 9 of the Convention, States parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative and other measures which they have adopted and which give effect to the provisions of the Convention. These reports are to be submitted every two years and whenever the Committee so requests.

5. The Government of Mexico submitted its combined twelfth, thirteenth, fourteenth, and fifteenth periodic reports in December 2004 and discussed the report with the Committee in 2006.

6. Accordingly, this consolidated report contains the sixteenth and seventeenth periodic reports of Mexico.

7. This report was prepared with the full participation of the federal executive branch and the National Human Rights Commission and in consultation with non-governmental human rights organizations through the corresponding mechanisms of the Commission on Government Policy on Human Rights. Wide-ranging consultations were also held with the country's 32 federal entities.

8. The report was drafted in accordance with the guidelines of the Committee on the Elimination of Racial Discrimination (HRI/GEN/2/Rev.5) and the recommendations made to Mexico in the document bearing the document symbol CERD/C/MEX/CO/15.

## II. Implementation of the Convention

### A. Articles 1 and 2

9. Combating discrimination is a key element in the consolidation of democracy in Mexico. Accordingly, the Government has promoted legislative, judicial, administrative and other measures which are in turn based on an acknowledgement of the existence of discrimination in the country.

10. The First National Survey on Discrimination in Mexico (2005)<sup>1</sup> reflects the differences between society's perception of the situation with respect to discrimination in Mexico and the views of people who are likely to be exposed to discrimination.

11. The survey results indicate that the groups regarded by society as being the "most vulnerable" are older adults (40.5 per cent), indigenous people (15.6 per cent), persons with disabilities (14.5 per cent), persons living with HIV/AIDS (10.8 per cent), children (9 per cent), single mothers (4.4 per cent), the unemployed (3 per cent), foreigners living in Mexico (1.3 per cent), young people (0.5 per cent) and non-Catholics (0.2 per cent).

12. On average, 9 out of every 10 women, persons with disabilities, indigenous people, homosexuals, older adults and persons belonging to religious minorities believe that they are discriminated against. The two groups that perceive themselves to be subject to the most discrimination are homosexuals and persons with disabilities:

- 42.8 per cent of homosexuals, 32.9 per cent of persons with disabilities, 31.5 per cent of indigenous people, 24.5 per cent of older adults, 21.4 per cent of persons belonging to religious minorities and 15.1 per cent of women surveyed reported that they had experienced some form of discrimination in the previous year
- 53.4 per cent of persons with disabilities, 40.1 per cent of homosexuals, 25.1 per cent of older adults, 22.8 per cent of women, 17.2 per cent of persons belonging to minority groups and 7.3 per cent of indigenous people believed that they had been discriminated against in the workplace

13. The results of the First National Survey on Discrimination in Mexico (2005) indicated that 48.4 per cent of the survey respondents would be unwilling to share their home with a homosexual, 42.1 per cent with a foreigner, 38.2 per cent with a person with different political views, 36 per cent with persons of another religion, 31.8 per cent with persons of another "race", 20.1 per cent with an indigenous person and 15 per cent with a person with disabilities.

14. The results initially give the impression that the average Mexican does not discriminate against the indigenous population. In fact, at first sight this group would seem to be treated with consideration. However, 43 per cent of respondents believe that indigenous people will always face social restrictions because of their "racial" characteristics; one third of the respondents think that the only thing that indigenous people have to do to escape from poverty is to not behave like indigenous people, and 40 per cent would be willing to form a group with others to lobby against allowing a group of indigenous people to settle near their community. For their part, 93 per cent of indigenous people feel that they have fewer job opportunities; three out of every four indigenous people believe that they have fewer opportunities to attend school than the rest of the population; two out of three indigenous people think that they have little or no prospect of improving their living conditions; and one fifth of them think that they have been denied work simply because they are of indigenous origin.

15. At first glance, the average Mexican does not appear to discriminate against women either, as 88 per cent of Mexicans think that denying a pregnant woman employment is a violation of her human rights. However, one fourth of the respondents would request that a woman job applicant undergo a pregnancy test; 40 per cent believe that women wishing to work should do so in jobs considered appropriate for their sex; and nearly one third think

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<sup>1</sup> First National Survey on Discrimination in Mexico, Ministry of Social Development, Mexico, May 2005: [http://sedesol2006.sedesol.gob.mx/subsecretarias/prospectiva/subse\\_discriminacion.htm](http://sedesol2006.sedesol.gob.mx/subsecretarias/prospectiva/subse_discriminacion.htm).

that it is normal for men to earn more than women. For their part, nearly 90 per cent of the women who were surveyed think they are discriminated against because of their gender. They see the workplace and the family as the places where they are most discriminated against: on a scale of from 0 to 10, discrimination against women was rated at 7.28 in the workplace and at 6.19 in the home. One fifth of the women responding to the survey think that women themselves are responsible for this situation, while nearly one third attribute it to machismo.

16. According to the findings of the First National Survey on Discrimination in Mexico (2005), a similar situation, albeit with subtle differences, prevails with respect to persons with disabilities, older adults, homosexuals and religious minorities.

17. The survey showed up two types of discrimination: one which marginalizes groups and restricts them to particular spheres on the basis of physical characteristics, and another which affects individuals on the basis of non-physical features (invisible discrimination).

18. Indigenous people, older adults and persons with disabilities are in the first group (discrimination on the basis of physical characteristics). In the case of invisible discrimination, society does not regard certain groups as being discriminated against, even when the persons concerned feel quite strongly that they have been wronged. This second group includes religious minorities, homosexuals and women.

19. In view of this situation, the Government has sought to foster the necessary social change through the enactment of new laws, the creation of new institutions and the adoption of public policies. The country's anti-discrimination legislative reforms seek to establish protection mechanisms that will reverse past forms of discrimination and, at the same time, prevent and neutralize the negative impact of more recent problems and issues. Mexican legislation prohibits all forms of discrimination, including racial discrimination and xenophobia.

## 1. Legislative measures

20. On 14 August 2001, an amendment to article 1 of the Constitution of the United States of Mexico was published. This amendment added a third paragraph to the article containing a clause prohibiting *any form of discrimination whatsoever* on the grounds of ethnic or national origin, gender, age, disability, social status, health status, religion, opinion, orientation, civil status or any other grounds constituting an affront to human dignity and having the aim of nullifying or undermining individual rights and freedoms.

21. This measure seeks to protect and compensate all those individuals and groups who, as a result of various kinds of prejudices and structural factors, have been placed at a disadvantage.

22. On 26 November 2002, the federal executive submitted a bill which was then passed into law by a unanimous vote as the Federal Act on the Prevention and Elimination of Discrimination and published in the *Diario Oficial de la Federación* on 11 June 2003. The National Council for the Prevention of Discrimination (CONAPRED) was established pursuant to this law and officially opened its doors on 27 March 2004. CONAPRED is the State body responsible for implementing anti-discrimination policy nationwide.

23. The Federal Act on the Prevention and Elimination of Discrimination (annex 1) provides for the prevention and elimination of all forms of discrimination and the promotion of equal opportunities and equal treatment. It also lists prohibited forms of

discriminatory behaviour<sup>2</sup> and sets out positive, compensatory measures which should be taken by public bodies and the federal authorities to promote equal opportunities for vulnerable groups that have historically been subjected to prejudice.

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<sup>2</sup> Article 9. Any discriminatory practice aimed at impairing or nullifying the recognition or enjoyment of individual rights and genuine equality of opportunity is prohibited.

For these purposes, discriminatory conduct shall be defined as including:

- I. Preventing access to public or private education and grants and incentives to encourage school attendance, as provided for by relevant legislation;
- II. Creating educational contents, tools or methods in which roles are assigned that are contrary to the principle of equality or that reinforce subordinate status;
- III. Prohibiting the free choice of employment or restricting opportunities for access to employment, continuing employment and promotion;
- IV. Establishing differences in respect of pay, allowances and working conditions for equal work;
- V. Limiting access to vocational training programmes;
- VI. Denying or limiting access to information on reproductive rights or preventing the free exercise of the right to decide on the number and spacing of children;
- VII. Denying or imposing conditions on access to medical services or preventing an individual for exercising the right to participate in decision-making regarding their medical or therapeutic treatment in keeping with their capacity and means;
- VIII. Preventing participation on equal terms in civil, political or other associations;
- IX. Denying or imposing conditions on the right to political participation and, specifically, the right to vote or stand as a candidate, or on eligibility for or access to all public posts or participation in the development and implementation of Government policies and programmes, as provided for by relevant legislation;
- X. Preventing the exercise of the right to own property or the right to administer and dispose of any other assets;
- XI. Preventing access to the enforcement and administration of justice;
- XII. Denying the right of individuals to be heard in any judicial or administrative proceedings affecting them, including children as provided for by law, and denying the assistance of interpreters in administrative or judicial proceedings pursuant to applicable rules;
- XIII. Enforcing any practice or custom that constitutes an affront to human dignity and integrity;
- XIV. Preventing a spouse or partner from exercising free choice;
- XV. Offending, ridiculing or promoting violence in the cases covered by article 4 herein through messages or images in the media;
- XVI. Limiting freedom of expression, preventing a person from exercising freedom of thought, conscience or religion, or from engaging in religious practices and customs, provided that they are not a threat to public order;
- XVII. Denying religious ministrations to persons deprived of their liberty, persons serving in the Armed Forces or persons in health or welfare institutions;
- XVIII. Limiting access to information, except in cases covered by applicable national laws and international legal instruments;
- XIX. Interfering with the minimum conditions required for healthy growth and development, particularly of children;
- XX. Denying access to social security and related benefits or placing restrictions on access to medical insurance, except in those cases provided for by law;
- XXI. Limiting the right to food, housing, recreation and adequate medical services, as provided for by law;

24. The Act states that discrimination shall be understood to mean any distinction, exclusion or restriction which, on the basis of ethnic or national origin, sex, age, disability, social or economic status, health status, pregnancy, language, religion, opinion, sexual orientation, civil status or any other ground, has the effect of impeding or nullifying the recognition or exercise of individual rights or genuine equality of opportunity. Xenophobia and anti-Semitism in any of their manifestations shall also be deemed to constitute discrimination.

25. Other recent legislation has elaborated upon provisions on non-discrimination set forth in the Constitution and the Federal Act on the Prevention and Elimination of Discrimination.

26. On 8 April 2010, the Senate approved a draft decree amending articles 1, 3, 11, 15, 18, 29, 33, 89 and 102 of the Constitution in the area of human rights. The provisions of this draft decree would have the effect of converting the Mexican legal order from a dualist model into a monist model with respect to the assimilation of international human rights law into national law on a par with the Constitution. Consequently, human rights will be part of the country's supreme law at the highest level in the hierarchy of the domestic legal system and may be invoked directly in the courts.

27. Under the terms of the draft decree, all authorities will be instructed to promote, respect, protect and guarantee human rights in accordance with the principles of universality, interdependence, indivisibility and the progressive realization of human rights. Human rights norms will be interpreted in accordance with the Constitution and international human rights treaties to which Mexico is party.

28. The draft decree, which has been submitted to the Chamber of Deputies for approval, also provides for the following:

- Title I of the Constitution is to be entitled "Human Rights".
- Recognition of the right of all persons to enjoy the human rights recognized in the Constitution and the international human rights treaties to which Mexico is party.
- Inclusion of respect for human rights as part of the education provided by the State.

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XXII. Denying access to any public service or private institution providing public services, or limiting access to or free movement in public spaces;

XXIII. Exploiting an individual or treating an individual in an abusive or degrading way;

XXIV. Restricting participation in sporting, recreational or cultural activities;

XXV. Restricting or limiting the use of an individual's language, practices, customs and culture in public or private activities as provided for by law;

XXVI. Limiting or denying the issuance of concessions, permits or authorizations for the development, administration and use of natural resources, provided that the applicable statutory requirements have been met;

XXVII. Inciting hatred, violence, contempt, ridicule, defamation, slander, persecution or exclusion;

XXVIII. Perpetrating or promoting physical or psychological ill-treatment by reason of an individual's physical appearance, way of dressing, speaking or gesturing or public acknowledgement of sexual orientation;

XXIX. In general, any other behaviour deemed discriminatory under article 4 herein.

- Prohibition of the conclusion of treaties that would modify the recognition of human rights provided for by the Constitution and the international human rights treaties to which Mexico is party.
- Respect for human rights as the basis of the prison system. The State must prevent, investigate and punish human rights violations.
- Obligation of authorities not accepting recommendations of public human rights bodies to publish their reasons for not doing so.
- Obligation of federal legislatures to guarantee that those bodies shall be independent and shall have their own budget, legal personality and assets.
- Selection of members of the National Human Rights Commission and human rights bodies and their advisory councils should be based on a process of public consultation and social participation.
- Authorization of the National Human Rights Commission to investigate serious human rights violations if the executive deems it appropriate.
- Amendment of article 33 of the Constitution to establish that foreigners shall enjoy the rights guaranteed to them by the Constitution and shall be entitled to a hearing before such time as the executive exercises its power to expel them. This provision would address the recommendation made by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to guarantee the right of the persons concerned to explain their reasons for objecting to their expulsion.

29. A constitutional reform of the system for the administration of justice was approved in March 2008 and entered into force on 18 June 2008 following publication of a decree setting out amendments to the Constitution with respect to public security and the criminal justice system. The reform includes the following features:

- (i) It establishes a rights-based system that guarantees full respect for the rights of the victim, aggrieved parties and the defendant and the presumption of the latter's innocence;
- (ii) It incorporates the principles of the right to a public hearing, adversarial procedure, concentration, continuity and immediacy, with proceedings that shall be accusatorial and oral in nature;
- (iii) It lays the foundations for a more efficient and professional public defender's office that will be able to ensure fairer and more prompt access to justice;
- (iv) It establishes new measures to protect victims' rights, such as the right to receive legal advice, assist the prosecution service and take part in proceedings, and receive medical and psychological care when necessary, as well as strengthening compensation mechanisms and ensuring that a person's identity and personal information will remain confidential when considerations of safety so require.

30. On 2 August 2006, the Act on Equality between Women and Men was published in the *Diario Oficial de la Federación*. Article 4 of the Act defines discrimination as "... any distinction, exclusion or restriction which, on the basis of ethnic or national origin, sex, age, disability, social or economic status, health status, pregnancy, language, religion, opinion, sexual orientation, civil status or any other ground, has the effect of impeding or nullifying the exercise of individual rights or genuine equality of opportunity". The definition covers indirect discrimination by stating that discrimination may involve a restriction which results in a limitation of the recognition or exercise of rights.



31. The Act also established the National System for Equality between Women and Men, whose purpose is to promote equality between women and men and to contribute to the elimination of all forms of discrimination. It takes account of the fact that affirmative or compensatory measures taken in the interest of vulnerable groups such as women, children, persons with disabilities and the indigenous population are not discriminatory acts but rather measures which promote equality within these sectors of the population, between each of these sectors and the other vulnerable groups and between these sectors and the rest of the population. The Act recognizes that a person may be the victim of discrimination on more than one ground; this would be the case for indigenous women and girls.

32. On 20 January 2004, the General Act on Social Development was published in the *Diario Oficial de la Federación*. The purpose of the Act is to guarantee respect for the social rights of all Mexicans, identify the way forward for the social policy of the State of Mexico and create the necessary conditions for strengthening the social fabric, reducing inequality gaps and fighting extreme poverty efficiently.

33. On 24 April 2006, an additional section to article 8 of the Religious Associations and Public Worship Act was published in the *Diario Oficial de la Federación*. It requires that religious associations shall:

“III. Respect at all times other faiths and beliefs and promote dialogue, tolerance and coexistence between different religions and creeds in Mexico.”

34. The State has an obligation to introduce affirmative measures to redress the harm experienced by members of groups that have traditionally suffered from exclusion and discrimination and to promote their rights. An important step in this direction is chapter 3 of the Federal Act on the Prevention and Elimination of Discrimination, which sets out the duties of the State in ensuring equality of opportunity for certain vulnerable groups.

35. The State is competent to take legal action to intervene directly in the private sphere in the event of discrimination. The term “public life” stands in contradistinction to “private life” and also refers to the enjoyment and exercise of human rights at this level in the political, economic, social, cultural and civil domains.

36. Following the addition in 2001 of paragraph 3 to article 1 of the Constitution, a number of states amended their own constitutions so as to expressly prohibit discrimination or refer to the right to equality.

37. In December 2009, 14 state laws were promulgated specifically prohibiting discrimination on grounds of ethnic or national origin:

No.	Federal entity	Date of adoption	Date of publication	Entry into force
1	Baja California Sur	14 December 2006	31 December 2006	Six months after its publication
2	Campeche	21 June 2007	4 July 2007	Three months after its publication
3	Chiapas	3 April 2009	3 April 2009	One day after its publication
4	Chihuahua	14 June 2007	7 July 2007	1 January 2008
5	Coahuila	26 June 2007	24 August 2007	One day after its publication
6	Colima	10 June 2008	14 June 2008	One day after its publication

<i>No.</i>	<i>Federal entity</i>	<i>Date of adoption</i>	<i>Date of publication</i>	<i>Entry into force</i>
7	Federal District	27 April 2006	19 July 2006	One day after its publication
8	México State	26 December 2006	17 January 2007	One day after its publication
9	Guerrero	12 June 2007	20 February 2009	1 April 2009
10	Hidalgo	14 February 2008	10 March 2008	One day after its publication
11	Michoacán	18 December 2008	20 February 2009	One day after its publication
12	Nayarit	6 December 2005	10 December 2005	One day after its publication
13	Tamaulipas	15 December 2004	29 December 2004	One day after its publication
14	Zacatecas	29 June 2006	29 July 2006	One day after its publication

*Source:* National Council for the Prevention of Discrimination.

38. Legislation in 18 federative entities in Mexico prohibits discrimination on grounds of ethnic or national origin, and the laws of 19 states prohibit discrimination on grounds of race: Baja California Sur, Campeche, Durango, Estado de México, Guanajuato, Hidalgo, Jalisco, Michoacán, Morelos, Nuevo León, Oaxaca, Puebla, Quintana Roo, San Luis Potosí, Sonora, Tabasco, Tlaxcala, Veracruz and Yucatán.

39. As of October 2009, the federative entities that had criminalized discriminatory acts based on racial, ethnic or national origin were: Baja California Sur, where such acts are covered by the offence of defamation; Campeche, where they are treated as aggravating circumstances; Aguascalientes, Colima, the Federal District, Oaxaca, Quintana Roo and Veracruz, where they are specifically criminalized; and Coahuila, Chiapas, Chihuahua and Durango, where they are classified as an offence against the dignity of persons. The Act on the Rights of the Indigenous Peoples and Communities of the State of Oaxaca criminalizes ethnocide (art. 16) and discrimination (art. 17).

40. In Coahuila, a decree was published in February 2007 prohibiting all forms of employment discrimination in the state civil service. The decree establishes that it is obligatory for public officials to respect and safeguard the exercise of the rights of individuals to genuine equal opportunity and equal treatment and the right to participate in and benefit from, in an inclusive manner, educational, health, production, economic, employment, cultural and recreational activities, and, in general, all activities that ensure full and comprehensive development. In view of the above, it is forbidden to deny employment opportunities on the basis of sex, age, sexual orientation, religious belief, pregnancy, the presence of tattoos and/or body piercings, a criminal record or any other ground that undermines the principle of the equality of persons.

41. In addition, a proposal has been introduced to amend the Federal Act on the Prevention and Elimination of Discrimination with the aim of providing support at the national level for the passage of laws at the local level (annex 2).

42. The Supreme Court of Justice has ruled in favour of a broad interpretation of legislation that is conducive to the application of the principle of non-discrimination. With respect to discrimination on the basis of sexual orientation, for example, the Supreme Court granted *amparo* to a person who had changed his/her identity (name and gender) to ensure that the new birth certificate would contain no information regarding the person's previous identity. This ruling was grounded on the right to equality and a legal analysis based on the right to privacy to prevent future discrimination.<sup>3</sup>

43. In addition, as part of a constitutional reform relating to indigenous affairs published in the *Diario Oficial de la Federación* on 14 August 2001, articles 1, 2, 4, 18 and 115 of the Constitution were amended. This reform has helped the country move towards a new relationship among the State, indigenous peoples and society in general.

44. Article 2 of the Constitution confers constitutional status on the rights of indigenous peoples and communities; the multicultural composition of the nation; the concept of indigenous peoples and communities; the recognition of the right of indigenous peoples and communities to self-determination and autonomy; the collective rights of indigenous peoples; and the obligation of the Federal Government, states and municipalities to guarantee the realization of indigenous rights and the comprehensive development of indigenous peoples and communities.

45. The collective rights of indigenous peoples and communities are set out in article 2 (A) of the Constitution: the right to be recognized as an indigenous people or community; the right to self-identification; the right to self-determination and, therefore, autonomy in deciding for themselves how they will live together and how they will organize their social, economic, political and cultural affairs; the right to apply their own legal systems in regulating and resolving internal conflicts, subject to the general principles of the Constitution, while respecting individual guarantees, human rights and, in particular, women's dignity and integrity; the right to elect, in accordance with their traditional rules, procedures and practices, authorities or representatives to exercise their own forms of internal government, while guaranteeing women's participation on equal terms with men; the right to preserve and enrich their languages, knowledge and all the constituent elements of their culture and identity; the right to elect, in municipalities with indigenous populations, representatives to town councils; the right to have full access to the Mexican justice system; the right to the land they inhabit; the right to consultation and participation; and the right to development.

46. Article 2 (B) of the Constitution sets forth the obligations of the Federal Government, states and municipalities with regard to indigenous peoples and communities in areas relating to regional development, education, health, housing, women's participation, communication networks, production activities and sustainable development.

47. The amendments to article 2 of the Constitution have given rise to legislative reforms and adjustments to align other laws with the constitutional framework. Annex 3 lists federal and state legislation that has so far been brought into line with the above-mentioned article.

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<sup>3</sup> Same-sex marriage is legal in the Federal District following amendments to the Civil Code and the Code of Civil Procedure in Mexico City adopted by the Legislative Assembly of the Federal District on 21 December 2009. The amendments were published in the *Gaceta Oficial del Distrito Oficial* by order of the head of the capital's government on 29 December 2009 and entered into force in March 2010.

48. These amendments have shifted the model of the State from one under which Mexico was conceived of as a monocultural nation, with a single language as a marker of identity, to one based on a recognition of its multicultural and multilingual character. The General Act on the Linguistic Rights of Indigenous Peoples (annex 4), published in the *Diario Oficial de la Federación* on 13 March 2003, specifically establishes in articles 1 and 8 that no one may be subjected to any kind of discrimination because of or by virtue of the language which that person speaks.

49. The General Act on the Linguistic Rights of Indigenous Peoples recognizes and regulates the rights that guarantee the use of indigenous languages and above all those that afford the necessary protection to speakers in order to ensure that their languages develop and are respected and appreciated by society as a whole. As a result, all levels of government are being restructured to ensure that the country's institutions reflect its multicultural character.

50. As reported previously to the Committee, another outcome of this constitutional reform process was the adoption of the Act on the National Commission for the Development of Indigenous Peoples on 21 May 2003. The Act establishes the Commission as the decentralized body of the Federal Government tasked with guiding, coordinating, promoting, supporting, encouraging, monitoring and evaluating programmes, projects, strategies and public action for the comprehensive and sustainable development of indigenous peoples and communities.

51. Article 3 of the Act establishes that the National Commission for the Development of Indigenous Peoples shall be governed by the following principles:

- (i) Respect for the multi-ethnic and multicultural character of the nation;
- (ii) Support for activities to combat discrimination and social exclusion and to construct a society that will be inclusive, pluralistic, tolerant and respectful of intercultural differences and dialogue;
- (iii) Promotion of the implementation of comprehensive and cross-cutting policies, programmes and actions by the Federal Government for the development of indigenous peoples and communities;
- (iv) Promotion of sustainable development in order to ensure the rational use of natural resources in indigenous regions without endangering the heritage of future generations;
- (v) Inclusion of a gender perspective in policies, programmes and actions implemented by the Federal Government to promote the participation of indigenous women, respect for their rights, equity and a full range of opportunities; and
- (vi) Consultations with indigenous peoples and communities whenever the federal executive branch initiates legislative reforms, administrative acts, or development programmes or projects having a significant impact on the living conditions and surroundings of those groups.

52. Since 2001, the constituent entities of the federation have reformed their constitutions and passed laws on indigenous rights and culture which include the above-mentioned rights. The following table provides a summary of these reforms.

<i>Right recognized</i>	<i>No. of entities recognizing the right</i>	<i>Federal entities recognizing the right</i>
Recognition as indigenous people	16	Campeche, Colima, Chiapas, Durango, Jalisco, Estado de México, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Tabasco, Veracruz and Yucatán
Self-identification	08	Durango, Jalisco, Morelos, Oaxaca, Puebla, Quintana Roo, San Luis Potosí and Yucatán
Self-determination	14	Campeche, Chiapas, Durango, Jalisco, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Tabasco, Veracruz and Yucatán
Application of their own legal systems	15	Campeche, Chiapas, Chihuahua, Durango, Jalisco, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Tabasco, Veracruz and Yucatán
Preservation of cultural identity	18	Campeche, Colima, Chiapas, Durango, Hidalgo, Jalisco, Estado de México, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tabasco and Yucatán
Lands	15	Campeche, Chihuahua, Durango, Jalisco, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Tabasco, Tlaxcala, Veracruz and Yucatán
Consultation and participation	14	Campeche, Chiapas, Chihuahua, Durango, Guerrero, Jalisco, Morelos, Nayarit, Oaxaca, Puebla, Quintana Roo, San Luis Potosí, Tabasco and Yucatán
Full access to the State justice system	19	Campeche, Chiapas, Chihuahua, Durango, Hidalgo, Jalisco, Estado de México, Michoacán, Morelos, Oaxaca, Puebla, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tlaxcala, Veracruz and Yucatán
Development	20	Campeche, Colima, Chiapas, Chihuahua, Durango, Guerrero, Jalisco, Estado de México, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Tabasco, Tlaxcala, Veracruz and Yucatán

*Source:* National Commission for the Development of Indigenous Peoples.

53. The states of Chiapas and Sonora approved legal and constitutional reforms in December 2009 and January 2010, respectively; however, these amendments have not yet been published in the official gazettes of those states.

54. In Yucatán, wide-ranging public consultations were held and various opportunities for participation and analysis were provided in all the state's districts and regions as a basis for the preparation of a draft decree for the promulgation of implementing regulations for articles relating to the law and culture of the Maya people of Yucatán. That proposal was submitted to the state congress for consideration on 11 April 2008.

55. On 21 July 2008, a decree amending and repealing various provisions of the Population Act was published in the *Diario Oficial de la Federación*. This reform revoked the penalty of imprisonment for periods ranging from 18 months to 10 years for foreigners convicted of, inter alia, unauthorized entry, forgery of identity documents, using false migration documents, overstaying of visas, carrying out activities not authorized under the terms of the entry permit, and marrying Mexicans for the sole purpose of residing in Mexico. Fines have been retained as a penalty for these offences. The decriminalization of undocumented immigration has been a key factor in the effort to pass a migration law. A proposed text is currently being debated.

## 2. Programme measures

56. The National Development Plan for 2007–2012 states (area 3) that the aim of social policy is to achieve human development and the well-being of all Mexicans by providing equality of opportunity. Within this context, special attention is to be devoted to vulnerable groups and groups with special needs, such as older adults, children and adolescents at risk of ending up in the street and persons with disabilities. Access to equal opportunities should enable vulnerable groups, including women, to improve their standard of living and should include access to suitable health services, education and employment.

57. On 29 August 2008, the National Human Rights Programme for 2008–2012 was published in the *Diario Oficial de la Federación*. Through this programme, the Federal Government works to promote and defend human rights, full respect for the principle of non-discrimination and the mainstreaming of the principle of equality, including gender equality, in all stages of public policymaking at the various levels of the Federal Administration. This programme also provides an essential frame of reference for all persons involved in decision-making. Objective No. 1 of the National Plan calls on the Federal Government to mainstream the principle of equality and non-discrimination in public policy (annex 5).

58. The National Programme for the Prevention and Elimination of Discrimination for 2006–2010 (annex 6) sets out a number of goals, strategies and actions which, in the short, medium and long terms, will strengthen national anti-discrimination policy. The National Council for the Prevention of Discrimination is tasked with its implementation. The programme is designed to coordinate a common approach to combating discrimination by the State and is a groundbreaking effort to further the Mexican Government's general policy on non-discrimination.

- The National Programme for the Prevention and Elimination of Discrimination has seven substantive sections. The first refers to the national and international legal framework for the programme, including the international human rights instruments that have informed Mexican legislation.
- The third section contains an analysis of the situation of the main groups that are discriminated against in Mexico and provides a baseline for assessing the structural dimensions that anti-discrimination strategy in Mexico should incorporate.
- The fifth section discusses how the programme goals are to be implemented through the development of a strategy which, in strict compliance with legal obligations under the Federal Act on the Prevention and Elimination of Discrimination, is to include a comprehensive set of public policies concerning groups affected by

discrimination; these policies are to be applied in key areas of society, such as employment, health, education and justice.

59. In 2007, the National Council for the Prevention of Discrimination signed a general cooperation agreement with the Ministry of the Public Service. Under the terms of one of the implementation annexes, which concerns the promotion of a culture of transparency and non-discrimination, a series of joint measures were implemented beginning in 2008. These measures ultimately resulted in the creation of an institutional culture programme designed to mainstream equal opportunity policies, promote an institutional culture of non-discrimination, and introduce and monitor various measures in this area in the different federal administrative offices and bodies.

60. The Programme for the Development of Indigenous Peoples for 2009–2012 (annex 7), published in the *Diario Oficial de la Federación* on 4 December 2009, establishes objectives, indicators, goals, strategies and actions designed to promote respect and recognition for the cultures, languages and rights of the country's indigenous persons, peoples and communities.<sup>4</sup> It provides for enhanced human rights training for the indigenous population, in particular with respect to women's rights. It establishes that greater appreciation of indigenous cultures and languages represents a necessary step in building an intercultural dialogue that will enrich the Mexican nation and that this will only be possible if society recognizes and values cultural diversity and puts a stop to discrimination.

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<sup>4</sup> The areas and objectives included in the 2009–2012 Programme for the Development of Indigenous Peoples are:

Area 1. Indigenous rights

Objective 1. To promote, in accordance with the relevant provisions in force, the harmonization of the legal framework for indigenous rights and to pave the way for respect for those rights and their full exercise.

Area 2. Overcoming lags in development and achieving development with an identity

Objective 2. To overcome lags in the development of indigenous society by expanding the cover and cultural relevance of sectoral programmes and measures.

Objective 3. To promote, in accordance with the relevant provisions in force, a development process in indigenous regions that embodies respect for their identity by coordinating the public policies of the three levels of government on the basis of a participatory and gender-based model of territorial development.

Objective 4. To promote an improvement in the quality of life of indigenous men and women living and working in the country's cities or employed as day labourers in agriculture.

Area 3. Recognition and appreciation of cultural and linguistic diversity

Objective 5. To promote progress towards the recognition and appreciation of the country's cultural and linguistic diversity and to contribute to the strengthening, preservation and dissemination of the cultural expressions and manifestations of indigenous peoples and communities.

Area 4. Participation and consultation for an effective democracy

Objective 6. To increase the participation of indigenous peoples and communities in the planning of their development and in the promotion of the recognition and exercise of their rights.

Area 5. Institutional management for a culturally and linguistically diverse country

Objective 7. To promote, in accordance with the relevant provisions in force, improved management of the National Commission for the Development of Indigenous Peoples and to ensure that federal agencies and bodies, within their respective spheres of competence, place priority on the provision of efficient, effective and culturally relevant services to the indigenous population.

61. The Programme for the Development of Indigenous Peoples is based on a recognition of the fact that discrimination is an unjustifiable structural and historical phenomenon based on stigma and prejudice and that it can be perpetuated from one generation to the next. Studies on the living conditions of indigenous persons, nations and communities show that, in spite of the efforts and progress made in recent years, the fact that the greatest shortfalls in terms of well-being and access to basic services have not been overcome is attributable to discrimination. In order to address this situation, the Programme emphasizes appreciation and respect for the country's indigenous cultures and languages as key elements for building an intercultural dialogue and thereby helping to eliminate discrimination against the indigenous population.

62. In accordance with the amendment to article 2 of the Constitution, public policies recognize and value ethnic, cultural and linguistic diversity as one of the key pillars in building the identity of a multicultural, democratic, just and sovereign nation state. Promotion of the country's linguistic diversity is seen as a factor that will help Mexico to build a participatory society that recognizes its pluralistic nature.

63. Institutional and legal foundations have thus been laid for the eradication of linguistic discrimination in Mexico. In addition, cross-cutting policies are being implemented to ensure that social and administrative conditions are in place that will facilitate access to Government services in users' mother tongues in three main areas: the administration of justice, multicultural and multilingual education, and health.

64. The 2008–2012 Programme for the Revival, Strengthening and Development of National Indigenous Languages sets out strategies for developing multilingualism in Mexican society by encouraging the use of national languages in all areas of life, not only by people for whom a given language is their mother tongue, but also key stakeholders and sectors of the Mexican population as a whole. The aim is to contribute to the construction of a more just and equitable society within the framework of current legislation regarding indigenous culture, languages and peoples.

65. The guiding principles of the Programme for the Revival, Strengthening and Development of National Indigenous Languages are: (i) the cultural diversity of Mexico, in particular its indigenous peoples and their languages; (ii) multilingualism and an intercultural approach; and (iii) equal opportunities within a national multicultural and multilingual framework. Some of its specific goals are to encourage the functional use of national indigenous languages in public institutions and to promote advanced professional training for interpreters, translators and other persons who perform functions relating to national indigenous languages that may require accreditation and certification.

66. The National Institute of Indigenous Languages, which has been in operation since October 2004, is responsible for establishing public policies to ensure compliance with the linguistic rights of Mexican speakers of indigenous languages. Its task is to help to build a just, inclusive, pluralistic society that embraces intercultural dialogue. To this end, it provides advisory services to the three levels of government with a view to coordinating public policies for the promotion of multilingualism, the full enjoyment of linguistic rights and the development of indigenous languages. It also seeks to encourage the use of indigenous languages in all areas of social, economic, political, occupational, cultural and religious life, and especially those involving indigenous peoples, and to foster understanding and enjoyment of the country's rich linguistic heritage while recognizing cultural diversity through joint efforts with indigenous communities, Government bodies and the private sector.



67. The National Institute of Indigenous Languages has created multidisciplinary collegiate bodies and entered into various interdisciplinary agreements with other federal agencies to promote compliance with current legislation on non-discrimination and the linguistic rights of indigenous peoples.

68. The National Programme for Equality between Women and Men for 2009–2012 was published in the *Diario Oficial de la Federación* on 18 August 2009. Its purpose is to ensure that all persons, men and women alike, exercise their rights fully. Strategic objective No. 2 is to work to guarantee legal equality, women's rights and non-discrimination within the framework of the rule of law.

69. The National Programme for the Development of Persons with Disabilities for 2009–2012 was published in July 2009. Its purpose is to coordinate State policies and direct the implementation of strategies in public-sector institutions at the three levels of government in order to promote the comprehensive development and full inclusion of persons with disabilities and their families in the social and productive life of the country on the basis of an absolute respect for their human rights and fundamental freedoms.

70. With respect to older adults, the National Development Plan calls for support to be focused on the population aged 70 and over, giving priority to those living in highly marginalized communities or in poverty. Under this strategy, financial support is to be provided every two months to persons aged 70 and over living in rural areas with fewer than 2,500 inhabitants. In addition, the experience of older persons will be drawn upon by creating opportunities for them to engage in production activities of relevance to their community. In order to stimulate job creation for this sector of the population, the National Plan provides tax incentives to businesses employing older persons who wish to remain productive.

71. The National Development Plan is also designed to promote the healthy and integral development of Mexico's children by ensuring full respect for their rights, the satisfaction of their health, nutritional, educational and housing needs and the full development of their abilities. The Plan is based on the same tenets as the Convention on the Rights of the Child and therefore includes a strategy for setting up committees for follow-up and monitoring of implementation of the Convention in states where they are not already in place.

72. The National Development Plan for 2007–2012 sets out a policy for ensuring respect for migrants' rights, improved living conditions for Mexicans abroad and better protection for migrants. The Plan's objectives and strategies include: objective No. 10: build a new culture of migration; strategy No. 10.1: respect and protect migrants' rights in Mexico; and strategy No. 10.5: improve the quality of services and the management of migration in general.

73. Mexico has a migrant regularization programme to ensure that foreigners of any nationality living in Mexican territory can apply for documentation attesting to their non-immigrant migrant status in accordance with the applicable rules. The programme is designed to provide migrants with legal safeguards, support family integration, and prevent them from falling victim to acts of corruption or violations of their human rights and individual guarantees. The National Institute for Migration is implementing a programme focusing on the southern border of Mexico. The programme's objectives are to: (i) facilitate the documentation of migratory flows; (ii) protect the human rights of migrants; and (iii) contribute to border security. This approach is designed to prevent the abuse of migrants and to fight offences that can be classified as "related intolerance" within the context of the Durban Declaration.

## B. Articles 3 and 4

74. Article 9 of the Federal Act on the Prevention and Elimination of Discrimination establishes that “in the situations referred to in article 4 of this Act, causing offence, ridiculing or inciting violence through messages or images displayed in communications media” shall be deemed to constitute discriminatory conduct.

75. Article 138 of the Criminal Code of the Federal District was amended on 10 September 2009 to incorporate a new paragraph (para. VIII) which stipulates that homicide and battery shall be classified as aggravated offences when committed from a position of unfair or undue advantage, with treachery or perfidy, in retribution, using certain methods, with cruelty, or in a state of voluntary impairment or hatred:

“VIII. Hate shall be considered to exist when the perpetrator of the offence is motivated by the victim’s social or economic position; affiliation to, membership in or relationship with a specific social group; social or ethnic origin; nationality or place of origin; colour or other genetic characteristic; sex; language; gender; religion; age; opinions; disability; state of health; physical appearance; sexual orientation; gender identity; civil status; profession or occupation.”

76. This amendment allowed the first case to be brought before the Mexican courts in which a person has been charged with aggravated battery on the grounds that the offence was motivated by hatred. The case is currently in progress.

## C. Article 5

77. Mexico’s indigenous population was estimated at 10,103,571<sup>5</sup> in 2005 (9.8 per cent of the total population). Women accounted for 50.9 per cent of indigenous inhabitants and men for 49.1 per cent. The indigenous population has shrunk by 0.260 per cent since 2000, and the birth rate among the younger indigenous population has started to decline.<sup>6</sup>

### Growth rate for the indigenous population, 2000–2005

No.	Group	Indigenous population		Average annual growth rate
		2000	2005	
	Mexicans of indigenous origin	10 253 627	10 103 571	-0.260

*Source:* National Commission for the Development of Indigenous Peoples-United Nations Development Programme (UNDP); *Indicadores sociodemográficos de la población indígena, 2000–2005* (Sociodemographic Indicators of the Indigenous Population, 2000–2005).

78. Much of Mexico’s indigenous population lives in small communities. In all, 62.4 per cent of Mexicans aged over 5 who speak an indigenous language live in one of 184,714 indigenous communities with fewer than 2,500 inhabitants, and a quarter of this population lives in the 122,065 of these communities that have fewer than 49 inhabitants. The majority (69 per cent) of the indigenous population is concentrated in 10 states: Campeche, Chiapas,

<sup>5</sup> This figure is estimated on the basis of the number of indigenous dwellings; no information on the number of occupants was available.

<sup>6</sup> The Thirteenth Population and Housing Census is currently in progress (31 May to 25 June 2010).

Guerrero, Hidalgo, Michoacán, Oaxaca, Puebla, Quintana Roo, San Luis Potosí and Yucatán.

79. Despite numerous efforts to improve this population's standard of living, in 2005 a large proportion of indigenous people still suffered from some degree of marginalization. Levels of marginalization were classified as very high or high in 30.36 per cent and 41.97 per cent of indigenous communities, respectively. Intermediate levels of marginalization were identified in 10.53 per cent of indigenous communities, and low or very low levels in 8.76 per cent and 4.4 per cent, respectively. An estimated 57 per cent of Mexicans who speak one of the country's indigenous languages live in communities classified as highly or very highly marginalized. Levels of marginalization are closely correlated to the size of the community and thus with the relative degree of ruralism versus urbanization.

### Indigenous communities, by size of community and degree of marginalization

Size of community (No. inhabitants)	Indigenous population (No. inhabitants)	Degree of marginalization, by size of community												Total	
		Very high		High		Intermediate		Low		Very low		No data			
		Abs.	%	Abs.	%	Abs.	%	Abs.	%	Abs.	%	Abs.	%	Abs.	%
Less than 50	100 114	6 689	42.7	3 110	14.4	532	9.8	341	7.5	223	9.8	2 001	98.1	<b>12 896</b>	<b>25.0</b>
50 to 99	245 964	3 014	19.2	2 509	11.6	355	6.5	217	4.8	100	4.4	16	0.8	<b>6 211</b>	<b>12.0</b>
100 to 499	1 907 584	4 840	30.9	10 027	46.3	1 899	34.9	1 099	24.3	417	18.3	19	0.9	<b>18 301</b>	<b>35.5</b>
500 to 999	1 373 321	759	4.8	3 390	15.7	1 099	20.2	884	19.5	306	13.5	2	0.1	<b>6 440</b>	<b>12.5</b>
1,000 to 1,999	1 279 603	275	1.8	1 680	7.8	795	14.6	789	17.4	288	12.7	1	0.0	<b>3 828</b>	<b>7.4</b>
2,000 to 2,499	333 258	34	0.2	277	1.3	157	2.9	204	4.5	90	4.0	0	0.0	<b>762</b>	<b>1.5</b>
2,500 to 4,999	1 039 389	51	0.3	483	2.2	351	6.5	479	10.6	241	10.6	0	0.0	<b>1 605</b>	<b>3.1</b>
5,000 to 9,999	646 470	6	0.0	149	0.7	144	2.6	263	5.8	190	8.4	0	0.0	<b>752</b>	<b>1.5</b>
10,000 to 14,999	337 783	1	0.0	26	0.1	49	0.9	105	2.3	79	3.5	1	0.0	<b>261</b>	<b>0.5</b>
15,000 to 19,999	110 983			6	0.0	17	0.3	36	0.8	48	2.1			<b>107</b>	<b>0.2</b>
20,000 to 49,999	490 558			4	0.0	37	0.7	78	1.7	128	5.6			<b>247</b>	<b>0.5</b>
50,000 to 99,999	260 969					1	0.0	20	0.4	52	2.3			<b>73</b>	<b>0.1</b>
100,000 to 499,999	704 122					1	0.0	8	0.2	80	3.5			<b>89</b>	<b>0.2</b>
500,000 to 999,999	559 481							2	0.0	21	0.9			<b>23</b>	<b>0.0</b>
1,000,000 or more	350 961									11	0.5			<b>11</b>	<b>0.0</b>
<b>Total</b>	<b>9 740 560</b>	<b>15 669</b>	<b>100.0</b>	<b>21 661</b>	<b>100.0</b>	<b>5 437</b>	<b>100.0</b>	<b>4 525</b>	<b>100.0</b>	<b>2 274</b>	<b>100.0</b>	<b>2 040</b>	<b>100.0</b>	<b>51 606</b>	<b>100.0</b>

Source: National Commission for the Development of Indigenous Peoples-United Nations Development Programme (UNDP); *Localidades indígenas, 2005* (Indigenous Communities, 2005), System of Information and Indicators on Mexico's Indigenous Peoples.

80. Steps to rectify this situation have been taken in various areas. The National Development Plan for 2007–2012 establishes that every Mexican man and woman, without distinction, shall have the same opportunities to fully realize their aspirations and improve their standard of living in ways that do not jeopardize the development opportunities of future generations. The plan also recognizes that urban poverty differs from rural poverty and that differing plans of action are therefore required in each case.

81. The Strategy for Better Living (annex 8) incorporates the actions and programmes that constitute the Government's social policy, and the current Administration's public policy in general, and channels them towards the common goal of sustainable human development. To this end, it seeks to prevent the dispersal of resources and to make the most of the public funds invested in this area.

82. The Strategy for Better Living sets out a clear commitment to the dignity of the human person, and especially those who have the least and who suffer from marginalization. The strategy lays the foundations for the development of action plans to safeguard the basic human rights that will enable all persons to fully enjoy the factors of well-being, participate in society and share in the benefits of development. Specific lines of action envisaged under the strategy include:

- Capacity-building, particularly for children, and guaranteeing access to food, education, health and decent housing
- Consolidating the social safety net so that all Mexicans are able to deal with contingencies such as accidents, illness, unemployment and disaster-related loss
- Building bridges that link social and economic policy with a view to maximizing Mexicans' skills and abilities and thus successfully integrating them into the economic development process
- Developing an enabling living environment for families in which they can fully develop their potential

83. To reduce discrimination in rural areas, the Sustainable Rural Development Act and National Development Plan for 2007–2012 set out guidelines for narrowing the persistent social, economic and cultural gaps that exist in Mexican society. The objective is to guarantee respect for human rights in all areas of the Administration and promote gender equality, justice and respect for the values, practices and customs of indigenous peoples. This is accomplished through multifaceted, ethnically inclusive programmes targeting priority groups in highly and very highly marginalized communities (women, young people, the elderly and persons with disabilities).

84. The Sectoral Social Development Programme for 2007–2012 defines objectives and strategies for moving forward in the creation of equal development opportunities. It seeks to give continuity to human capital formation programmes; address the needs of vulnerable groups that have not had access to the benefits of public policies; and reduce regional disparities through land planning and basic infrastructure development initiatives that help to integrate marginalized rural regions into development processes and to unleash their productive potential.

85. The Ministry of Social Development coordinates social policy and implements a range of programmes to promote a sustainable human development process that will give Mexicans opportunities to broaden their capacity for generating social well-being in general, adopt a cross-cutting approach to poverty reduction, foster social cohesion, and combat discrimination and marginalization.

86. The Ministry of Agriculture, Rural Development, Fisheries and Food supports, and is supported by, municipal sustainable rural development councils. These councils serve as

social participation forums that reinforce the decentralized federal structure of the rural development aid system. The objective here is to ensure local participation in decision-making and foster a greater sense of shared responsibility on the part of the different levels of government and society.

87. The National System for Comprehensive Family Development helps people in vulnerable positions to overcome emergencies through support in kind, temporary financial assistance, referrals to civil society organizations that have cooperation agreements with the System, and other alternative measures aimed at improving their quality of life.

88. The “A Different Community” Comprehensive Community Development Strategy (a subprogramme of the Vulnerable Families and Population Groups Programme) provides training to community development groups to help them formulate projects that will improve living conditions in highly and very highly marginalized communities. The main aims of the subprogramme are to increase food security, promote health and access to education, strengthen the family and community economy, and improve housing and the community environment.

89. Federal Government budget expenditure to generate development opportunities for indigenous peoples and communities that will enable them to improve their living conditions has increased significantly in the past nine years. In addition, the budget allocations have been expressly defined in the annual decrees by which the Government adopts the federal budget, initially under the administrative budget line and, for the past two financial years, under specific programme items.

90. There has been a cumulative nominal increase of 31.9 per cent in budget allocations for the advancement of the indigenous population during the term of the current Administration, and federal allocations for 2009 represented a record high for the first decade of the twenty-first century.

91. In 2009, allocations for the advancement of the indigenous population were equivalent to 1.48 per cent of planned federal expenditure, up by two basis points on the 2008 level.

92. Funding of 38,103,300,000 Mexican pesos was allocated for the comprehensive development of the indigenous population in the federal budget for 2009, which was an increase of 7,078,600,000 Mexican pesos and 9,220,600,000 Mexican pesos, respectively, over the 2008 and 2007 allocations. Thus, while the budget allocation for the indigenous population has increased every year since 2001, the advance in the past three years has been more pronounced.

## 1. Political rights

93. In February 2005, the Federal Electoral Institute approved a new electoral district map for the 2006 and 2009 federal elections. The location of indigenous population groups was among the criteria taken into consideration when the new federal electoral map was drawn up. As a result of the redrawing of this map, persons belonging to one of Mexico’s indigenous groups now account for 40 per cent or more of the electorate in a total of 28 electoral districts. The distribution of these districts is as follows.

<i>State</i>	<i>Indigenous districts</i>
Campeche	1
Chiapas	4
Guerrero	1
Hidalgo	2

<i>State</i>	<i>Indigenous districts</i>
Mexico State	1
Oaxaca	8
Puebla	3
Quintana Roo	1
San Luis Potosí	1
Veracruz	3
Yucatán	3

*Source:* Federal Electoral Institute.

94. To ensure that indigenous Mexicans who do not speak Spanish are aware of their political rights and of what constitutes an electoral offence, the National Institute of Indigenous Languages and the Special Prosecutor's Office for Electoral Offences, which is attached to the Attorney General's Office, have translated 29 posters into 29 language variants. These posters are one of the outputs of the joint efforts being made by these institutions since 2006 to support speakers of some of the various indigenous languages spoken in the states of Campeche, Chiapas, Chihuahua, Durango, Mexico State, Hidalgo, Guerrero, Michoacán, Nayarit, Oaxaca, Puebla, Quintana Roo, Sinaloa, Tabasco, Veracruz and Yucatán. These institutions are working to ensure that detailed information on Government services and programmes is available in their native language.

95. With support from a group of specialists, the Federal Electoral Institute drew up a Strategic Civic Education Programme for 2005–2010<sup>7</sup> aimed at encouraging civic participation in public life as an effective means of improving living conditions and enforcing citizens' rights. The Strategic Programme has established general guidelines and policies for contributing to the elimination of social and racial discrimination through national civic education programmes, projects and action plans.

96. The Strategic Civic Education Programme also establishes that, in its educational initiatives and projects, the Federal Electoral Institute shall give priority to the members of those sectors of the population who, due to their financial situation, ethnicity, gender or age, have the greatest difficulty in accessing and enforcing their rights. It also provides that the Institute shall encourage gender mainstreaming and respect for multiculturalism and that it shall promote equality and equal opportunities.

97. The Programme's objectives and planned lines of action include fostering democratic culture and citizenship rights, particularly among population groups that, for social, political, religious, economic or cultural reasons, are likely to experience difficulty in exercising their civil, political and social rights. The programme is to focus on areas, regions and communities where discrimination is a particularly serious problem and to use a pedagogical approach tailored to the needs of the at-risk groups concerned. The aim is to make victims of discrimination aware that their status as citizens constitutes a basis from which to demand that their rights be respected and guaranteed.

98. Another objective of the programme is to develop people's civic capacity to help bring about, whether through their votes or another enabling mechanism, improvements in

<sup>7</sup> Federal Electoral Institute, Strategic Civic Education Programme for 2005–2010. First biannual report: January–June 2005. Mexico, 2005. <http://www.ife.org.mx/documentos/TRANSP/docs/consejo-general/acuerdos/2005/24AGOSTO/CGe240805ip2.pdf>.

living conditions in their community or surroundings. The main target groups are women, indigenous persons and, more generally, all segments of the population with lower levels of income and education.

## **2. Civil rights**

99. Article 9 of the Federal Act on the Prevention and Elimination of Discrimination prohibits any discriminatory practice intended to restrict or prevent the recognition or exercise of rights or the existence of genuine equality of opportunity. Discriminatory practices, as defined in this article, include placing restrictions on the free choice of a spouse or partner (para. XIV) and impeding the exercise of the right to own, administer and dispose of property of any kind (para. X).

100. Article 2 of the Constitution was amended in 2001 to recognize the right of indigenous peoples and communities to self-determination and, by extension, their autonomy to use their own legal systems to regulate and resolve internal disputes, subject to the general principles established in the Constitution and respect for individual safeguards, human rights and, where relevant, the dignity and integrity of women.

## **3. Right to own property**

101. Article 2 of the Constitution establishes that indigenous peoples' and communities' right to self-determination and autonomy shall include the right to preserve and improve their habitat, the right to preserve the integrity of their land, and the right to preferential use of the natural resources in the areas they inhabit, except for those located in strategic areas.

102. These provisions uphold the principle of indigenous territoriality by recognizing indigenous peoples' oneness with their habitat and the land on which they live and, consequently, their right to use the land in a manner and under a form of title or tenure that are freely chosen from among those established in the Constitution and relevant legislation. This reflects due respect for their right to determine their form of economic organization. To this end, forms of association and coordination for indigenous communities are also provided for.

103. The Office of the Special Attorney for Agrarian Affairs oversees the implementation of various measures for improving land administration in rural areas. Through the Support Fund for Informal Agrarian Settlements, it has compiled general documentation for use in the regularization and certification of agrarian and individual holdings. It has also prepared baseline analyses relating to changes in agricultural land rights and assists farmers in connection with the modification of land titles and the rezoning of communal land to permit its urban development.

104. The framework cooperation agreement of 7 May 2008 between the Office of the Special Attorney for Agrarian Affairs and the National Commission for the Development of Indigenous Peoples establishes bases and mechanisms for fostering the comprehensive, sustainable development of indigenous peoples and communities. The agreement envisages joint action to ensure respect for indigenous rights, to preserve and add to the knowledge, practices and customs of indigenous peoples, to protect and improve their habitat, and to preserve the integrity of their land, the use of their internal governance systems and all other constituent parts of their culture and identity.

105. The agreement is based on article 2, section B, and article 27, paragraph VII, of the Constitution of the United Mexican States and on the third thematic section (equal opportunities) of the National Development Plan for 2007–2012, which establishes the following objectives and strategies:



Objective 15: To fully involve indigenous peoples and communities in the economic, social and cultural development of the country while respecting their historical traditions and to draw upon their cultural heritage to enrich the whole of society.

Strategy 15.1: To make support for indigenous peoples a cross-cutting strategic objective in all areas of the Administration.

Strategy 15.2: To strengthen mechanisms for coordination between the Federal Government, state and municipal governments, and indigenous authorities and organizations in the design and implementation of development programmes benefitting indigenous peoples and communities.

#### **4. Right to freedom of thought, conscience and religion**

106. Article 24 of the Mexican Constitution establishes that all persons shall be free to profess the religious belief of their choice and to practise the ceremonies, devotions and acts of worship associated with their respective religion, provided that such practices do not constitute an offence punishable by law.

107. As a secular State, Mexico protects and guarantees this right while at the same time promoting and respecting religious pluralism so that different faiths and beliefs can coexist and interact within a culture of respect and tolerance.

108. The Mexican Constitution and domestic legal framework include a number of provisions that afford protection against discrimination motivated by religion or acts of faith, as detailed below:

- Article 6 of the Constitution establishes that “the expression of ideas shall not be subject to any judicial or administrative investigation of any sort, except where those ideas are an offence to morality or infringe the rights of others, incite crime, or disturb the public order. The State shall guarantee the right to information”.
- The Religious Associations and Public Worship Act guarantees the following religious rights and freedoms to all persons:
  - To have or to adopt the religious belief of their choice and to practise, either individually or in community with others, their preferred acts of worship or rites
  - Not to profess religious beliefs, to abstain from practising religious rites or acts and not to belong to a religious association
  - Not to be subjected to discrimination, coercion or hostility on account of their religious beliefs and not to be required to make any declaration concerning those beliefs
  - Religious beliefs may not be invoked as grounds for barring any person from engaging in any work or activity except in the cases provided for in this Act and in other applicable statutory provisions
  - Not to be required to provide personal services or to contribute in cash or in kind to an association, church or other religious group, nor to be required to participate in or contribute to rites, ceremonies, festivities, services or acts of religious worship
  - Not to be subjected to any judicial or administrative investigation of any sort for having expressed religious ideas
  - To assemble and meet peaceably for religious purposes

- The implementing regulations for the Religious Associations and Public Worship Act, which were issued on 6 November 2003, establish that:

“The authorities shall take the necessary steps to promote a climate conducive to the peaceful coexistence of individuals and groups practising the different religions and beliefs represented in the country, including, in particular, the promotion of dialogue and harmonious interreligious relations.”

- On 24 April 2006 a new paragraph was added to article 8 of the Religious Associations and Public Worship Act and was published in the *Diario Oficial de la Federación*. This new provision, establishes religious associations’ obligation to:

“At all times respect practices and beliefs foreign to their religion and to promote dialogue, tolerance and harmony between the different religions and beliefs represented in the country.”

109. According to the 2000 population census, the Catholic Church had 74.6 million members in Mexico. The Evangelical Church and the Pentecostal Church ranked second and third, with 2.4 million and 1.4 million members, respectively. In addition, Mexico had 1.1 million Jehovah’s Witnesses, 600,000 traditional Protestants, 489,000 Seventh-day Adventists, 205,000 Mormons, 61,000 Spiritualists, 45,000 Jews, 5,000 Buddhists, 1,000 Muslims and 1,000 Nativists.

110. Socio-economic indicators for 2002 published by the National Commission for the Development of Indigenous Peoples indicate that 80 per cent of indigenous people aged over 5 years stated that they were Catholic, 10 per cent said they were Protestants or Evangelists, just under 3 per cent professed a non-evangelical Christian religion, 0.3 per cent said that they practised other religions and more than 5 per cent claimed to have no religion.<sup>8</sup>

111. Complaints of religious intolerance are dealt with by the Directorate-General for Religious Associations of the Ministry of the Interior, with assistance from federal and municipal authorities, through inter-party dialogue and consensus.

112. To safeguard the Mexican people’s right to exercise their freedom of religion and public worship, the Ministry of the Interior has signed coordination agreements with 13 states<sup>9</sup> based on the Religious Associations and Public Worship Act.

113. The duties of the Office of the Under-Secretary for Religious Affairs in the state of Chiapas include contributing to the development of programmes to prevent religious conflict, intervening in disputes arising as a result of intolerance or for other religion-related reasons, dealing with religious affairs in general and organizing seminars to increase familiarity with the corresponding regulations and provide instruction in regard to the various related administrative procedures.

114. In order to increase people’s knowledge about the religious freedoms and obligations established in the Religious Associations and Public Worship Act and its implementing regulations, these texts have been translated into the main indigenous languages: Tojolobal, Tzeltal, Tzotzil and Chol (Chiapas), Nahuatl and Totonac (Hidalgo,

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<sup>8</sup> *Indicadores socioeconómicos* (socio-economic indicators), 2002, National Commission for the Development of Indigenous Peoples [[http://www.cdi.gob.mx/index.php?option=com\\_content&task=category&sectionid=7&id=37&Itemid=73](http://www.cdi.gob.mx/index.php?option=com_content&task=category&sectionid=7&id=37&Itemid=73)].

<sup>9</sup> Chiapas, Guerrero, Hidalgo, Michoacán, Tlaxcala, Veracruz, Chihuahua, Nuevo León, Quintana Roo, Zacatecas, Aguascalientes, Morelos and Guanajuato.

Puebla and Veracruz), Purepecha (Michoacán). For the state of Guerrero, translations into Nahuatl and Tlapanecare are planned.

## 5. Right to work

115. To contribute to the elimination of discrimination, in objective No. 9 of its sectoral programme, the Ministry of Labour and Social Security establishes guidelines for promoting equality and inclusion in the workplace. These guidelines place emphasis on the development and implementation of policies to combat labour discrimination and to foster equal opportunity, along with equal access and equal rights to permanent employment for vulnerable groups. In application of these guidelines the Ministry is implementing the following measures:

- A strategy to address the situation of agricultural day labourers and their families, which aims to benefit various segments of the population, including itinerant workers from indigenous communities. The strategy seeks to increase inter-institutional coordination and synergies in government programmes in order to help agricultural day labourers gain access to decent employment. Decent work is considered to be work that is performed under conditions of equity, justice and legality in which labour rights are respected, safety standards are met and social security coverage is provided, as these factors, taken as a whole, will permit the development of individuals, families and communities in their place of origin, transit or destination.
- A cooperation agreement concluded between the Ministry of Labour and Social Security and the National Council for the Prevention of Discrimination on 17 April 2008, which establishes a solid foundation for cooperation in fostering and carrying out actions to promote equal opportunities and non-discrimination in the workplace.
- A Mexican standard for gender equality in the workplace, which encourages the adoption of policies and practices that promote gender equality in the workplace and integration of vulnerable groups into the workforce.

116. The Mexican authorities are working to strengthen the mechanisms that have been established to ensure gender equality in the workplace as a means of improving labour market conditions, facilitating women's access to good-quality, permanent jobs and their promotion to management positions, and building a sense of shared responsibility for work-life balance among employers and workers.

117. Examples of such mechanisms include the Gender Equity Model, which has been promoted by the National Institute for Women since 2003. The model encourages private companies, public institutions and social organizations to mainstream a gender perspective and take affirmative and/or pro-staff action to create equal opportunities in the workplace for men and women. Between 2007 and 2009, an additional 305 organizations earned certification under this scheme, while 110 were certified in 2006. More than 400,000 male and female employees throughout the country have directly benefitted as a result.

118. The Ministry for Agrarian Reform runs two programmes — the Support Fund for Production Projects in Agrarian Settlements and the Programme for Women in the Agrarian Sector — to assist with the implementation of sustainable and environmentally friendly production projects that will enable people living in agrarian communities, including women, older adults, persons with disabilities and indigenous persons, to improve their incomes and living conditions. These programmes promote the incorporation of a gender perspective through training courses and awareness-raising activities for programme beneficiaries and public servants.

119. A plan geared to the needs of indigenous peoples, which was developed within the framework of the Young Rural Entrepreneur and Land Fund Programme launched in 2004 as part of the commitments assumed under Mexico's loan agreement with the World Bank, includes an analysis of the indigenous population based on socio-economic and cultural indicators. This study serves as a basis for tailoring institutional initiatives to specific characteristics of agrarian settlements, such as type of land title, distribution of ethnic groups and use of indigenous languages. The plan conforms to the World Bank guidelines for social safeguards and the provisions of the Mexican Constitution relating to indigenous peoples, including those which require the consent of their representative bodies, which establish the collective rights of agrarian settlements and which stipulate that their authorization must be obtained in order to make use of their land, resources and assets. According to the most recent assessment prepared by the Food and Agriculture Organization (FAO), the goal of promoting the Programme in the languages of each community has been achieved in 39 per cent of the relevant cases.

120. The main objective of the Young Rural Entrepreneur and Land Fund Programme is to create profitable, sustainable agribusinesses by building the business, technical and productive capacities of persons in rural areas between the ages of 19 and 39. Young men and women receive direct training support that enables them to learn how to run a business and to apply for loans to fund an agribusiness start-up. The Programme focuses on agrarian settlements in regions with high levels of marginalization and is non-discriminatory in its approach, as has been acknowledged in independent evaluations performed in the field.

121. With regard to the right to form and to join trade unions, article 9 of the Constitution establishes that "the right to assemble and meet peaceably for any lawful purpose may not be restricted". Likewise, article 123, section A, paragraph XVI, establishes the right to form and to join trade unions in the following terms: "both employers and workers shall have the right to organize themselves in the defence of their respective interests by forming unions and professional associations, etc."

122. Article 354 of the Federal Labour Act, which establishes regulations for the implementation of article 123, section A, of the Constitution, establishes that "the law recognizes the freedom of association of workers and employers", while article 358 of the Act stipulates that "no person shall be forced to join or not to join a trade union". Thus, as evidenced by these provisions, all persons have the right to form and to join a trade union, irrespective of their ethnic or racial origin.

## **6. Right to housing**

123. Article 4 of the Constitution establishes that "every family shall have the right to decent, adequate housing. The law shall establish the instruments and supports necessary to achieve this objective".

124. The Housing Act of June 2006, which provides for the implementation of article 4 of the Constitution, states that the Act "must be applied in accordance with principles of equity and social inclusion such that all persons, irrespective of their ethnicity or nationality, gender, age, disability status, social or economic status, state of health, religion, opinions, preferences or civil status, are able to exercise their constitutional right to housing". To this end, it sets out two interrelated strategies designed to: (i) facilitate access to housing for the population, with priority being given to persons living in situations of poverty, marginalization or vulnerability; and (ii) ensure that urban housing construction projects, the building methods employed and the materials used are suited to local and cultural features and thus help preserve the community's identity and diversity.

125. The Housing Act establishes the National Housing Commission as a decentralized, legally constituted agency serving the public interest. The Commission has its own budget

and is responsible for implementing and monitoring compliance with the National Housing Programme for 2007–2012: *Towards Sustainable Housing*.<sup>10</sup> This programme includes a specific non-discrimination strategy and places particular emphasis on meeting demand and according priority to vulnerable groups such as older adults, persons with disabilities, single mothers and indigenous people, as well as on ensuring that Mexicans are able to start building up their asset base at an early age.

126. Another aim of the programme is to promote social housing, self-help production and self-built homes, all of which continue to be viable solutions for the housing needs of segments of the population living in rural areas, indigenous communities and highly marginalized urban zones.

127. This is of particular importance in the case of housing for members of indigenous groups, although the availability of public utilities in the dwellings of indigenous people has gradually improved with the passage of time: for example, while 63.9 per cent of such dwellings had piped water in 2000, by 2005 this figure had risen to 70.5 per cent; in 2000, 40.5 per cent had drainage systems but by 2005 the figure had reached 55.6 per cent; and in 2000, 83 per cent of these dwellings had electricity but, by 2005, 90.1 per cent did. In addition, the number of homes with earthen floors had fallen from 43.7 per cent to 38 per cent, and 7 out of every 10 homes had their own toilet.<sup>11</sup> However, from the safety point of view, significant deficiencies remain, as these dwellings are often not able to withstand adverse environmental conditions because of the fragile construction materials from which they are built.

128. The National Social Housing Fund has launched a rural housing programme to provide subsidies to low-income rural and indigenous families for the construction of a basic rural dwelling or the extension or improvement of an existing dwelling. The aim is to enable these families to build up their asset base and improve their standard of living and to ensure that they have a decent home in which to live. The programme operates nationwide, providing support in 31 states as well as in the Federal District.

129. The National Social Housing Fund also runs the “Tu Casa” (your house) Savings and Subsidies Programme, under which Government subsidies for the purchase and

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<sup>10</sup> Other Federal Government housing programmes are:

- The Housing Fund of the Institute of Social Security and Services for State Employees (FOVISSSTE), which grants mortgages to Government employees.
- The Federal Mortgage Society (SHF), which provides mortgages to low-, medium- and high-income members of the public at large.
- The National Workers Housing Fund Institute (INFONAVIT), a body created in application of article 123, section A, paragraph XII, of the Constitution, which states that: “All enterprises engaged in agricultural, industrial, mining or other forms of activity shall be required, as stipulated by law, to provide workers with comfortable and hygienic dwellings. This requirement shall be satisfied through contributions made to a national housing fund, which shall be used to establish deposit accounts for workers and a lending system through which workers can obtain low-cost credit in amounts sufficient to enable them to acquire such dwellings.”
- The National Social Housing Fund (FONHAPO), a public body which provides assistance mainly to vulnerable people with limited material resources.

<sup>11</sup> *Indicadores sociodemográficos de la población indígena, 2000–2005* (sociodemographic indicators of the indigenous population 2000–2005), National Commission for the Development of Indigenous Peoples, September 2006.

construction of a new home or improvement of an existing one are awarded to impoverished Mexican families in order to enable them to improve their living conditions.

130. In the state of Morelos, the public policy planning and design process has been enhanced by inputs from indigenous communities which serve as a basis for initiatives to improve the quality of life of disadvantaged persons and communities. One example is the Basic Infrastructure Support Programme for Indigenous Communities, whose aim is to equip indigenous communities with the basic utilities (such as drinking water, drainage systems, electricity and rural road surfacing) needed to drive development. The “Piso Firme” (firm ground), “Pie de Casa” (core housing unit) and “Mi Casa Diferente” (my house, but different) programmes have also helped improve the quality of life of impoverished families. These families are also furnished with production support assistance as a means to economic independence.

131. In the state of Tabasco, significant advances towards guaranteeing the right to housing have been achieved with support from the Federal Government. The state already ranks second nationwide, yet still aims to increase funding for housing threefold in order to repair the flood damage of recent years, reduce shortages and cater for fresh demand from low-income population groups, in particular.

132. At the height of the 2007 and 2008 floods, 80 per cent of the state of Tabasco was under water after three of its main rivers (the Sierra, Grijalva and Usumacinta) burst their banks and dams overflowed. The cost of the damage and losses has been estimated at more than 37 billion pesos. The state is therefore placing priority on the construction of homes for families who lost everything in the floods.

## **7. Right to the highest attainable standard of health**

133. Infant and maternal mortality rates among the indigenous population are the highest in the country. In 2000, the infant mortality rate in the indigenous community was 34.4 deaths for every 1,000 live births, while the rate for the non-indigenous population was 21.6 deaths for every 1,000 births.<sup>12</sup> By 2005, the rate in the indigenous community had fallen to 27.9 for every 1,000 live births, while the national average was 17.3 for every 1,000 live births.<sup>13</sup> The overarching objectives of the National Infant Mortality Reduction Programme for 2007–2012 are to bring about a 25 per cent reduction in the infant mortality rate relative to the 2006 level by 2012 and to achieve a 40 per cent reduction in infant mortality relative to the 2006 level in the 100 municipalities with the lowest human development indices (annex 9).

134. Advances in reproductive health care for indigenous women have been slower in coming, with noticeable increases in the number of indigenous women who use family planning and undergo regular screening for cervical-uterine cancer being recorded only as from 2002.

135. Anaemia is on the decline, but remains widespread among children under 5 years of age, schoolchildren and indigenous women and is therefore a continuing public health concern. Between 1999 and 2006, its incidence fell by 11.1 percentage points (22.7 per

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<sup>12</sup> In 1990, the infant mortality rate in Mexico was 36.6 deaths of children under 1 year of age for every 1,000 live births, while for the indigenous population, the rate was 60.9 (National Population Council, 2000).

<sup>13</sup> Projections of the indigenous population in Mexico and its federal entities 2000–2010. National Population Council, 2005. <http://www.conapo.gob.mx/00cifras/indigenas/Proyindigenas.pdf>.

cent) among children between 12 and 23 months of age and by 6.4 percentage points (19.9 per cent) among children between 24 and 35 months of age.

136. Among women of childbearing age (12 to 49 years), 20.6 per cent of those who were pregnant and 15.5 per cent of those who were not were found to be anaemic, equivalent to declines of 5.6 and 4.5 percentage points, respectively, over the last six years.

137. Although the average life expectancy among the indigenous population is one year lower<sup>14</sup> than among the rest of the population, as of 2005 access to medical services among the indigenous population was still limited, whether due to a lack of nearby clinics or health centres or shortages of doctors and/or available medicines or to a combination of cultural factors such as language barriers, low levels of education among indigenous mothers, the customary use of traditional medicine, and traditional notions about illness and caring for the body and soul.

138. A set of confluent factors associated with diagnoses, eating habits and the incidence of alcoholism has been found to adversely affect the health of indigenous peoples in particular.

139. Until 2004, public health services in Mexico were targeted mainly at persons covered by such institutions as the Mexican Social Security Institute or the Institute of Social Security and Services for State Employees. People who lacked such coverage were in a disadvantageous situation, as they lacked health insurance and were forced to pay for their health needs in cash. This was a common cause of continued impoverishment, since these people were generally already marginalized, and their health-care expenses absorbed a significant percentage of their income.

140. The social health protection system known as the People's Health Insurance Scheme was established in 2004 to give effect to the constitutional provision that all Mexicans shall have the right to health. The scheme aims to make the right to health a reality for more than half of the population who lacks social security coverage.

141. Particular attention has been accorded to pregnant women, children under 5 and people living in very highly marginalized communities of less than 250 inhabitants, as well as to the beneficiaries of Federal Government extreme-poverty reduction programmes.

142. The health-care requirements of persons covered by the People's Health Insurance Scheme are defined in the following instruments:

- The Universal List of Essential Health Services,<sup>15</sup> which lists 266 interventions covering 95 per cent of the main ailments, diagnostic procedures and treatments requiring hospital admission (the remaining 5 per cent corresponds to ailments that, either because of their low incidence or greater complexity, are covered under the Catastrophic Expenses Protection Fund) and 100 per cent of ailments treated at first-tier medical centres. The aim is to guarantee effective access to quality health services, without any disbursement being required and without discrimination at the

<sup>14</sup> According to estimates produced by the National Population Council (2005), life expectancy is 77 years among indigenous women, compared with an average of 77.9 years for all Mexican women. Life expectancy among indigenous men is 72.2 years, compared with an average of 73 years for all Mexican men.

<sup>15</sup> The 266 medical interventions are grouped into the following categories: public health (25), general or family and specialist medical consultations (100), dental care (8), emergencies (26), hospital admission (38) and surgical interventions (39). There is also a list of essential medicines in order to guarantee access to all of the quality medicines and scientifically proven treatments that are required.

point of delivery. Each year, members of the People's Health Insurance Scheme see a doctor an average of 1.2 times, and more than 500,000 members are admitted to hospital, staying an average of 2.7 days. In addition, all scheme members receive the medicines they need free of charge.

- The Catastrophic Expenses Protection Fund<sup>16</sup> covers a total of 49 low-incidence but complex, and therefore costly, interventions. It assists sufferers of eight specific conditions: cervical-uterine cancer, breast cancer, child and adolescent cancers, bone marrow transplants, neonatal intensive care, congenital or acquired surgical disorders, cataracts and HIV/AIDS. This fund covered 81,769 cases of catastrophic illness in 2008 and a further 50,400 in the first 10 months of 2009.
- The New Generation Health Insurance Scheme guarantees care for children born on or after 1 December 2006, who are covered for a total of 116 health interventions to protect them from the main childhood ailments. In 2009, 1.1 million children received treatment under the scheme, taking the total number of beneficiaries, once added to those reported at the close of 2008, to 3 million.
- To improve and give priority to maternity care, a strategy for protecting the health of pregnant women and newborns has been introduced. Since the strategy's launch in mid-2008, more than 586,000 pregnant women have become members of the People's Health Insurance Scheme.
- A multidisciplinary group coordinated by the Technical Secretariat of the Social Bureau of the Office of the President was established in 2008 to oversee action to reduce maternal mortality. For 2009, the group drew up a comprehensive strategy to accelerate the reduction in maternal mortality. The Ministry of Health, the Mexican Social Security Institute and the Institute of Social Security and Services for State Employees have signed an inter-agency agreement for the provision of comprehensive care at any health centre in the country for any women experiencing an obstetric emergency, whether or not she has social security coverage.

143. By the end of 2009, 10.5 million families (31.5 million people) were members of the People's Health Insurance Scheme. Between 2000 and 2005, the number of persons of indigenous origin covered by the scheme rose by 8 per cent, from 19.3 per cent of the total indigenous population to 27.3 per cent.

144. The Ministry of Health's Directorate-General for Health-Care Planning and Development has been pursuing an intercultural health-care policy involving the use of models, guidelines and ad hoc initiatives to further its regulatory, operational, training and awareness-raising activities. This process began in 2004 and has entailed the following actions to extend the health-care rights of indigenous peoples:

- Traditional medicine has been incorporated into the National Health System as a cultural right and is now recognized in the Health Act. The law has been amended to allow indigenous peoples to contribute to the development of health-care programmes, in their own language, through the administrative unit of the Ministry of Health responsible for indigenous issues associated with traditional medicine and intercultural development.

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<sup>16</sup> In 2009, the Catastrophic Expenses Protection Fund covered 49 highly specialized and costly treatments for 8 specific conditions: breast cancer, cervical-uterine cancer, neonatal intensive care, cataracts, child and adolescent cancers, bone marrow transplants, congenital or acquired surgical disorders, and antiretrovirals for the treatment of HIV/AIDS.



- Specific programmes of action on interculturality in health care, traditional medicine and complementary systems have been developed to give effect to line of action No. 3.4 of the National Health Programme on the promotion of intercultural policies to promote respect for the dignity and human rights of the population.
- Changes are being made in health-care operating methods and infrastructure to gear them to the social and cultural characteristics and the expectations of the population. For example, vertical births are being encouraged as a matter of policy throughout the country by the health ministries at the state level, and traditional midwives and their families are allowed to take part in the birthing process in indigenous regions. This is helping to break down barriers, eliminate prejudice and reduce maternal mortality.
- The authorities have responded to international recommendations that the presence of indigenous peoples should be registered in the National Information System by incorporating ethnic variables into the automated hospital discharge system as of December 2008. An ethnic perspective has also been incorporated into the clinical records system, the hospital discharge information system and the regulations governing medical care.
- Guidelines for using traditional medicine to support health services have been established in the states of Oaxaca, Puebla, Chiapas, San Luis Potosí and Nayarit.
- Mutual feedback sessions are being held so that the population's expectations concerning the type and quality of services that should be provided can be incorporated into health-care systems.
- Intercultural methodologies for promoting informed medical consultations are increasingly being used to define health-care requirements in indigenous areas.
- A training programme on interculturality and gender within a human rights framework has been developed, and in 2008 more than 2,600 public servants, operational staff and members of the general public received training based on this model. Work to relaunch the online version of the training programme is currently under way.
- To prevent discrimination and ensure respect for human rights, intercultural skills are being strengthened in medical and nursing schools through in situ training, promotion of the competency model and study sessions organized in cooperation with the Mexican Association of Medical Schools and Faculties, the Mexican Federation of Associations of Medical Schools and Faculties and the National Association of Universities and Higher Education Institutions.
- A group established to coordinate the delivery of health care to indigenous peoples has, to date, held awareness-raising activities for managerial staff of programmes run by the National Centre for Gender Equity and Reproductive Health, the National Anti-Addiction Council, the Directorate-General of Health Information, the Directorate-General of Quality and Education in Health Care and the National Blood Transfusion Centre.
- The Ministry of Health's treatment models include alternative therapies provided for under domestic laws and regulations, such as acupuncture, traditional herbalism and homeopathy. The Ministry is assessing, on an entirely non-discriminatory basis, the possibility of introducing other therapies that have proved to be effective and are in line with ethical and social practices.
- In addition, to improve access to the health centres operated by the social health protection system and the quality of care they provide, intercultural criteria have

been added to the section of the health centre accreditation form concerning dignified treatment.

145. The Mexican Social Security Institute's Opportunities Programme has two principal objectives: to improve the population's health and to help overcome the marginalization and exclusion of vulnerable social groups. The programme implementation rules for fiscal 2009 provide for the following measures to guarantee equity in service delivery: preventive measures that incorporate gender and interculturality issues; a provision that health-care auxiliaries in rural medical centres and rural hospitals catering for indigenous communities should have a command of the local language; measures to safeguard local practices and customs; and measures to support the organization, operation and evaluation of orientation and experience-sharing meetings with volunteer groups, rural midwives and traditional therapists with the aim of identifying common problems in these communities.

146. To prevent and eliminate discrimination, the activities of the Mexican Social Security Institute are reviewed by the National Council for the Prevention of Discrimination on the basis of justification reports, and precautionary measures are directly applied in centres involved in complaints submitted to the Council.

147. In 2007 the Institute of Social Security and Services for State Employees launched a new action plan called the Health Caravans Programme. This programme aims to bring the full range of public health services to remote communities, without compromising quality and with a focus on prevention, by deploying mobile health teams in the microregions having the lowest human development indices, which, due to their remote locations and/or difficult access, lack adequate medical facilities.

148. In July 2009, the Institute of Social Security and Services for State Employees launched its Institutional Human Rights Programme based on the National Human Rights Programme for 2008–2012. The purpose of the programme is to coordinate the information activities, promotion, follow-up and assessment of the various international, national and institutional programmes designed to help population groups overcome physical, psychological or social disadvantages. The programme also aims to foster the use of affirmative action to help ensure equality of opportunity in respect of all benefits, insurance coverage and services provided by the Institute.

149. The Institute launched two ongoing health-focused human rights campaigns in 2009 with support from various bodies, including the National Council for the Prevention of Discrimination: the Human Rights and Anti-Discrimination Campaign, and the Campaign for Women's Sexual and Reproductive Rights. That same year, the Institute distributed 150,000 health-care identification cards for pregnant women at all first- and second-tier health-care centres and 500,000 leaflets on the prevention of birth defects through folic acid supplementation. In addition, it organized talks on various pregnancy-related topics, such as the identification of warning signs, prenatal care and breastfeeding.

## **8. Right to education, vocational training and cultural rights**

150. The illiteracy rates for people aged 15 years and older who speak an indigenous language are a reflection of the coverage of educational services in the past and the different educational opportunities available to different generations. As a result of the recent increase in educational coverage, illiteracy rates are lower for young women and men than for adults and the elderly: the illiteracy rates for indigenous young men and women aged 15 to 24 are 8.4 per cent and 13.4 per cent, respectively, while the rates for men and women aged 60 and older are 50.1 per cent and 76.3 per cent, respectively. As a result of this trend, from 1990 to 2000 the number of illiterate speakers of indigenous languages dropped by almost 20,000, and from 2000 to 2005 there was a further decrease in

the illiterate population equivalent to almost 67,000 people (63,000 of whom were women).<sup>17</sup>

151. Across all age groups, fewer indigenous girls than boys attend school, though in some cases the differences between the attendance rates are not very large. School attendance among children from 6 to 14 years of age increased significantly from 2000 to 2005; in the year 2000, 81.4 per cent of girls and 85 per cent of boys attended school, while by 2005 those percentages had risen to 87.8 per cent and 89.7 per cent, respectively.<sup>18</sup>

152. On the other hand, as the average number of years of schooling was calculated at 5.3 years for the indigenous population in 2005, compared to 8.1 years for the general population, it is clear that the increase in educational levels in this population group is lagging behind the improvement being observed among Spanish speakers.

153. To combat this, the National Programme for the Development of Indigenous Peoples for 2009–2012 sets forth strategy 2.7: “To promote, in accordance with the relevant legislation, access by the indigenous children and youth of the country to quality and culturally relevant education, and to promote the concept of interculturalism throughout the national education system.” This strategy includes the following actions:

- Promoting bilingual basic education, upper-secondary education and higher education coverage in indigenous regions
- Promoting and introducing innovative education models at all levels for indigenous population groups in remote areas
- Promoting, in accordance with the applicable provisions, actions to improve the quality of education available to the indigenous population
- Promoting, in accordance with the applicable provisions, the adoption of an intercultural focus throughout the national education system
- Promoting, in accordance with the applicable provisions, literacy and adult education campaigns in indigenous communities targeting the female population, in particular
- Encouraging the indigenous population to engage in sports activities

154. In accordance with the National Programme for the Development of Indigenous Peoples for 2009–2012, the Ministry of Education is working through its various units and bodies (such as the National Institute of Indigenous Languages) to promote the acceptance of indigenous languages, their daily use among students in basic education and their use in the wider society. It is also working in coordination with the National Commission for the Development of Indigenous Peoples to apply various strategies for increasing their use in public forums and in the media.

155. Despite the increase in the number of educational options made available in indigenous areas over the past three decades, ensuring the quality, equity and cultural relevance of education continues to pose a fundamental challenge. A need was therefore seen for an organization to ensure recognition of the value of the ethnic, linguistic and cultural diversity of the nation in education.

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<sup>17</sup> *Perfil sociodemográfico de la población que habla lengua indígena* (sociodemographic profile of the population speaking an indigenous language), National Institute of Statistics, Geography and Information Technology (INEGI), 2009.

<sup>18</sup> *Ibid.*

156. By decision of the federal executive, on 22 January 2001 the General Coordinating Office for Intercultural and Bilingual Education (CGEIB) of the Ministry of Education was established, with its primary objective being to improve the coverage and quality of basic education for the indigenous population, foster intercultural education for the population as a whole, and promote culturally and linguistically relevant education for indigenous persons in all levels and sectors of the national education system.

157. CGEIB seeks to teach individuals to recognize their own cultural identity as an individual construct and, on that basis, to be accepting of other cultural world views in a spirit of equality and respect, to strive to understand them and to approach them from a discerning ethical perspective. In order to achieve this, indigenous peoples and the rest of Mexican society must recognize and honour original cultures. Doing so will help to eliminate the severe asymmetries that exist in how individuals are valued, which stem from the subordination, discrimination and racism that is so deeply rooted in the country. Transforming these relationships and attitudes is vital to the balanced development of Mexico as a multicultural nation.

158. In the eight years since it was established, CGEIB has helped the education system to promote more equitable relationships between individuals and social groups in Mexico, thus helping to combat the different forms of racial discrimination present in the country. Its primary working strategies include: developing intercultural education models; incorporating a focus on intercultural and bilingual education in efforts to reform school curricula; providing multimedia support programmes for education in multilingual societies; implementing an informal education programme; documenting best practices and supporting innovations in intercultural education; defining, disseminating and promoting research in intercultural and bilingual education; and promoting an understanding, recognition and appreciation of cultural diversity in Mexico.

159. One of the major challenges facing the Mexican education system is the introduction of an intercultural focus in all levels and sectors of education. To quote the former United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen: "For the most part, indigenous peoples are virtually invisible in the formal education systems of the urban and rural non-indigenous population. What is more, they are often treated with contempt and subjected to discrimination in history, geography, literature, art and social studies textbooks and by their own teachers. Real intercultural education must also be taught in education systems nationwide, for only then will the human rights of indigenous peoples be fully recognized."<sup>19</sup>

160. The Directorate-General for Indigenous Education (DGEI) of the Ministry of Education is responsible for ensuring that the states offer the indigenous population a high-quality initial and basic education within an equitable framework of respect for diversity. The education model to be used for this purpose should incorporate language and culture as curriculum components and enable students to develop the skills they need to successfully participate in the educational, labour and civic affairs of today's knowledge society and thus contribute to their human and social development as peoples and as a nation in the twenty-first century.

161. The following actions have been brought together to develop a sound education policy:

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<sup>19</sup> Stavenhagen, Rodolfo (2008). Report on the situation of human rights and fundamental freedoms of indigenous people, para. 67.

- (a) Various types of additional training modules for teachers;
- (b) A curriculum policy based on the social practices associated with indigenous languages;
- (c) Technical teaching advisers with specialized training in proactive approaches;
- (d) Technical teams working directly with indigenous teachers in the field to analyse best practices in education;
- (e) The incorporation of indigenous children's views in the design of learning environments;
- (f) Strategies for promoting recognition for diversity in all schools in the national education system;
- (g) Design of an information system for use in identifying best practices in decision-making with respect to education policies affecting indigenous populations;
- (h) Examination of the challenges faced in connection with the Alliance for the Quality of Education. Under the guidelines governing the Alliance, the indigenous education system is working to modernize schools by bringing in technology and building teachers' and students' technical skills. One example of the work being done to develop digital technology skills is the degree course that is now offered in teaching strategies for the development of basic information technology skills.

162. The Inter-agency Coordination Programme for Quality Indigenous Education (PROCICEI) focuses on encouraging purposeful, informed and enlightened action at all levels of the national education system (federal, state, regional, administrative, school and classroom) to ensure the quality of initial and basic education. This programme covers five main areas:

- Coordination of state-level action and the pooling of inter-agency resources at the federal, state and municipal levels to close gaps in coverage, educational infrastructure, equipment, use of new information and communication technologies and teacher training and to ensure transparency in teaching post appointments
- Continuous guidance and support for schools to help them maintain and improve their performance through collaboration with other schools and regional projects and through inter-agency, interstate and other joint programmes
- Monitoring and evaluation of results and processes with a view to ensuring that the population has access to a quality education and thus to advances in scholastic development
- Use and development of new information and communication technologies that can become a platform for decision-making and a channel for the dissemination of actions and outputs
- Active participation of parents and other social partners in the education process in order to consolidate a comprehensive approach to education

163. Interculturalism is an integral part of the work of DGEL, which focuses on creating indigenous school environments that promote self-affirmation and an appreciation for indigenous cultures. Students learn about the sociocultural norms of each language through the interactive process of communication and about how language is reflected in their class work. They also learn to respect the words and speech of others as a way to build bridges between their language and Spanish and between their people and the nation in order to foster intercultural exchanges of knowledge.

164. The Ministry of Education, in collaboration with the Metropolitan Autonomous University (Xochimilco campus), the National Autonomous University of Mexico (UNAM) and the National Pedagogical University (UPN), has prepared a document entitled “Lengua Indígena: Parámetros Curriculares” (indigenous language: curriculum parameters). This publication discusses theoretical and methodological approaches to teaching indigenous languages as a school subject, along with Spanish as a second language, based on innovative teaching practices that focus on social practices associated with language.

165. Although the indigenous education system has been in place in Mexico for 70 years, this is the first time that indigenous languages have been included in the curriculum as a subject of study in their own right. This represents a step forward in the recognition and fulfilment of the rights of indigenous peoples and children.

166. In recognition of the fundamental role of teachers, the Ministry of Education is proposing a classroom-centred, inclusive education policy that will transform the educational environment for indigenous students. This policy recognizes teachers’ experience and draws upon their contributions by means of the Network of Indigenous Education Professionals. Through this network, teachers, administrators and school superintendents can share innovative proposals to: (1) improve school management; (2) propose options for teacher training; (3) suggest ideas for curriculum development; and (4) encourage educational research.

167. In the field of teacher training, the Technical Teaching Advisers Programme was converted into the Educational Support Programme for Linguistic and Cultural Diversity, whose objective is to strengthen all the components of the educational support system for the linguistically and culturally diverse population and to encourage constructive participation by teachers in the improvement of teaching practices in the classroom. Between January and June 2009, more than 12,000 teachers received advisory assistance in connection with their teaching practices. Approximately 30,000 indigenous preschool and primary school teachers will have received advisory assistance through the Technical Teaching Advisers Programme by the end of 2009.

168. Another programme designed to enhance the professional qualifications of indigenous teachers is the Technical Working Group on Advanced Training for Teachers in the Indigenous Education System, which has been operating under the direction of the Ministry of Education since March 2009. The Working Group includes representatives from institutions such as the National Institute of Indigenous Languages, the National Pedagogical University, the Ibero-American University, the National Evaluation Centre and state education authorities. The Group has undertaken the following tasks: (1) constructing a teaching profile for the indigenous education system; (2) designing a module-based model for indigenous teaching qualifications; (3) setting up a technical committee to write and administer certification examinations; and (4) certifying that teachers have mastered an indigenous language.

169. DGEI is currently analysing educational materials to gauge their coverage and to determine in which languages appropriate teaching materials need to be created. It is also designing programmes of study in the following subjects: Maya, Tutunaku, Nahuatl and Hñahñu. It is also designing teachers’ manuals in these four languages for the first cycle of primary indigenous education.

170. In coordination with the National Commission for Free Textbooks, DGEI attained a 100 per cent increase in the distribution programme for the 2009/10 school year, raising the number of textbooks that were published and distributed from 1,629,354 in 2008 to 3,165,878 in 2009.

171. Indigenous children are subject to discrimination in school. This is especially the case when the student body includes both indigenous and non-indigenous individuals and in

urban centres, where recently arrived indigenous immigrants often live in substandard conditions. When they do not have a good command of the language of instruction, such children also feel left out in class and tend to have poor grades. This is why intercultural education (which is still, unfortunately, often confused with indigenous education) is a priority in Mexico, especially in mainstream schools. In an effort to eliminate discrimination in the national education system, the General Coordinating Office for Intercultural and Bilingual Education (CGEIB) of the Ministry of Education develops intercultural education models and programmes that directly benefit the indigenous population. These include:

*Indigenous language and culture as a subject of study in secondary schools.* As part of the comprehensive reform of secondary education, interculturalism has been adopted as a key frame of reference. Thus, Mexico has made a major, high-level political commitment to incorporating intercultural bilingual education in this reform process. This has been done in two ways:

(a) By mainstreaming intercultural bilingual education for all students enrolled in secondary schools offering the new curriculum. This approach has been incorporated to differing degrees and levels in the teaching plans for the various school subjects;

(b) By creating courses in indigenous language and culture. In addition to incorporating an intercultural approach, courses in the indigenous language and culture of the region in question are taught in secondary schools. Specific programmes of study and teaching materials are being developed for the 20 largest ethnic groups in the country: Nahuatl, Mixteca, Zapoteca, Hñahñu, Maya (in two states), Tsotsil, Tseltal, Chol, Purepecha, Chinantecan, Mazateco, Mixe, Totonac, Rarámuri, Tének, Mazahua, Mephaa, Chontal and Mixteco of the La Montaña region in the State of Guerrero. This subject is compulsory in all secondary schools located in areas where 30 per cent or more of the population is indigenous.

So far, this subject of study is being taught in 14 states: Hidalgo, Oaxaca, Chiapas, Yucatán, Quintana Roo, Campeche, Michoacán, State of Mexico, Veracruz, San Luis Potosí, Guerrero, Tabasco, Chihuahua and Querétaro.

*Intercultural diploma.* This is an innovative and highly appropriate education model for upper-secondary schools that meets the specific needs of the school population while taking its members' cultural contexts into consideration. It promotes access and continuity in the students' education, particularly in the case of indigenous students. This model, in addition to ensuring that students learn the material included in the general degree programme, incorporates information about and an appreciation of the students' own culture and promotes respect for other cultural contributions. The model is being used in the states of Chiapas, Tabasco and Tlaxcala in schools under the supervision of the Chiapas Board of Education, the Tabasco Board of Education and the Association of Scientific and Technical Studies in Tlaxcala. In total, 35 teachers provide instruction to 743 speakers of Tseltal, Chontal or Chol in 6 educational establishments.

*Degree in intercultural bilingual primary education.* This degree programme trains future teachers to provide a quality, equitable and appropriate education to their students while recognizing cultural diversity in the classroom. The training promotes indigenous languages as a means of communication, instruction and subject of study with a view to developing students' oral and written communication skills in indigenous languages as well as Spanish. It is also designed to restore an appreciation for the value of indigenous languages in school and in society. This degree programme is open both to students from indigenous communities with varying degrees of competency in their native tongues and to non-indigenous students. The programme, which covers 31 indigenous languages, is currently offered at 18 teacher training colleges located in Oaxaca, Guerrero, Chiapas,

Michoacán, Campeche, Hidalgo, Baja California Sur, Veracruz, Puebla, Quintana Roo, San Luis Potosí, Yucatán, Sinaloa and Sonora. This programme has already been accredited by the Ministry of Education.

*Intercultural universities.* This model is aimed at identifying culturally relevant career paths for indigenous and non-indigenous youth from different social backgrounds who are interested in pursuing higher education and are committed to promoting the advancement of indigenous peoples and the development of underserved rural areas. It reorients the curriculum offered by existing institutions of higher learning in order to tailor them to the areas of interest and concern to indigenous populations and rural residents. These universities' programmes of study are a reflection of public policies designed to offer more and better educational opportunities for persons in regions not previously served by traditional institutions of higher learning. They provide avenues for university training relevant to the cultural identity of the peoples of Mexico and offer subjects geared towards the promotion of the cultural and regional development of the country. They also seek to expand upon course offerings in order to open up options for professional training in areas associated with the cultural identity of the peoples of Mexico and thus promoting regional development.

The nine universities of this type that have been established to date are located in the states of Mexico, Chiapas, Tabasco, Puebla, Veracruz, Michoacán, Guerrero, Sinaloa and Quintana Roo; they are currently attended by some 5,684 students, the majority of whom come from indigenous communities. One notable aspect of these educational initiatives is that they have enrolled a significant number of women native to those areas (3,050, or 53.6 per cent of the student body). At these universities, women are given an opportunity for self-advancement that they would not have had if these new institutions had been located elsewhere. The intercultural universities are attended by young adults from more than 40 indigenous groups in Mexico and some from elsewhere in Latin America. In total they promote the conservation and development of 31 national indigenous languages.

<i>University</i>	<i>Location</i>
Intercultural University of the State of Tabasco	Tacotalpa, Tabasco
Intercultural University of the State of Mexico	San Felipe del Progreso, State of Mexico
Intercultural University of Chiapas	San Cristóbal de Las Casas, Chiapas
Intercultural University of the Veracruz	Xalapa, Veracruz
Intercultural University of the State of Puebla	Lipuntahuaca Huehuetla, Puebla
Autonomous Indigenous University of Mexico	Mochicahui campus, Sinaloa Los Mochis campus, Sinaloa
Mayan Intercultural University of Quintana Roo	José María Morelos, Quintana Roo
Intercultural University of the State of Guerrero	Tlapa-Marquelia Malinaltepec, Guerrero
Indigenous Intercultural University of the State of Michoacán	Morelia, Michoacán



*Language, culture and education in multilingual societies. Development of multimedia-based methodologies for use in revitalizing and preserving minority languages.*

This project has been carried out with the collaboration of various educational institutions during its different phases. Its main focus has been the design and development of multimedia software called Uantakua (which means “word” in Purepecha). Uantakua is an interactive multimedia IT platform in which teachers and students can read and write in their native languages and can learn about and appreciate both their own culture and other original cultures. It is currently available in Spanish, Purepecha and Hñahñu versions and is in use in primary schools in the indigenous areas of the states of Michoacán and Hidalgo. There are plans to include other original cultures and languages in the programme.

As part of this effort, a project is under way to develop multimedia materials for use in courses on original cultures and languages within the framework of the Mexican International Development Cooperation Programme. This programme provides direct and online advisory assistance to specialists in the Aimara and Quechua languages and furnishes advisory services in connection with information technology to the Ministry of Education and Culture of Bolivia. The main objective of this project is to give Bolivian teachers and students access to teaching materials to help them to study and learn to appreciate given languages as a way to strengthen the corresponding cultures.

172. In order to ensure that all educators in the national education system will incorporate this intercultural approach into their daily work, CGEIB needs further support from the education authorities and a larger organizational structure in order to have a greater impact on the national education system.

173. The Primary Education Programme for Migrant Children is aimed at children between the ages of 3 and 14 who come from families of mestizo or indigenous migrant or resident agricultural day labourers and who have serious difficulties in regularly attending school because their families are constantly travelling back and forth between their communities of origin and areas where agricultural work is available during periods that do not coincide with the national school calendar. The objective of this programme is to coordinate inter-agency efforts to promote intercultural educational services at the preschool and primary levels for children from such families. It operates in the 21 states whose populations include a large number of agricultural day labourers: Baja California, Baja California Sur, Chiapas, Chihuahua, Coahuila, Colima, Durango, Guerrero, Hidalgo, Jalisco, Michoacán, Morelos, Nayarit, Nuevo León, Oaxaca, Puebla, San Luis Potosí, Sinaloa, Sonora, Tamaulipas and Veracruz.

174. One of the most obvious signs of inequality in Mexico is found in the field of adult education for indigenous populations. More than a quarter of the illiterate persons in Mexico are indigenous, and they face multiple problems in their daily lives. Generally speaking, mass literacy campaigns in Mexico have focused on teaching Spanish, without considering that, for speakers of indigenous languages, Spanish is a second language whose study requires additional work and explanations of its linguistic and cultural context.

175. To combat this, the National Adult Education Institute is implementing a basic education model for indigenous populations that focuses on life and work (the Education for Life and Work (MEVyT) model). The first step in this model’s application is the achievement of functional bilingual literacy, using specific materials in both an indigenous language and in Spanish (treated as a second language), with different approaches being used for persons who are proficient in two languages and for persons who speak only one language or are beginners in a second language. Local technical teams made up of bilingual indigenous persons are currently working to design socioculturally, linguistically and pedagogically appropriate materials for this purpose. The development of courses and materials of this type pose a range of complex pedagogic and linguistic challenges; they

also pose a challenge for Government decision makers and society in general, since people have to be convinced of the importance and value of intercultural and bilingual education.

176. This model is implemented in collaboration with Government departments and non-governmental organizations whose work focuses on various sociocultural and linguistic aspects of the lives of indigenous populations and on strengthening their linguistic and human rights as recognized by law. An effort is made to help indigenous persons develop their own critical judgement in the course of the process of learning written language and mathematics and in evaluating previously and newly acquired knowledge. The topics covered are primarily related to human rights, the rights of indigenous peoples, linguistic rights, environmental protection, productivity and intergenerational solidarity. The Government departments involved in the model's application include the National Commission for the Development of Indigenous Peoples and the National Institute of Indigenous Languages, among many others.

177. The education system for young persons and adults is seen as an ideal vehicle for promoting the elimination of discrimination while emphasizing human rights, gender equality, interculturalism, development of the rule of law, responsible participation in democratic processes, and the recognition of ethnic plurality and cultural diversity. In this context, the National Adult Education Institute, through the application of its Basic Education for Life and Work for Indigenous Populations Model, reaches various groups of the population, including women, youth and indigenous persons.

178. The Basic Education for Life and Work Model is applied through the use of teaching materials (modules) in both printed and electronic (CD) formats and online courses. Specifically, the civic culture module of this model deals with issues such as building a culture of peace and respect for the human rights of all persons within the framework of various types of interpersonal relations.<sup>20</sup> To supplement these materials, there is a training programme on various aspects of human rights for teacher trainers and for teachers who work with young persons and adults.

179. In its efforts to serve the indigenous population, the National Adult Education Institute has been developing this project concept on a progressive and ongoing basis. As of November 2009, the Institute was providing educational services to 67,764 young persons and adults from 41 ethnic and language groups with the assistance of about 6,000 bilingual teachers in 14 states: Campeche, Chiapas, Chihuahua, Durango, Guerrero, Hidalgo, Michoacán, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, State of Mexico and Yucatán.

180. As the National Adult Education Institute continues to develop its language education models and programmes, it eventually hopes to provide coverage for 18 states and 54 ethnic and language groups, with priority being given to literacy training and secondary education in the 100 municipalities with the lowest human development indices. Another priority area is the teaching of Spanish as a second language in camps for migrant agricultural day labourers.

181. Thus far, teaching materials (learning modules) have been developed for 52 ethnic and language groups as part of the Basic Education for Life and Work Model for indigenous populations; a total of 105 modules have been completed.

182. In order to ensure that the services it provides are of a high quality, the National Adult Education Institute provides training to bilingual persons and offers them an

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<sup>20</sup> These online courses and materials can be found at: <http://www.conevyt.org.mx/cursos/>.

incentive system for working with the Institute. From January to October 2009, training was provided to 4,264 facilitators (bilingual literacy tutors, bilingual coaches and bilingual assistants) and 1,357 institutional staff (authorities and technical, operational and administrative personnel) from 15 states in the country.

183. In working to ensure that people are able to exercise their right to equal participation in cultural activities the National Council for Culture and the Arts, through the Mexican Institute of Cinematography, provides an opportunity for equal participation in various cultural activities held in support of women, gender equality and non-discrimination against indigenous peoples.

184. The State of Tabasco has identified instances of inequality in respect of economically disadvantaged populations, historically vulnerable groups, indigenous peoples and persons with disabilities in the areas of vocational training, cultural rights and access to scientific developments and information and communication technology as the digital divide emerges as a new factor of discrimination in modern life.

## 9. Linguistic rights

185. Discrimination on the basis of language has historically been one of the main reasons why some linguistic variants have fallen into disuse or have disappeared altogether. A lack of information about indigenous languages has led to the use of the term “dialect” in a pejorative and offensive sense to describe those languages based on the misconception that some languages are more valuable and useful than others, when in fact all other languages are just as valid as Spanish.

186. The General Act on the Linguistic Rights of Indigenous Peoples resolved this issue by recognizing that indigenous languages are national and that they form an integral part of the country’s cultural and linguistic heritage. The Act also recognizes that the diversity of indigenous languages is one of the primary expressions of the multicultural composition of the country, in which the three levels of government (federal, state and municipal) shall, within their respective spheres of influence, acknowledge, protect and promote the revitalization, reinforcement and development of national indigenous languages.

187. In this regard, the National Institute of Indigenous Languages has taken action to change historical attitudes and behaviours among both speakers and non-speakers of indigenous languages in order to promote recognition of and respect for these languages.

188. As a special measure taken by the Government to prevent linguistic discrimination and promote national recognition of indigenous languages, the National Institute of Indigenous Languages created a catalogue of national indigenous languages, which was published in the *Diario Oficial de la Federación* on 14 January 2008. This document lists 364 linguistic variants that should be recognized by the State as national languages as a measure of support for speakers of those languages.

189. In the five short years since it was established, the National Institute of Indigenous Languages has managed to implement a social policy on indigenous languages that contributes to the development of indigenous peoples by helping to reverse the trend towards those languages’ disappearance and revitalizing, strengthening and advancing them within a State and society-wide framework of recognition, respect and lawfulness.

190. Within its sphere of action and influence, the National Institute of Indigenous Languages has conducted several increasingly successful campaigns to raise political, social and cultural awareness. It has also made suggestions to all three levels of government concerning the implementation of more specific anti-discrimination measures under article 2 of the Constitution and the General Act on the Linguistic Rights of Indigenous Peoples. In addition, it works to uphold linguistic rights by encouraging indigenous persons to make

full use of their languages in institutional and sociocultural settings, as well as in the mass media, as part of the effort to highlight the value of the linguistic diversity of Mexico as part of the cultural heritage of mankind.

191. One of the primary goals of the National Institute of Indigenous Languages is the official recognition of indigenous languages in order to counteract linguistic displacement and to ensure that national indigenous languages truly have the same status as Spanish.

192. This process is complicated, however, by the need to standardize linguistic usage in certain spheres of activity in order to ensure that they are accessible to speakers of the language in question. Progress towards the ultimate goal cannot be measured in the short or medium term because its attainment requires the various communities whose members speak the same linguistic variant or a mutually intelligible variant to arrive at shared definitions. Speakers of the same language will therefore have to reach agreement. In addition, a study will need to be undertaken in order to update the catalogue of national indigenous languages.

193. There is also a lack of awareness among the Mexican population (including Government authorities and speakers of indigenous languages) of the General Act on the Linguistic Rights of Indigenous Peoples. This is one of the obstacles to progress in eliminating discrimination, since a lack of awareness of these rights is akin to not exercising them; this is why there has been no call for an appropriate, pro-development treatment of this issue. One of the fundamental goals that the National Institute of Indigenous Languages is working to achieve is to disseminate this law so that it will be better known and properly implemented.

194. In an effort to raise awareness of the General Act on the Linguistic Rights of Indigenous Peoples, between 2008 and June 2009 more than 500,000 copies of materials published by the National Institute of Indigenous Languages were distributed free of charge in various indigenous areas, book fairs, libraries, schools and conferences, as well as to interested individuals who visited the Institute. Through these efforts, some of the Institute's language policies are gradually beginning to take hold within the three levels of government.

195. On 23 March 2009, the National Institute of Indigenous Languages and the National Human Rights Commission signed a cooperation agreement to strengthen the protection and dissemination of the linguistic rights of indigenous communities and peoples. The first step towards ensuring respect for indigenous rights is for indigenous languages to be known and practised, so that indigenous rights may be recognized and respected in all legal acts.

196. Much remains to be done to standardize state and municipal legislation, and state congresses still need to issue or modify regulations to support and promote genuine respect for the linguistic rights of indigenous peoples and their communities. Some action has been taken to promote these rights, however. For example, the state of Coahuila, in collaboration with the National Institute of Indigenous Languages and the Kickapoo tribe, has designed and printed posters in the Kickapoo language on legal rights and prerogatives for display in the offices of various legal and judicial authorities.

## **10. Sports**

197. In order to uphold the right to equal participation in sports activities, in April 2008 Congress adopted a decree amending article 3, subparagraphs IX and X, articles 85, 87, 126, 127, 128, 129, 130, 131 and the heading of title four, chapter VI, and adding a new subparagraph XI to article 3 of the Physical Culture and Sports Act. The purpose of these amendments is to prevent displays of violence, xenophobia, racism, intolerance and any other antisocial conduct to the maximum extent possible.

198. In June 2009, the National Commission of Physical Culture and Sports submitted a set of proposed amendments of the Physical Culture and Sports Act Regulations to the Ministry of Education for its consideration. These amendments, which are designed to help to prevent violence at sports events, would provide for: (1) the preparation of studies on the causes and effects of all forms of violence, racism, xenophobia and intolerance in sports; (2) the promotion, coordination and implementation of campaigns and programmes to detect, monitor and eliminate all forms of violence, racism, xenophobia and intolerance in sports; and (3) the creation and maintenance of a register of actions taken to prevent acts of incitement to violence, racism and xenophobia.

## **D. Other specific groups**

### **1. Persons of African descent**

199. The number of persons of African descent in Mexico is quite small, as it is estimated that they make up 0.45 per cent of the country's total population.<sup>21</sup>

200. Persons of African descent live in towns of varying sizes in different states. They are found mainly in the Costa Chica regions of Guerrero and Oaxaca, in the central gulf region of the State of Veracruz, the Costa Grande of Oaxaca, the Tierra Caliente region of Michoacán, the Altos mountain range and the isthmus and coastal regions of Chiapas, the State of Quintana Roo, and in the municipality of Múzquis in the State of Coahuila.<sup>22</sup>

201. The National Council for the Prevention of Discrimination has stated that one of the main tasks of its documentation centre is to collect as much statistical and other information as possible on groups of African descent in Mexico.

202. In September 2008, the National Council for the Prevention of Discrimination, together with the Ibero-American Network of Agencies and Organizations against Discrimination (RIOOD), published a book entitled *Atención a la discriminación en Iberoamérica. Un recuento inicial* (discrimination in Ibero-America: an initial review), which included an article on approaches to promoting the visibility, non-discrimination and recognition of Afro-Mexican populations in Costa Chica in Oaxaca, Mexico.

203. The Council has also funded two other studies. "Los afrodescendientes en México. Reconocimiento y propuestas para evitar la discriminación" (persons of African descent in Mexico: a survey and approaches to preventing discrimination) was presented in December 2006, and "Proceso de construcción de identidad, condición de vida y discriminación en comunidades afrodescendientes en los estados de Coahuila y Tamaulipas" (the identity-building process, living conditions and discrimination in communities of African descent in the states of Coahuila and Tamaulipas) was presented in December 2007.

204. These two studies, which were based on surveys conducted in 19 communities in the states of Oaxaca, Guerrero, Veracruz and Coahuila, inform the reader about living conditions and identity-building processes in communities of African descent in Mexico.

205. Their findings make it possible to identify communities where African models have been stronger than environmental influences and where the collective memory thus remains connected to Africa, as well as communities where the environment has had an overpowering influence and has led to a break with these communities' African heritage.

<sup>21</sup> Information provided by the National Statistical and Geographical Institute (INEGI).

<sup>22</sup> The persons of African descent living in the state of Coahuila are migrants who arrived from the south of the United States of America from 1848 on (see Benigno Jarquin Javier, 2004).

206. The studies show that the marginalization of these communities is reflected in sociodemographic indicators such as levels of education, life expectancy and infant mortality and can be explained in part by the fact that the availability of basic services in the states where these communities are located is below the national average.

207. Generally speaking, persons of African descent feel isolated from the political and social organizations in the country, including local government and political parties. They also feel that they are overlooked by Government programmes. This political, social and economic isolation leads to a lack of solidarity among the members of the communities themselves.

208. In recent years, Mexico has begun to recognize its African identity; at the public policy level, this has been reflected in activities such as the nationwide Nuestra Tercera Raíz (our third source) Programme of the National Council for Culture and the Arts.

209. Within this framework, the Museum of Afro-Mestizo Culture<sup>23</sup> was established under the auspices of the National Council for Culture and the Arts, the Directorate-General for Popular and Indigenous Cultures, and the Regional Unit for Popular and Indigenous Cultures in the state of Guerrero. The museum is located in Cuajinicuilapa, Guerrero, and specializes in the cultures of African descent in the Costa Chica region of Guerrero. It provides important information on the history, anthropology and ethnography of persons of African descent.

210. With the aim of raising the profile of populations of African descent, in November 2003 the Ministry of Education launched the Multicultural Mexico Project, which was broadcast on free television channels (including channel 9, channel 11, channel 22, the Congress channel and TV UNAM), cable channels, the Aprende TV channel and official and satellite channels such as the Edusat network, as well as on radio via State broadcasters, community radio, Radio Educación and the Mexican Radio Institute (IMER). The content was as follows:

- (a) A series of videos entitled “Peoples of Mexico” (November 2003):
  - (i) Programme 24: “The song of the cedar” (Afro-mestizo population of Veracruz/music and dance);
  - (ii) Programme 25: “African heritage” (Afro-mestizo population of Costa Chica, Oaxaca and Guerrero/history);
- (b) “Afro-mestizos of Costa Chica”, broadcast on channel 9 (September 2004–January 2005);
- (c) “Peoples of Mexico” and “Our wealth is diversity” series, broadcast by:
  - (i) Channel 25 Edusat Radio (from 22 November 2004 to 28 February 2005 and from 7 January to 5 June 2006);
  - (ii) Channel 11 (2005 and 2006);
  - (iii) Radio IMER (starting in May 2006 on the following stations: XERF, in the city of Acuña; XEFQ, in Cananea; XHSCO, in Salina Cruz; XHYUC, in Yucatán; XHCHZ, in Chiapa de Corzo; XEMIT, in Comitán; and XELAC, in Lázaro Cárdenas;

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<sup>23</sup> [http://sic.conaculta.gob.mx/ficha.php?estado\\_id=12&table=museo&table\\_id=835](http://sic.conaculta.gob.mx/ficha.php?estado_id=12&table=museo&table_id=835).

(d) “Our wealth is diversity” series, produced by Media Llum Comunicación (2006) and composed of five 20-second spots on the following topics:

- (i) Multiculturalism;
- (ii) Linguistic variety;
- (iii) Natural wealth;
- (iv) Economic wealth;
- (v) Cultural wealth;

(e) “Let us hear all our voices” (spot No. 10 had as its subject the Spanish language of the Afro-Mestizo people of Costa Chica in Oaxaca and Guerrero);

(f) “Peoples of Mexico” audio series for radio (Multicultural Mexico project) on CD:

- (i) Spot No. 26: “The Afro-mestizo people of Veracruz”;
- (ii) Spot No. 27: “The Afro-mestizo people of Oaxaca and Guerrero”;

(g) The Ministry of Education prepared a documentary study at the request of CGEIB, entitled “La población negra en México” (The black population in Mexico).

211. In October 2009, as part of the celebrations marking the forty-fifth anniversary of the Mexico City National Museum of Anthropology and History, a workshop and film discussion panel were held on topics related to the customs and traditions of the peoples of African descent in Guerrero and Oaxaca. Experts in the Mexican communities of African descent from the National Anthropology and History Institute, the National Autonomous University of Mexico and the Metropolitan Autonomous University participated in these activities, which were part of the museum’s calendar of events celebrating the Day of the Dead. Also, persons of African descent from Cuajinicuilapa, Guerrero, erected a shrine to “the devils in all saints” in honour of the dead.

212. The Afro-Caribbean International Festival is held by the government of the State of Veracruz every year, through the Veracruz Cultural Institute, to promote and disseminate cultural expressions of the Afro-Caribbean identity in Veracruz and of African heritage in the state and throughout Latin America.<sup>24</sup>

213. From 1 to 19 April 2009, the Mexico Multicultural Nation University Programme of the National Autonomous University of Mexico organized the first “Oaxaca Negra” (black Oaxaca) festival in the Museo del Palacio in Oaxaca. The goal of this event was to disseminate information about the population of African descent in Mexico through workshops, studies and forums. This festival provided a way to broaden the view of multiculturalism in the country to include cultures of African as well as indigenous origin. Music and dance were used to show how African culture has influenced traditional Mexican music and dance; there was also a photography exhibition entitled “Afro-America: The Third Source”.

214. Other bodies involved in organizing the festival included: the Oaxaca Graphic Arts Institute, el Pochote, Ojo de Agua, Diversidades, the National Commission for the Development of Indigenous Peoples, Colectivo África A.C., Púrpura A.C. and the Beatriz de la Fuente Library at the National Autonomous University of Mexico campus in Oaxaca.

<sup>24</sup> <http://www.culturaveracruz.ivec.gob.mx/festivalafro/index.html>.

215. The Mexico Multicultural Nation University Programme of the National Autonomous University of Mexico includes a subject of study called “Afro-America: The Third Source”, which reaffirms African heritage in Mexican culture and the pluralistic nature of the national identity.

## 2. Women<sup>25</sup>

216. Public policies and strategies to promote and protect the human rights and fundamental freedoms of women have been strengthened by various laws such as, inter alia, the Federal Act to Prevent and Eliminate Discrimination,<sup>26</sup> the Act on Equality between Women and Men,<sup>27</sup> the Act on Access by Women to a Life Free of Violence<sup>28</sup> and its implementing regulations,<sup>29</sup> and the Trafficking in Persons (Prevention and Punishment) Act<sup>30</sup> and its implementing regulations,<sup>31</sup> but above all by the various international instruments ratified by Mexico, such as the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), and the recommendations drafted by the monitoring mechanisms for these instruments.

217. The Act on Equality between Women and Men was published in the *Diario Oficial de la Federación* of 2 August 2006 with a view to regulating and ensuring equality between women and men and providing institutional mechanisms and guidelines for the country’s achievement of fundamental and effective equality in order to promote the empowerment of women.

218. This law provides for the development and implementation of a national policy for equality between women and men under which the Government may take action on this issue in all spheres and in respect of every stage of life.

219. The national policy is defined in the National Programme for Equality between Women and Men and is implemented through the National System for Equality between Women and Men. This system is coordinated by the National Institute for Women and comprises departments and bodies of the Government of Mexico, along with state, federal district and municipal authorities, with the aim of conducting consensus-based activities to promote and strive for equality between women and men.

220. The Act on Equality between Women and Men provides that state, federal district and municipal governments shall pursue and implement local policies on equality between

<sup>25</sup> Mexico has submitted its reports to the Committee on the Elimination of Discrimination against Women in a timely manner. Its initial report is contained in document CEDAW/C/5/Add.2 and was considered by the Committee at its second session. The second periodic report is contained in document CEDAW/C/13/Add.10 and was considered at the Committee’s ninth session. The third and fourth combined periodic reports are contained in documents CEDAW/C/MEX/3-4 and Add.1 and were considered at the eighteenth session. The fifth periodic report is contained in document CEDAW/C/MEX/5 and was considered at the Committee’s exceptional session. The sixth periodic report is contained in document CEDAW/C/MEX/6 and was considered at the thirty-sixth session. The seventh periodic report of Mexico is currently being drafted and is scheduled for submission to the Committee in 2010.

<sup>26</sup> Published in the *Diario Oficial de la Federación* on 12 June 2003.

<sup>27</sup> Published in the *Diario Oficial de la Federación* on 2 August 2006.

<sup>28</sup> Published in the *Diario Oficial de la Federación* on 1 February 2007.

<sup>29</sup> Published in the *Diario Oficial de la Federación* on 11 March 2008.

<sup>30</sup> Published in the *Diario Oficial de la Federación* on 27 November 2007.

<sup>31</sup> Published in the *Diario Oficial de la Federación* on 27 February 2009.



women and men and shall coordinate and cooperate with the Federal Government to implement its provisions.

221. Congress, through the Equity and Gender Committee, has promoted a strategy to provide legislators at the local level with tools for the analysis of the legal framework for the establishment and amendment of laws on equality between women and men.

222. Between August 2006, when the Act was published, and December 2009, 17 states (Baja California Sur, Campeche, Coahuila, Colima, Chiapas, Durango, Michoacán, Morelos, Oaxaca, Puebla, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tamaulipas, Veracruz and Zacatecas) and the Federal District approved similar legislation at the local level, and Durango, Puebla and Zacatecas have also established state systems for equality between women and men.

223. On 13 March 2009, the state government of Coahuila established the Network for the Promotion of Gender Mainstreaming in the Civil Service of the State of Coahuila, thereby supporting the Coahuila Institute for Women in its work to foster equitable development between women and men through its Progress Towards Gender Mainstreaming in the Civil Service Programme.

224. In Morelos, active participation by women at the state level has been strengthened by providing them with legal instruments for the protection of equality of opportunity under the state Act on Equal Rights and Opportunities between Women and Men, published on 29 July 2009.

225. The Act on Access by Women to a Life Free of Violence was published in the *Diario Oficial de la Federación* of 1 February 2007 with a view to achieving coordination between federal, state and municipal governments to prevent, address, punish and eliminate violence against women under the guiding principles of legal equality between women and men, respect for the human dignity of women, non-discrimination and the freedom of women.

226. Article 35 of the Act stipulates that federal, state and municipal governments shall coordinate joint efforts, tools, policies, services and inter-agency actions to prevent, address, punish and eliminate violence against women. Accordingly, the National System to Prevent, Address, Punish and Eliminate Violence against Women was established on 3 April 2007.

227. The National System to Prevent, Address, Punish and Eliminate Violence against Women comprises 45 member institutions, 1 of which is the National Council for the Prevention of Discrimination. The Council helps to design, collaborate and contribute to actions to support non-discrimination against women.

228. In order to do their part to implement the Act on Access by Women to a Life Free of Violence, as of 2009 all the states of Mexico have adopted laws to combat violence against women, and 27 state systems to prevent, address, punish and eliminate violence against women have been established.

229. Also, the 31 states and the federal district have conducted statistical analyses on gender inequalities and violence against women and have proposed amendments to civil and criminal laws.

230. The Special Unit to Support Women Victims of Domestic Violence was established in Tabasco on 8 March 2006. It provides psychological, medical and legal support in criminal, civil and family matters. The Unit comprises staff members from the Office of the Attorney General of the State of Tabasco, the State System for the Comprehensive Development of the Family and the Ministry of Health.

231. In coordination with the United Nations Development Programme (UNDP), the National Institute for Women is conducting a project entitled “Building Capacity to Implement National Legislation on Gender Equality and Non-Violence against Women”. The objective of the project is to strengthen institutions and gender mainstreaming in public policies and to help harmonize federal, state and municipal legislation.

232. With the entry into force of the Act on Equality between Women and Men and the Act on Access by Women to a Life Free of Violence, the Government of Mexico is taking action at the local level to honour its international commitments regarding the human rights of women, particularly those contained in the Convention on the Elimination of All Forms of Discrimination against Women and the Convention of Belém do Pará.

233. The country has made progress in framing budgetary rules and regulations that incorporate a gender perspective. The Federal Budget and Fiscal Responsibility Act, which has been in force since 2006, establishes that the administration of federal resources shall be performed in a manner that takes a gender perspective into consideration. The National Institute for Women has prepared the “Manual de Planeación, Programación y Presupuestación con Perspectiva de Género” (manual on planning, programming and budgeting with a gender perspective) and the “Guía Metodológica para la Incorporación de la Perspectiva de Género en los Presupuestos Públicos” (methodological guide on gender mainstreaming in public budgets) and has developed joint strategies with the Equity and Gender Committees of the Senate and the Chamber of Deputies and with the Ministry of Finance and Public Credit for gender mainstreaming in the budget planning and programming process.

234. Thus, while in 2004 the total amount allocated to programmes for the advancement of women was 1,151,100,000 Mexican pesos (US\$ 105,605,505), which included 12 programmes or activities, in 2006 that budget was increased to 3,133,100,000 pesos (US\$ 294,741,298) and covered 43 activities and programmes for women in various departments. In 2007, the resources earmarked for women and gender equality amounted to 3,482,700,000 pesos (US\$ 322,500,000).

235. In 2008, the inclusion of budget allocations for women and gender equality resulted in legal and administrative changes, the introduction of a gender perspective in the process as a whole, and follow-up on programmes with items of expenditure that were earmarked for women. The amount allocated for specific programmes, by sector, for that year was 7,024,800,000 pesos (US\$ 638 million).

236. In 2009, that amount increased to 8,981,600,000 pesos (US\$ 678,753,070); these funds were distributed among 70 programmes in 21 departments of the civil service, the Federal Electoral Institute, the National Statistical and Geographic Institute and the legislative and judicial branches of government. The budget allocation for 2010 is 10,920,700,000 pesos.

237. The 2009 budget provided that, as part of their social communication campaigns and programmes, the departments of the federal civil service should promote equal opportunities between women and men and the elimination of gender violence and of gender roles and stereotypes that encourage discrimination of any kind.

### 3. Persons with disabilities<sup>32</sup>

238. Persons with disabilities are one of the most discriminated-against groups in society, and their situation is often compounded by discrimination on the basis of socio-economic status, gender or ethnic origin. The results of the first National Survey on Discrimination, which were referred to in the introduction to this report, showed that persons with disabilities are considered to be the third most vulnerable group in the country overall, the second most vulnerable in terms of the problems and hurdles they must overcome in order to obtain a job, and the most vulnerable group of all in terms of grounds for feeling discriminated against.<sup>33</sup>

239. The survey also showed that having a disability, and being discriminated against because of it, are the two main problems experienced by persons with disabilities in relating to society. In the face of this discrimination, the study concluded that employment was the main area that needed to be addressed.<sup>34</sup>

240. In the light of this situation, on 10 June 2005, the Act on Persons with Disabilities was passed, which established the National Council for Persons with Disabilities (CONADIS) to coordinate the efforts of the Federal Government to promote, implement and assess actions and programmes targeting persons with disabilities from different ethnic backgrounds. Article 5, subparagraph (i), of the Act establishes non-discrimination as one of its guiding principles.

241. As a consequence of the entry into force of the Convention on the Rights of Persons with Disabilities, the Act on Persons with Disabilities is currently being amended in the Senate in order to incorporate the tenet that there should be no discrimination on the basis of disability and to make it obligatory for the authorities to respect the principle of non-discrimination in the design, implementation, assessment and monitoring of public policies for persons with disabilities.

242. The National Programme for the Development of Persons with Disabilities for 2009–2012 is designed to coordinate State policies and direct the implementation of strategies in public institutions at the three levels of government in order to promote the full development and integration of persons with disabilities and their families in social and economic life in Mexico on the basis of an absolute respect for their human rights and fundamental freedoms. The programme document was published in July 2009.

243. In order to achieve its objectives, the National Programme for the Development of Persons with Disabilities establishes a number of guiding principles, including: non-discrimination; respect for difference; acceptance of persons with disabilities as part of human diversity and humanity; equality of opportunity; and equality between men and women.

244. The programme document for the Programme for Targeted Action for Comprehensive Health Care for Persons with Disabilities for 2007–2012 was published in June 2009. The overall aim of this programme is to help ensure that persons with

<sup>32</sup> The initial report of Mexico to the Committee on the Rights of Persons with Disabilities is currently being prepared and is scheduled for submission to the Committee in early 2011.

<sup>33</sup> Questionnaire on Social Discrimination in Mexico: Persons with disabilities. First National Survey on Discrimination in Mexico, annex six: Discrimination against Persons with Disabilities. Ministry of Social Development, National Council for the Prevention of Discrimination, Mexico, 2005, pp. 3, 4 and 17. <http://sedesol2006.sedesol.gob.mx/subsecretarias/prospectiva/discriminacion/Cuestionarios/Personas%20con%20discapacidad.pdf>.

<sup>34</sup> *Ibid.*, pp. 13 and 15.

disabilities enjoy the right to the highest possible level of health, without discrimination, by establishing public policies and strategies in the area of information, prevention, early detection, medical care, suitable treatment, habilitation and rehabilitation.

245. The Employment and Training Committee of the National Council for Persons with Disabilities is finalizing the National Programme for the Employment and Training of Persons with Disabilities for 2009–2012, in accordance with article 9 of the Act on Persons with Disabilities. The programme includes measures and indicators for monitoring the integration of persons with disabilities into the labour market within a climate of non-discrimination and equality of opportunity.

246. Public policies on disability issues are aimed at all sectors of the population. Specific actions are taken to support persons with disabilities in rural areas, including those from diverse ethnic backgrounds.

247. The Ministry of Public Security and the Federal Police Force have a programme under which special teams provide psychological support and legal guidance to police officers who have sustained a disability in the line of duty and to members of their families. The programme aims to rehabilitate, both psychologically and emotionally, police officers who sustain a physical disability during confrontations or other violent acts in the course of their police duties or who suffer from post-traumatic stress. The same support is provided to members of their families. Legal advice on social security issues is also given.

248. Between January 2009 and 13 May 2010, assistance was given in 562 cases to 124 police officers. These cases can be broken down as follows: 75 cases of individual psychological support; 87 house calls; 344 hospital visits; 39 consultations at the National Rehabilitation Institute; and 17 cases of support services being provided over the telephone. This support has made a notable contribution to the recovery of federal police officers, most of whom have recuperated and have been reinstated in their posts, while those who are still receiving care have a good prognosis. The services provided during this period are shown below:

<i>Description</i>	<i>2009</i>	<i>As at 13/05/2010</i>	<i>Total</i>
Police officers assisted	68	56	<b>124</b>
Individual psychological support	45	30	<b>75</b>
House calls	73	14	<b>87</b>
Hospital visits	245	99	<b>344</b>
Consultations at NRI*	39	0	<b>39</b>
Support over the telephone	3	14	<b>17</b>
<b>Total</b>	<b>405</b>	<b>157</b>	<b>562</b>

*Source:* Victim Support Directorate.

\* National Rehabilitation Institute.

249. In December 2006, a decree was published in Coahuila that established a fund for granting tax credits in respect of fees arising from the supply of special licence plates for persons with motor disabilities.

#### 4. Non-citizens<sup>35</sup>

250. Various mechanisms to ensure the safety of migrants have been established since 2000, such as the migrant protection groups known as Beta Groups, which are attached to the National Institute for Migration of the Ministry of the Interior.

251. Their main objective is to protect and defend the human rights, ensure the physical safety and safeguard the property of migrants, regardless of their nationality or whether they have official documents or not. To date, 20 offices have been established at strategic points commonly passed by migrants heading for the north of the country.

252. Another important protective body is the Office of the Fifth Inspector-General of the National Human Rights Commission, which was established on 3 January 2005 and has 10 local offices in different parts of the country.

253. The Government provides support to migrants and members of their families in areas such as: repatriation of minors; deportation; tracing people in the United States of America; ascertaining the legal situation of migrants held by United States authorities; organization of clubs abroad to integrate migrants into the “3 x 1” programme; and transfer in the case of sickness or death.

254. The Government of Mexico has established an extensive, solid institutional network to protect the human rights of asylum-seekers and refugees living in Mexico. Various bodies at different levels of government work together to consolidate public policies that guarantee full respect of the human rights of asylum-seekers, refugees and members of their families.

255. The Mexican Commission for Aid to Refugees (COMAR) receives and processes applications for asylum from nationals of all countries. Using an approach based on non-discrimination and full respect for all human rights, all such requests are examined on their own merits to establish whether the applicant’s fear for his or her life, liberty or security is justified. Asylum-seekers have the right to appeal if they do not agree with the decision, or if they consider their rights to have been violated during the procedure.

256. In the area of asylum, the Government of Mexico has the following objectives:

- Guarantee the right to apply for, and be granted asylum, without discrimination, in line with article 14 of the Universal Declaration of Human Rights
- Grant effective protection to victims of human rights violations who arrive in Mexico
- Ensure that an open, transparent and non-discriminatory asylum policy based on the protection of human rights is in place
- Carry out public information campaigns to promote the values of non-discrimination and tolerance
- Establish reliable procedures that fully respect the human rights of all refugees and asylum-seekers

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<sup>35</sup> Mexico has submitted its reports to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on time. The initial report of Mexico was issued under the symbol CMW/C/MEX/1 and was considered by the Committee at its fifth session. The second periodic report was submitted to the Committee in 2010.

- Promote the integration of refugees in society by, inter alia, granting assistance and support in various areas, such as education, temporary financial assistance, medical costs, psychological support, Spanish lessons and assistance with procedural matters

257. Since June 2006, the National Council for the Prevention of Discrimination has successfully coordinated the development of an inter-agency agenda of work to combat discrimination against refugees, migrants and foreigners in Mexico. Officials of the Office of the United Nations High Commissioner for Refugees (UNHCR), Without Borders and Amnesty International-Mexico play an active role in this effort. The project, entitled “Strategic agenda for the prevention of discrimination against refugees, migrants and foreigners in Mexico”, addresses three main points:

1. Action to highlight discrimination against these groups.
2. Action to reduce the equality gap in these groups.
3. Action to bring about structural changes that benefit and include these groups.

258. Considerable progress has been made in the application and implementation of best practices with respect to asylum procedures via the mechanisms in place for coordination between the Mexican Commission for Aid to Refugees and the National Institute for Migration in the following areas: identifying persons in need of protection; suitable treatment for vulnerable persons; unaccompanied or separated minors; and women who are victims of violence. Also, an extensive training and awareness-raising programme is conducted for the various officials, at all three levels of government, who deal with asylum-seekers. In addition, COMAR conducts public information campaigns to promote the values of non-discrimination, respect and solidarity with respect to refugees.

259. As of April 2007,<sup>36</sup> refugees can live anywhere in Mexico without having to apply for authorization from the migration authorities; they are simply required to inform them of any change of address within the time limits established by law. This reverses the reservation to the 1951 Convention, in which the State of Mexico reserved the right to assign the place or places of residence of refugees and to establish the conditions for moving within the national territory. Foreigners applying for refugee status are given a certificate by the migration authorities stating that their application is being processed. The certificate contains their biographical data, photograph, signature and digital fingerprints and can be used as proof of their migration status. The migration authorities also issue certificates to all the applicants’ dependants free of charge. In the event that refugees have no identity documents, COMAR will arrange with the relevant bodies for documents to be issued so that they are able to exercise their rights.

260. As of July 2007,<sup>37</sup> if COMAR so recommends, the National Institute for Migration may not return any foreigners to countries in respect of which UNHCR has drawn up guidelines on non-refoulement or, in line with the international instruments to which Mexico is party, who have been subjected to torture or degrading treatment.

261. In November 2007, COMAR published a circular<sup>38</sup> setting out rules on the submission, processing and follow-up of applications for refugee status and on institutional assistance for refugees. One of the principles established in the circular is that subsidiary refugee status may be awarded to the main applicant’s spouse or partner, children or blood

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<sup>36</sup> Circular CRM/006/2007 of 12 April 2007.

<sup>37</sup> Circular CRM/016/2007 of 3 July 2007.

<sup>38</sup> Joint circular COMAR-INM CRM/028/2007 of 13 November 2007.

relatives, up to the fourth degree, provided that they are financially dependent on the main applicant or on his or her spouse or partner and are present, along with the main applicant, in Mexico. Also, with regard to the principle of family reunification, the circular establishes the procedure that refugees must follow so that family members can be admitted into the country. It also states that refugees shall receive help in carrying out the relevant procedures and contains a specific clause on gender, unaccompanied minors and persons with disabilities.

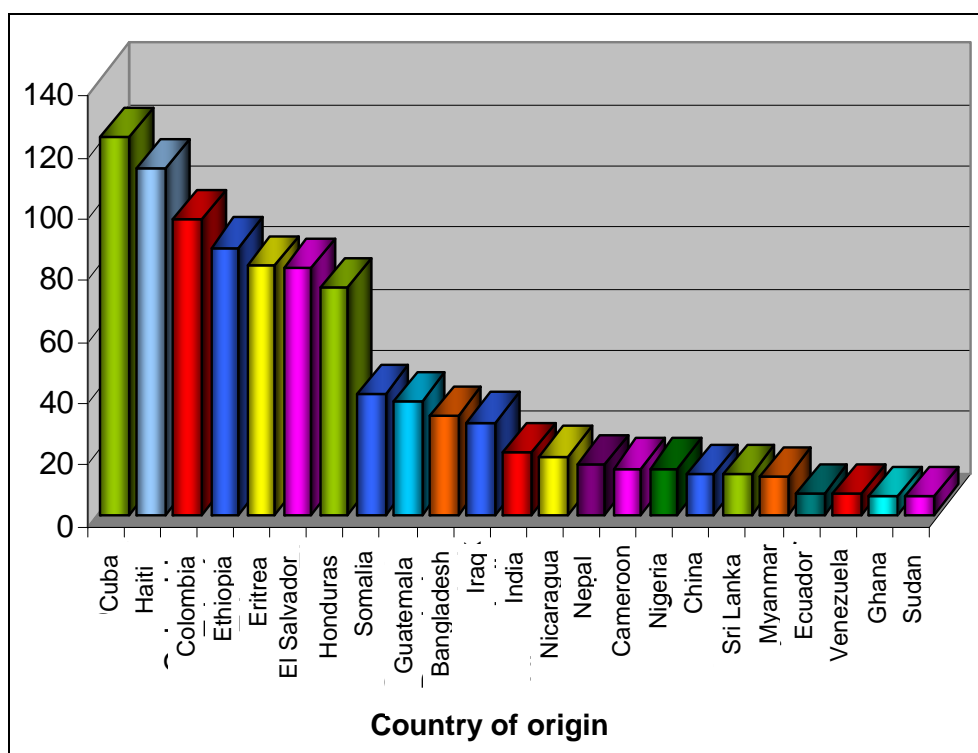
262. In May 2005, COMAR and the National Council for the Prevention of Discrimination signed a general cooperation agreement on support and assistance aimed at improving the living conditions of refugees and groups of refugees in Mexico and, in particular, enabling them to exercise their right to non-discrimination. Under this agreement, the following activities have been carried out:

- In 2008, COMAR and the National Council for the Prevention of Discrimination jointly published a pamphlet on discrimination against refugees which describes how both institutions can help refugees, free of charge, to have cases of discrimination against them formally acknowledged and redressed and have the perpetrators of discrimination, where appropriate, sanctioned by the relevant bodies. The pamphlet also contains the contact details of both institutions.
- The pamphlet explains what constitutes discrimination and describes the procedure placed at people's disposal by the National Council for the Prevention of Discrimination for lodging a complaint or claim in the event of an act of discrimination against a refugee in Mexico.

263. In June 2009 a cooperation agreement was signed by the Office of the Under-Secretary for Population, Migration and Religious Affairs of the Ministry of the Interior and the National Health and Welfare Commission to enable refugees referred by COMAR to join the People's Health Insurance Scheme, which is designed for people on low incomes who are unemployed or self-employed and therefore do not have social security coverage. Since the People's Health Insurance Scheme covers the whole of Mexico, through mechanisms operated by state governments, refugees can join the scheme regardless of where in Mexico they live.

264. This cooperative initiative will benefit approximately 1,000 recognized refugees and members of their families as of now and will cover other persons in the future as they obtain official refugee status.

## Applications for refugee status 2006–2008



## Refugees 2009

<i>Country of origin</i>	<i>Total</i>	<i>Percentage</i>
Congo	2	1.63%
Nigeria	4	3.25%
Haiti	26	21.14%
Sri Lanka	9	7.32%
India	6	4.88%
Democratic Republic of the Congo	4	3.25%
Colombia	25	20.33%
Cuba	2	1.63%
Honduras	5	4.07%
Cameroon	2	1.63%
Guatemala	6	4.88%
Peru	1	0.81%
Iraq	3	2.44%
Saudi Arabia	1	0.81%
Zimbabwe	2	1.63%
Islamic Republic of Iran	7	5.69%
El Salvador	12	9.76%
Guinea	1	0.81%
Uganda	1	0.81%



<i>Country of origin</i>	<i>Total</i>	<i>Percentage</i>
Myanmar	1	0.81%
South Africa	1	0.81%
Turkey	2	1.63%

<i>Main grounds for granting refugee status in 2009</i>	<i>Total</i>	<i>Percentage</i>
Religion	6	4.88%
Nationality	10	8.13%
Social group	24	19.51%
Political opinion	62	50.41%
Widespread violence	4	3.25%
Internal conflict	2	1.63%
Other serious disruptions of public order	5	4.07%
Circular	10	8.13%
<b>Total</b>	<b>123</b>	<b>100.00%</b>

## E. Article 6

### 1. Reform of the justice system

265. With regard to the right to full access to the courts, the Supreme Court, in its interpretation of the rights established under article 2 of the Constitution, has ruled that indigenous persons have various rights, such as the right to the services of interpreters and translators, the right to have their customs, practices and normative systems taken into account, and the right to settle certain internal disputes through their own legal systems. This interpretation includes the following considerations:

- When the defendant in a trial meets the requirements for recognition as an indigenous person, the court must look into the customs and specific features of the community to which that person belongs that may have influenced the commission of the acts for which charges have been filed and consider how the objective and subjective circumstances of the case arose and the factors upon which the guilt or innocence of the accused depends, among other elements. It is necessary to take into account, in other words, both the different applicable national laws and the relevant specific rules that may exist in the defendant's cultural community.<sup>39</sup>
- The purpose of incorporating specific provisions on the legal status of indigenous citizens into the Mexican Constitution is to grant such citizens specific recognition at the highest level; these provisions inform and influence the application of other legislation in order to facilitate the genuine exercise of indigenous citizens' rights

<sup>39</sup> Opinion, registration No. 165720, location: Ninth Term, First Chamber, Semanario Judicial de la Federación and the corresponding *Gaceta*, XXX, December 2009, p. 290, judicial opinion: 1<sup>a</sup> CCXI/2009; subject: constitutional, criminal law; "Indigenous persons. Full access to justice. In the trials and proceedings in which they are involved, the courts must take into account both the applicable national laws and the relevant cultural customs and specificities."

and the expression of their individual and collective identity, so as to gradually overcome the inequality of opportunity that has historically affected those citizens. To that end, article 2, section A (VIII), of the Constitution instructs all courts in the country to take into account the customs and cultural specificities of indigenous peoples in all trials and proceedings in which they participate, individually or collectively, in accordance with the principles of the Constitution. Thus, it is a constitutional imperative to take these factors into account; it is not something that the courts may simply choose to do, or have permission to do, if, and (moreover) only if, the accused is able to prove them irrefutably during the trial.<sup>40</sup>

- In order to guarantee full access to justice, the Mexican Constitution and International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) establish that indigenous peoples, communities and individuals have the following rights: in all trials and proceedings in which they take part, individually or collectively, the right to have their customs and cultural specificities taken into account; the right to the assistance of interpreters and to a legal defence lawyer with knowledge of their language and culture so that they understand and can make themselves understood in legal proceedings; the right to serve their sentences in the rehabilitation centres closest to their communities; when criminal sentences are served against them, the right to have their economic, social and cultural characteristics taken into account: punishment other than imprisonment shall be preferred; the right to bring proceedings, either personally or via a representative body, to ensure that their rights are respected in practice; the right to exercise the rights granted to all Mexican citizens and assume the corresponding obligations on an equal footing.<sup>41</sup>

266. In addition, the Supreme Court has interpreted the subjective scope of application of article 2 of the Constitution by stating its general understanding of the right to self-identification and indicating that comprehensive assessment of each case is required in order to establish the anthropological and sociological meaning of “indigenous”, in a legal context, in order to ensure that the rights of this population group are respected. This is made clear in the following judicial opinions:

- Under the Constitution — in line with ILO Convention No. 169 — self-awareness or self-identification is clearly considered to be a crucial factor, inasmuch as it states that awareness of indigenous identity shall be a fundamental criterion for deciding to whom the rules governing indigenous peoples apply. Thus, in the absence of specific provisions governing the way in which this awareness should be expressed, all persons who identify themselves as, and consider themselves to be, indigenous, and who exhibit the social characteristics and cultural patterns that characterize the members of an indigenous people, shall be considered to be indigenous and a subject of the rights enshrined in the amendment to the Constitution. In order to determine whether a given person identifies himself or herself as indigenous, a comprehensive assessment of each case should be made, on the basis of evidence and documents,

<sup>40</sup> Opinion, registration No. 165719, location: Ninth Term, First Chamber, *Semanario Judicial de la Federación* and the corresponding *Gaceta*, XXX, December 2009, p. 290, Opinion: 1<sup>a</sup> CCX/2009, isolated excerpt; subject: constitutional, criminal law; “Indigenous persons. Full access to justice Interpretation of article 2, section A (VIII), of the Mexican Constitution”.

<sup>41</sup> Opinion, registration No. 165978, location: Ninth Term, First Chamber, *Semanario Judicial de la Federación* and the corresponding *Gaceta*, XXX, November 2009, p. 408, Judicial opinion: 1<sup>a</sup> CXC VII/2009; subject: constitutional law; “Indigenous persons. Minimum rights in trials”.

following a human-rights-based approach, especially in criminal cases and in cases that appear *prima facie* to involve structurally disadvantaged groups.<sup>42</sup>

- The indigenous persons whose rights as such are protected under the Constitution are, for the most part, multilingual and are entitled to receive the necessary support from the State to enable them to live their lives fully in their mother tongue and to gain access to a broader political community by having a knowledge of Spanish. Defining “indigenous” on the basis of monolingual competency in an indigenous language would be incompatible with the guarantee of such constitutional rights as the right to a proper education or to the essential conditions required for integration into the labour market on an equal footing. Traditional assimilatory policies were incompatible with the Constitution, in that they sought to abolish indigenous languages, ignore people’s right to use and disseminate those languages in private and in public, and turned the use of an indigenous language into a factor of constant discrimination and subordination, as would be the case now of any policy whereby individuals who were or considered themselves to be indigenous persons were required to have no knowledge of Spanish. At an individual level, this would be tantamount to imposing on indigenous persons precisely the disadvantages that the provisions of article 2 of the Constitution seek to eliminate, while, at a collective level, it would remove all scope for application of the provisions on (non-monolingual) indigenous communities and peoples, thus rendering article 2 a mere exercise in rhetoric, with no real legal or transformative power.<sup>43</sup>

267. The constitutional reform in the area of the administration of justice was adopted in March 2008 and entered into force with the publication of the decree on constitutional reform in the area of criminal justice and public security on 18 June 2008. The reform:

(v) Aims to guarantee full respect for the right to due process of victims, aggrieved parties and defendants, along with the presumption of innocence of the latter;

(vi) Establishes that proceedings shall be public and adversarial in nature, shall incorporate the principles of concentration, continuity and immediacy, and shall be accusatory and oral;

(vii) Lays the foundations for a more effective, professional public defender’s office that will be able to ensure fairer and faster access to justice;

(viii) Establishes new measures to protect victims’ rights, including the right to receive legal advice, to assist the prosecution service and take part in proceedings, and to receive medical and psychological care where necessary, as well as strengthening compensation mechanisms and ensuring that a person’s identity and personal information will remain confidential when required for their own safety.

268. Within this framework, and with a view to increasing indigenous persons’ access to State courts and ensuring their right to the assistance of a translator or interpreter in

<sup>42</sup> Opinion, registration No. 165718, location: Ninth Term, First Chamber, *Semanario Judicial de la Federación* and the corresponding *Gaceta*, XXX, December 2009, p. 291, judicial opinion: 1<sup>a</sup> CCXII/2009; subject: constitutional law; “Indigenous persons. Subjective scope of application of article 2 of the Mexican Constitution. Self-identification”.

<sup>43</sup> Opinion, registration No. 165717, location: Ninth Term, First Chamber, *Semanario Judicial de la Federación* and the corresponding *Gaceta*, XXX, December 2009, p. 293; judicial opinion: 1<sup>a</sup> CCVIII/2009; subject: constitutional law; “Bilingual or monolingual indigenous persons. Subjective scope of application of article 2, section A (VIII), of the Mexican Constitution”.

criminal trials, the National Institute of Indigenous Languages is drawing up a national roster of translators and interpreters and has worked with judiciary and government authorities in the states of Chihuahua, Guerrero and Oaxaca to establish the corresponding institutional mechanism for use by law enforcement agencies and the courts. To that end, four qualified instructors were assigned in 2008 to provide training in translation and interpretation to speakers of various indigenous languages.<sup>44</sup>

269. The Federal Institute of the Public Defender currently has 25 bilingual federal public defenders who are experts in 20 indigenous languages and cultures. These officials come from various ethnic regions in Mexico and are not subordinate to magistrates, judges, or officials of the Federal Public Prosecutor's Office. The indigenous languages they master are: Mixtec, Chol, Tzotzil, Zoque, Tarahumara, Otomi, Nahuatl, Mexicano (Guerrero), Nahuatl (Huasteca), Wixarika (Huichol), Tarascan (Purepecha), Chinantec, Isthmus Zapotec, Valley Zapotec, Mayo, Yaqui, Chontal, Trique and Maya.

270. The Institute has concluded 59 social service cooperation agreements with public and private universities throughout Mexico with the aim of identifying law students having a knowledge of indigenous languages and cultures and encouraging them to participate in social service programmes to help train future bilingual public defenders.

271. Through the National Anthropology Coordinating Office, the National Anthropology and History Institute has introduced a degree course in advanced anthropology studies. The course is designed to train experts in the field of cultural diversity and its impact on the equitable application of the law who could then work with the Mexican justice system. To that end, various working agreements and joint activities have been developed in conjunction with the Attorney-General and the National Commission for the Development of Indigenous Peoples.

272. A number of staff members of the Federal Police Force, which is a decentralized administrative body of the Ministry of Public Security, belong to indigenous communities in Mexico. In 2009, the Directorate-General for Human Rights of the Ministry of Public Security approached the Directorate for Assessment, Accreditation and Certification of the National Institute of Indigenous Languages with a view to issuing a joint invitation to officials from the Ministry, the Federal Police Force and the decentralized Administrative Office for Crime Prevention and Social Rehabilitation to add their names to a roster of speakers of indigenous languages. The aim is to implement a workplan for training and accrediting officials from the Ministry, the Federal Police and the Administrative Office for Crime Prevention and Social Rehabilitation as indigenous-language translators and interpreters for the security and criminal justice system.

273. The Directorate for the Support of Vulnerable Victims, attached to the Office of the State Attorney General for Tabasco, was established on 11 April 2007 with the aim of affording greater protection for the rights of social groups in vulnerable situations and providing them with legal advice in coordination with the Directorate-General for Crime Prevention and Community Services.

274. The Directorate for Social Rehabilitation and the decentralized Sentence Enforcement Unit of the State of Coahuila work to ensure that indigenous suspects, defendants and convicts are not discriminated against in social rehabilitation centres and have access to parole and release arrangements.

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<sup>44</sup> For more information on this subject, see paragraphs 287 and 301.

## 2. Administrative remedies to combat discrimination

275. The Federal Act on the Prevention and Elimination of Discrimination establishes legal mechanisms to prevent and eliminate all forms of discrimination against any person by public servants or private individuals and to promote equal opportunities and treatment. The Act also establishes that any person may report alleged discriminatory behaviour and lodge claims or complaints with the National Council for the Prevention of Discrimination. The Council provides alleged victims of discrimination with advice concerning their rights and how to exercise them and, where appropriate, provides assistance in the defence of those rights before the relevant bodies in accordance with its by-laws.

276. The Central Claims and Complaints Office of the National Council for the Prevention of Discrimination had, as at 16 June 2010, dealt with 3,537 cases of alleged discrimination in Mexico; 1,581 of these cases involved private individuals while the other 1,956 involved federal civil servants. In response to these acts, administrative measures have been taken and awareness-raising courses have been held for private companies and federal bodies. Advisory and guidance services have also been provided in over 8,924 cases in this area.

277. The National Council for the Prevention of Discrimination receives, on an ongoing basis, complaints of alleged acts of discrimination of any kind and follows up on each case by seeking to bring about a reconciliation between the parties involved or, when appropriate, recommending the application of the administrative measures established by law. The Council also provides free advisory services to persons or groups who have been the victims of discrimination.

		<i>Complaints of discrimination</i>	<i>Complaints of racial discrimination</i>
2004	Complaints	83	-
	Claims	106	-
2005	Complaints	193	-
	Claims	252	1
2006	Complaints	258	-
	Claims	291	1
2007	Complaints	279	-
	Claims	327	-
2008	Complaints	250	1
	Claims	450	1
2009	Complaints	278	-
	Claims	306	-
2010	Complaints	240	1
	Claims	224	1
<b>Total</b>	<b>Complaints and claims</b>	<b>3 537</b>	<b>6</b>

**Complaints and claims classified as alleged acts of discrimination on the basis of race or ethnic origin**

2004 to 2010

	<i>Ethnic origin</i>	<i>Race</i>	<i>Total</i>
Complaints	14	2	<b>16</b>
Claims	17	4	<b>21</b>
<b>Total</b>	<b>31</b>	<b>6</b>	<b>37</b>

Source: CONAPRED.

**Follow-up to complaints of racial discrimination**

No evidence to identify the perpetrator of the discriminatory act	1
Being processed	1
<b>Total</b>	<b>2</b>

Source: CONAPRED.

Note: 2010 data available up to 16 June.

278. The National Human Rights Commission is an independent body that operates in accordance with the Paris Principles. Under the National Human Rights Commission Act and its rules of procedure, the Commission has competence throughout Mexico to receive, hear and investigate complaints of alleged violations of human rights by federal civil servants.

279. The National Human Rights Commission is authorized to receive complaints of discrimination. Between 2005 and 2009, the Commission received 332 complaints in which the alleged violation was discrimination.

280. The following complaints were received.

**Follow-up to complaints of racial discrimination**

No evidence to substantiate discrimination	2
Failure to pursue	1
Reconciliation	1
<b>Total</b>	<b>4</b>

<i>Year</i>	<i>No. of complaints</i>	<i>Complaints of discrimination</i>
2005	57	25
2006	54	27
2007	52	26
2008	127	22
2009	42	

281. From 2005 to 2009, the National Human Rights Commission issued recommendations on specific cases involving discrimination. These recommendations included the following.

<i>Year</i>	<i>Recommendation</i>
2005	17/05, 21/05, 25/05, 30/05 and 38/05
2006	30/06 and 36/06
2007	37/07, 41/07 and 56/07
2008	7/08, 10/08, 44/08, 45/08, 49/08, 52/08 and 53/08
2009	17/09, 57/09, 58/09 and 70/09

282. The National Human Rights Commission is authorized to issue general recommendations to the various Mexican authorities concerning the amendment of legislative provisions or modification of administrative practices that constitute or encourage human rights violations. These recommendations are drawn up in a way similar to the Commission's specific recommendations and are based on studies that the Office of the Inspector-General carries out for the Commission by prior agreement with the Chairperson of the National Commission. Before the recommendations are issued, they are submitted to the National Commission's advisory committee for analysis and approval. The general recommendations, which do not have to be accepted as such by the authorities to whom they are addressed, are published in the official bulletin of the National Human Rights Commission and the *Diario Oficial de la Federación*. General studies are carried out to check up on compliance with the recommendations.

283. On the basis of a complaint, the National Human Rights Commission may draw up special reports, such as the special report submitted in 2008 by the National Human Rights Commission on the case of discrimination against the teacher, Eufrosina Cruz Mendoza. In this case, the Commission observed that Ms. Cruz Mendoza's right to equality and to political participation had been violated when the municipal authorities of Santa María Quiegolani, Oaxaca, citing established practices and customs, had limited the exercise of the complainant's right to political participation by not allowing her to stand as a candidate for mayor on the ground that she was a woman.

284. In this case, the National Human Rights Commission proposed that the authorities incorporate into the state constitution an explicit prohibition of all forms of discrimination and that they submit bills to that end. The state amended its electoral legislation in this area.

285. In July 2009, the National Human Rights Commission issued recommendation No. 47/2009, in which it considered that the pretrial investigation in the cases of Alberta Alcántara, Teresa González and Jacinta Francisco had caused harm to the three indigenous Nñahu women and had violated their fundamental rights with regard to the principle of legality in criminal proceedings, legal safeguards and justice as established in articles 14, 16, 20 and 21 of the Mexican Constitution.

286. In September 2009, the Federal Public Prosecutor's Office ordered that the charge against Jacinta Francisco be dropped, since the principle of *in dubio pro reo* (when in doubt, for the accused) establishes, in essence, that, in the absence of conclusive evidence, a person shall not be charged or sentenced. As a result, Ms. Francisco was released.

287. In March 2010, the Supreme Court decided to review the cases of Alberta Alcántara and Teresa González and, on 28 April 2010, the First Chamber of the Supreme Court ordered the conviction at first instance to be overturned and the immediate, unconditional release of the two convicted indigenous women, ruling that there was insufficient evidence to establish their criminal responsibility. In this case the Supreme Court availed itself of its authority to review questions of constitutionality under article 105, subsection III, of the Constitution, thus establishing an important precedent and sending a clear message to the country's authorities that they must not tolerate unfair or discriminatory treatment of members of vulnerable groups.

288. In order to counter legislative provisions that can result in, facilitate or permit discrimination, and in exercise of the power granted by article 105, subsection II (g), of the Constitution, the Chairperson of the National Human Rights Commission brought various challenges on the grounds of unconstitutionality between 2007 and 2009 in order to uphold the right to equality and to non-discrimination.

289. The National Human Rights Commission has a number of anti-discrimination programmes in various areas, including: gender equality; protection and monitoring of the human rights of indigenous peoples; women, children and families; support for crime victims (Províctima Programme); promotion of human rights of persons living with HIV/AIDS; and support for migrants.<sup>45</sup>

290. A number of these programmes not only deal with complaints but also provide for information activities and other efforts to prevent discrimination against members of vulnerable groups.

## F. Article 7

### Measures to promote equality and non-discrimination among the general public

291. The National Human Rights Commission is responsible for promoting, studying and disseminating information about human rights in order to foster a rights-based culture in the country. The Commission has a training programme consisting of classes, workshops, seminars, lectures and degree courses, among other activities, for public servants from the three branches of government, members of the general public and staff of non-governmental organizations across the country. Many of these activities are conducted in coordination with state-level human rights commissions or offices of the attorney general, institutions of higher education or training institutes for members of the Armed Forces or staff of the justice system. The topics of discrimination and human rights and of discrimination against vulnerable groups are covered by this programme with a view to promoting respect in Mexican society for diversity and equality through human rights awareness.

292. The National Human Rights Commission publicizes special commemorative occasions, such as 21 March, International Day for the Elimination of Racial Discrimination, on its website (see <http://www.cndh.org.mx/losdh/fechre/dias/marzo/21mar.htm>).

293. The Commission also organizes competitions. In 2008, it held a story-writing contest on the theme of non-discrimination in Mexico. A total of 231 people participated (135 females and 96 males): 112 in the children's category, and 119 in the youth category.

294. The Commission also fulfils its mandate to promote and raise awareness of human rights by preparing and distributing publications. Materials dealing specifically with discrimination have included:

(a) Triptychs entitled: *¡Conoce la Ley Federal para Prevenir y Eliminar la Discriminación!* [Know the law to prevent and stop discrimination]; *Denuncia cualquier acto de violencia o discriminación que ocurra en tu centro de trabajo* [Report all violence or discrimination in your workplace]; *Mujer trabajadora conoce tus derechos* [Working woman, know your rights]; *¡La discriminación laboral está prohibida! Denúnciala* [Discrimination in the labour market is illegal! Report it!]; *Campaña Nacional para*

<sup>45</sup> For more information, see the following website: <http://www.cndh.org.mx>.



*Promover la Equidad entre Mujeres y Hombres en el Hogar* [National campaign to promote fairness between men and women in the home]. *Responsabilidades Familiares Compartidas. “Entre todos es mejor”* [Shared family responsibilities. Things work better when everyone pitches in.]; *Alto a la discriminación, siga a la integración* [Discrimination is out; integration is in].

(b) Leaflets entitled: *Discriminación hacia los pueblos indígenas* [Discrimination against indigenous peoples]; *Discriminación* [Discrimination]; *Convención Interamericana para la Eliminación de Todas las Formas de Discriminación contra las Personas con Discapacidad* [Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities]; *Protocolo Facultativo de la Convención para la Eliminación de Todas las Formas de Discriminación contra la Mujer* [Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women]; *El SIDA afecta la salud, la discriminación ofende la dignidad* [HIV/AIDS undermines a person’s health, and discrimination undermines a person’s dignity].

(c) Books entitled: *Campaña Nacional de Promoción y Difusión de los Derechos Fundamentales de las Mujeres Trabajadoras. “Algunos aspectos de la violencia de género: el caso de la mujer trabajadora”* [National campaign for the promotion and dissemination of the fundamental rights of working women. Aspects of gender-based violence: the case of working women]; and *El derecho a la no discriminación en México* [The right to non-discrimination in Mexico].

(d) Posters with the headings: *Alto a la discriminación, siga a la integración* [Discrimination is out; integration is in]; *El SIDA afecta la salud, la discriminación ofende la dignidad* [HIV/AIDS undermines a person’s health; discrimination undermines a person’s dignity]; *Ciclo de conferencias 2008: Los derechos de las niñas y los niños. El derecho a la no discriminación por motivos de edad* [2008 conference cycle: Children’s rights. The right to non-discrimination on the basis of age]; *Ciclo de conferencias 2008: Discriminación hacia las personas con discapacidad* [2008 conference cycle: Discrimination against persons with disabilities]; and *Yo tengo derecho a vivir libre de toda discriminación* [I have the right to live free from all forms of discrimination].

295. Channel 22 signed a general agreement as well as a specific one with the National Council for the Prevention of Discrimination in 2008 to establish the bases and mechanisms for the joint production and broadcasting of materials that promote tolerance, respect for differences, equality, plurality and non-discrimination among the population. The specific agreement covered the incorporation of anti-discrimination content produced by the Council in the 2008 television campaign called *México 22: Unidos en la Diversidad* [Mexico 22: united in diversity].

296. Meanwhile, Radio Educación has also been engaged in a joint production venture with the Council for the transmission of two radio programmes aimed at preventing and ending all forms of discrimination: one, which targets adult audiences, is called *Iguales pero diferentes* [Equal but different] and has been running since June 2005; the other is a children’s programme called *Todos ponen su granito de arena* [Everyone does their bit], which has been on the air since May 2006. Radio Educación also covers all kinds of cultural events, from the traditional folk music festival of Tlacotalpan, Veracruz, to the international Cervantes festival, in an effort to ensure equal access for all.

297. The problem of discrimination against migrants was addressed in the Council’s *Todos ponen su granito de arena* and *Iguales pero diferentes* radio programmes. On 6 May 2008, the subject of child migrant day workers was examined in a programme for the general public that was aired to mark International Migrants Day. Both programmes are produced by Radio Educación and transmitted over its 1060 AM channel.

298. As part of a project backed by the Ministry of the Interior and UNDP, the Ministry of Education is working with the Ministry of Health, the Ministry of Finance and Public Credit and the Office of the Attorney General to monitor images and messages promoting sexist stereotypes that encourage gender-based violence and inequality. The objectives of this initiative are to identify information and publicity campaigns that promote these kinds of stereotypes; prepare a status report on such campaigns in general; and develop tools for mainstreaming the gender perspective in the Government's own media campaigns.

299. An interactive compact disc on the right to equality between men and women has been produced, and the Act on Equality between Women and Men, as well as other texts on the right to equal treatment, have been translated into nine indigenous languages and linguistic variants.

300. On 27 June 2006, the State of Coahuila established an agency called the Directorate for the Promotion of Equality and the Prevention of Discrimination whose role is to design, plan, programme, coordinate, execute, check on and oversee action taken by state government agencies to promote and ensure equality in Coahuila and to monitor and counteract action taken by individuals that violates the principle of equality. The Directorate has the authority to offer free legal advisory services throughout the state, to mediate in conflicts arising from alleged acts of discrimination, and to encourage the formation, establishment and continuing work of civil society organizations that protect vulnerable groups. The Directorate has developed the following programmes, among others:

- The Youth of Coahuila against Discrimination Programme, through which 4,150 young people from 83 public and private high schools, technical schools and industrial training schemes in 22 municipalities receive training on equality and non-discrimination. This network fosters social responsibility, promotes respect for others and encourages people to report discriminatory acts or behaviour.
- A day long event was held to update and complete civil registry records for the Kickapoo tribe in order to regularize the civil status of the members of this ethnic group.
- In coordination with the volunteer branch of the Coahuila Scheme for the Comprehensive Development of the Family and the La Gaviota A. C. theatre group of Coahuila, professional theatre productions have been put on in order to educate people about various types of discrimination, such as homophobia, violence against women and discrimination on the grounds of ethnic origin.
- Major awareness-raising and training efforts are under way to educate all staff at companies operating in the various production sectors of Coahuila about the fundamental right to equality and non-discrimination.
- Ongoing training opportunities are offered to state and municipal government employees regarding local state and municipal laws on the right to equality and non-discrimination and on gender equality as a means of promoting and fostering a culture of respect, tolerance and equality.
- Since July 2006, efforts have been made to raise awareness about, prevent and address all discriminatory acts, deeds and behaviour stemming from prejudices and social stigmas about sexual orientation.

301. Lastly, a bill to amend the laws governing radio and television broadcasting has been submitted. The aim of the bill is to ensure the right to be free of discrimination on the part of broadcasters and to impose exemplary penalties in cases of non-compliance (see annex 10).

### **Measures to raise awareness among the general public about multilingualism and the rights of indigenous peoples**

302. The purpose of the General Act on the Linguistic Rights of Indigenous Peoples is to disseminate the indigenous languages of Mexico through the media, to promote their use and development, and to provide information in national indigenous languages about the programmes, works and services intended for indigenous communities.

303. Since its creation, the National Institute of Indigenous Languages has undertaken 15 national information campaigns which have focused primarily on the indigenous peoples living in the different regions of Mexico. The materials used in all of these campaigns have been translated into several linguistic variants. Each campaign has had specific priority objectives in the areas of health, food, census information, law-abiding conduct, labour, disaster preparedness and prevention, the rule of law and elections (including the 2009 midterm elections), among others. Campaigns targeting members of the population who do not speak indigenous languages have also been conducted to raise awareness of the linguistic wealth and diversity of Mexico and promote respect for the linguistic rights of indigenous peoples and their right to non-discrimination.

304. The following campaigns have been carried out to keep indigenous communities abreast, in their own languages, of the Federal Government's activities and the messages that it wishes to convey to the electorate.

#### *National Institute of Statistics, Geography and Information Technology (INEGI)*

##### The 2007 agricultural census campaign

Four messages were translated into 11 indigenous languages each (44 radio spots) and were broadcast over the indigenous cultural radio stations of the National Commission for the Development of Indigenous Peoples.

- Stage 1: Census counts, 1–30 July
- Stage 2: Information and motivation, 17–30 September
- Stage 3: Consolidation, 1 October–30 November
- Stage 4: Appreciation, 1–15 December

#### *Ministry of the Interior*

##### The rain, cyclone and hurricane season campaign

A radio message was translated into eight indigenous languages (October and November 2007)

##### The “September is the month for making your will” campaign

A radio message was translated into 10 indigenous languages (September 2007)

##### The “Cold time of year” campaign

A radio message was translated into 10 indigenous languages (November and December 2007)

#### *Ministry of Health*

In 2008, a message on sexual and reproductive health was translated into five linguistic variants. A reproductive health campaign was launched in 2006. Six versions of the campaign message were translated into two linguistic variants.

The messages were broadcast during official radio programmes.

305. The Federal Government has disseminated the United Nations Declaration on the Rights of Indigenous Peoples through the Network of Indigenous Culture Radio Stations of the National Commission for the Development of Indigenous Peoples and the publication of a paperback edition of the Declaration. The translations were prepared by the National Commission for the Development of Indigenous Peoples in coordination with the National Institute of Indigenous Languages, UNDP offices in Mexico, the United Nations Information Centre and UNHCR.

306. By November 2009, translations were available in the following 17 indigenous languages (variants are given in brackets): Chol; Chinantec (northern); Huastec (western); Maya; Mazahua; Mexican (of the Huastecs of Hidalgo State); Nahuatl (isthmus region); Totonac (coastal region); Tseltal; Tzotzil; Zapotec (coastal plains); Mayo; Mazatec (central region); Mixe (lowlands); Tarahumara (central region); Tlapanec (south-western); and Tojolabal.

307. The cultural and natural heritage of the indigenous peoples and communities of Mexico is one of the country's most valuable assets, and it is therefore essential to support efforts to preserve and promote expressions of indigenous cultures, such as traditional music and dance, handicrafts, stories and storytelling, to further their literary, artistic and journalistic development, and to preserve their living tangible and intangible cultural heritage, along with traditional knowledge about the applications of biological diversity. The Commission's Programme to Promote and Develop Indigenous Cultures was specifically created for this purpose.

308. The National Campaign for the Cultural Diversity of Mexico, which brings together nine Federal Government institutions, two agencies of the government of the Federal District and the Mexican office of the United Nations Educational, Scientific and Cultural Organization (UNESCO), aims to reduce discrimination and social inequality in Mexico by recognizing and valuing cultural diversity as a means of promoting understanding and encouraging action to break down inter-ethnic barriers. The campaign seeks to foster conditions under which all Mexicans can enjoy, in a dignified manner and regardless of social origin or status, the wide array of cultural expressions found in the country. Another of its aims is to encourage all creators, promoters and producers of cultural works to take part on an equal footing in all the activities organized under the campaign in recognition of the artistic and creative skills of the different peoples, communities, groups and individuals that make up Mexican society.

309. The National Institute of Indigenous Languages has supported and published various works that foster respect and appreciation for Mexico's linguistic and cultural diversity with a view to revitalizing, promoting and developing national indigenous languages. Some 15 publications have been produced on topics such as literature, linguistics and education, as well as promotional materials in different languages. These publications have also been translated into such languages as: Ch'ol, Huave, Maya, Mixtec, Nahuatl, Tojolabal, Tseltal, Tsotsil, Zapotec, and Zoque.

310. In order to disseminate and promote indigenous languages and to raise awareness of their importance among both speakers and non-speakers of those languages, 14 recitals of verbal arts have been organized since 2008 through which the Institute has spread the rich oral traditions of the country's indigenous peoples. Efforts have been made to have at least one or two bilingual speakers from each linguistic family participate in each event.

311. The Ministry of Education's Coordinating Office for Intercultural Bilingual Education (CGEIB) has produced audio-visual cultural and educational material designed to sensitize the general population to the multicultural and multilingual nature of Mexico and to showcase the richness and variety of the contributions that indigenous peoples make to national diversity. The material includes:

- The *México multicultural* (multicultural Mexico) series. These television and radio programmes tell the life stories and talk about the achievements and difficulties of different peoples and cultures in Mexico, covering topical issues such as organization, health, education, language, migration and ecology.
- The *Pueblos de México* (peoples of Mexico) series. These radio programmes broadcast basic information and eyewitness accounts concerning the past and present of indigenous peoples and cultures in the country.
- The *Escuchemos todas nuestras voces* (Let us all hear our voices) series. These television programmes present eyewitness reports that deliver various messages from indigenous communities in their own languages to society in general.
- The *Nuestra riqueza es la diversidad* (Our wealth is diversity) series. These radio and television programmes present information on the valuable contributions that the various indigenous peoples make to the nation in different areas.
- The *Ventana a mi comunidad* (Window on my community) project produces materials for teaching intercultural studies in the basic education cycle. Each video examines the life of a different indigenous community.

312. All the material is broadcast over open educational and cultural radio and television channels, as well as through educational websites.

### **Education and teaching**

313. The Ministry of Education pursues a progressive, inclusive, equitable public and rights-based education policy which reflects a commitment to the dignity of indigenous peoples, to non-discrimination and to the guiding principles of democratic societies. This policy is implemented through the following:

- An education policy designed specifically to promote and protect indigenous rights
- The construction of places of learning and the provision of teaching tools that ensure access and coverage for students with differentiated educational needs
- An open and flexible institutional model whose design reflects the existence of a multicultural and diverse population
- Professionals trained to support diversity through the application of multicultural, intercultural and pluri-linguistic theories and practice
- A flexible curriculum that can be adapted to diverse groups and students

314. The Directorate-General for Indigenous Education (DGEI) of the Ministry of Education seeks to ensure that indigenous, migrant and special needs children and young people, as well as their communities, receive the recognition they deserve.

315. The National Institute of Adult Education gives courses on citizenship, peace and respect for the human rights of all persons in all fields of human relations (the family, the workplace, the community and the country), as well as courses on the practical application of values to promote democracy, respect and appreciation for the cultural diversity of Mexico with a view to furthering intercultural relations and putting an end to discrimination. The Institute gives courses to approximately 1.5 million people per year;

some 200,000 of these people have attended at least one of the human rights modules since 2005.<sup>46</sup>

### **Training for civil servants**

316. In 2009, the Directorate-General for Human Rights of the Ministry of Public Security submitted materials, in preliminary form, to the National Institute of Indigenous Languages for use in a workshop on the implementation of indigenous peoples' rights in the context of public security for officials of the Ministry and its agencies as a means of enhancing the promotion and protection of indigenous peoples' rights in a law enforcement context. The proposed content was as follows:

- (a) Mexico as a multicultural society;
- (b) The status of the fundamental rights of indigenous peoples in Mexico;
- (c) The fundamental rights of indigenous peoples and the Mexican legal system:
  - Autonomy and the free determination of peoples
  - Access to justice
  - Social rights and community development
  - Prevention of discrimination
- (d) The administration of justice: customs and practices among the indigenous peoples of Mexico;
- (e) Police action with regard to members of indigenous peoples who have been victims of crime or abuses of power. Analysis of case studies concerning the services provided to such victims and the abuse of power.

317. Officials of the Ministry of Public Security also receive training through the national programme for the promotion of human rights run by the National Human Rights Commission and the workshop on human rights and humanitarian principles in policing given by the International Committee of the Red Cross. The topics covered include: (1) principles involved in the use of force and firearms; (2) public order, arrests and detention; (3) help for crime victims; (4) prevention of torture and the implementation of the Istanbul Protocol; (5) international human rights law; (6) human rights principles applicable to all persons subject to any form of detention or imprisonment; (7) the human rights of migrants; and (8) the principle of equality and non-discrimination and its application to vulnerable sectors of the population.

318. From December 2006 to December 2008, 1,277 courses and workshops were held for staff of the Ministry of Public Security and its agencies (the Federal Police Force, the Executive Secretariat of the National System for Public Security, Crime Prevention and Social Rehabilitation). In all, 407 public servants received training in December 2006, 10,056 in 2007 and 45,169 in 2008. From January to May 2009, 56 courses and workshops were attended by 8,924 public servants.

319. The Ministry of Public Security also gave a trainer training course in order to prepare members of the Federal Police Force who perform inspection and guard duties at major airports to support the work of the National Institute for Migration. The objective is

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<sup>46</sup> Figures obtained from the SASA online database of financial and progress reports of the National Institute of Adult Education and the Directorate of Planning, Administration, Evaluation and Dissemination.

to ensure that officers are sufficiently knowledgeable about migration issues to carry out their duties in full compliance with the law and respect for human rights. Some 120 police officers took the course in 2006, 75 in 2007 and 117 in 2008.

320. The Ministry of Public Security promotes the human rights of vulnerable groups, such as children and youth, older adults, persons with disabilities, the infirm and any other group whose human rights are at greater risk of being violated. The corresponding programme is targeted at over 150 municipal police corps.

321. In a videoconference transmitted to all the personnel of the Ministry of Public Security and its decentralized agencies on 18 June 2010, the Ministry's Crime Prevention and Citizens' Participation Unit and the National Institute of Indigenous Languages announced that all staff who spoke indigenous languages would be invited to record their names in a registry to be created for that purpose. The idea is to compile sufficient information on the language skills of Ministry employees so that, depending on their aptitudes, they can be trained to work either as translators and interpreters of indigenous languages in the criminal justice system or as intercultural liaison officers for the public security forces.

322. The Ministry of Defence provides training in human rights and international humanitarian law to members of the Mexican army and air force so that they will know how to uphold the relevant legal standards in the performance of their duties. The following programmes have been implemented:

- The Ministry of Defence Programme to Promote and Strengthen Human Rights and International Humanitarian Law, which aims to ensure that the Armed Forces will display respect for human rights in the fight against organized crime. Another objective of the programme is to draft, establish and strengthen directives on the legitimate use of force in full accordance with human rights and the basic principles of the use of force and firearms.
- The 2008–2012 Human Rights Programme of the Ministry of Defence, which includes the following objectives:
  - Incorporate the promotion and protection of human rights, respect for the principle of non-discrimination, and an approach focusing on equality, equity and the gender perspective into the Ministry's plans and programmes
  - Implement and strengthen legal and administrative mechanisms to promote and protect the human rights of military personnel
  - Consolidate and spread a culture in which human rights, the principles of equality and equity and a gender-based perspective are upheld and defended
  - Further the efforts undertaken by the State of Mexico to fulfil the international commitments it has assumed under the human rights instruments and treaties to which it is party
- The Gender-Perspective Awareness and Training Programme for military personnel, which was developed to foster and promote equal opportunities between men and women and raise awareness of gender issues

323. In order to ensure that all navy personnel act within the bounds of respect for human rights, the Ministry of the Navy provides ongoing training on human rights, including non-discrimination. Navy regulations state that navy personnel must display dignified behaviour and respect for human rights in all dealings with the civilian population. The regulations also prohibit discrimination on the grounds of race, gender, religion, beliefs or any other personal or social status.

324. In 2009, the Office of the Attorney General trained 504 public servants, and a further 21 in January 2010. Three of these staff members attended the Seminar on Discrimination and the Rights of Persons with Disabilities given by the Office of the Assistant Attorney General for Human Rights, Victim Care and Community Services. This seminar and other events on the subject are coordinated by the Directorate-General for the Promotion of a Human Rights Culture, the Processing of Complaints and Inspections.

325. The Special Indigenous Affairs Unit of the Office of the Attorney General has organized seminars and training workshops with the support of the National Human Rights Commission, the National Institute of Indigenous Languages and the National Council for the Prevention of Discrimination, among other institutions and organizations involved in the protection of indigenous peoples' rights, to raise public servants' awareness of those rights and prevent discrimination.

326. In 2009, the Institute of Social Security and Services for State Employees took a number of measures to combat prejudice and discrimination, promote understanding and tolerance of different social groups and foster a climate of respect for human rights. These actions included:

- A permanent human rights and anti-discrimination campaign, which includes various awareness-raising activities for staff of the Institute of Social Security and Services for State Employees aimed at creating a culture of respect and protection for the rights of persons with mental, physical and sensorial (motor, visual and auditory) disabilities, persons with HIV/AIDS and persons with different sexual preferences and orientations, among other groups. As part of the campaign, all the medical and administrative units of the Institute received videos and posters on non-discrimination prepared under the supervision of the National Council for the Prevention of Discrimination. Anti-discrimination workshops were also offered to the operational staff of the medical units, and awareness-raising and sensitization forums were organized for the senior management of both medical and administrative units.
- A comprehensive 160-hour degree course in human rights, non-discrimination and social participation offered to the operations staff and managers of the medical and the administrative units. The goal of the course was to train, encourage and raise awareness of the need for the vigorous defence of human rights so as to foster a vision of human dignity that will enhance the value of the Institute's services, as well as an institutional culture grounded in fairness, non-discrimination and preferential treatment for the vulnerable. In 2009, 39 employees successfully completed the degree course in human rights, non-discrimination and social participation.
- Students in the degree course on human rights, non-discrimination and social participation were responsible for giving workshops on human rights and non-discrimination in the Institute's various medical and administrative units. A total of 20 such workshops were given.
- Workshops on patients' rights and responsibilities were offered to employees of government agencies and representatives of the trade unions whose members are covered by the Institute.

327. In 2009, almost 25 per cent of the educational support staff who work with young persons and adults attended one or more of the training workshops on citizenship offered by the National Institute of Adult Education.



## Research

328. Since the end of 2007, the National Commission for the Development of Indigenous Peoples has been working on preparations for the Consultation on Mechanisms to Protect the Rights of Indigenous Peoples in respect of their Traditional Knowledge, Forms of Cultural Expression and Natural, Biological and Genetic Resources.

329. The National Council for Culture and the Arts, through the National Institute of Anthropology and History, carries out research projects to foster an understanding of ethnic groups. This research has led to several publications, including:

- *Atlas etnográfico*. Ethnographic atlases covering the State of Oaxaca, the State of Chiapas and Mexico City have been published with the support of local or state governments and the Fondo de Cultura Económica. These publications provide clear, reliable information on the situation of indigenous communities in those states.
- *Colección Africanías*. This compendium of academic works on Mexicans of African descent, a group that has not been extensively studied and is the victim of subtle forms of discrimination, is being promoted by the Seminar on Communities of African Origin in Mexico.
- *Visiones de la Diversidad*. Published in 2005 as part of a series of thematic essays presented in the collection published by the Ethnographic Project on the Indigenous Regions of Mexico in the New Millennium, this work analyses the relations between indigenous groups and the hidden and usually unintentional discrimination to be found in State social programmes for the indigenous population.

330. One of the lines of research under the Ethnographic Project on the Indigenous Regions of Mexico in the New Millennium, which is run by the National Institute of Anthropology and History, focuses on the xenophobia and racism found in identity-based and inter-ethnic relations.

- At the request of the National Commission for the Development of Indigenous Peoples, a project on the cultural relevance of public action from the viewpoint of seven ethno-linguistic groups was conducted in 2008. Another seven groups will be analysed in 2009. The project aims to determine how well public policies are geared to the cultural characteristics of indigenous groups.
- A research project on causes of poverty involving the structural analysis of Chocholec storytelling is designed to explore the subtle and little understood ways in which a community that is discriminated against comes to believe that its socially and economically disadvantaged status is somehow part of the natural order.

### III. Follow-up to the recommendations of the Committee on the Elimination of Racial Discrimination<sup>47</sup>

**The Committee recommends that the State party should provide information on communities of African descent, which are numerically small and vulnerable and should enjoy all the guarantees of protection laid down in the Convention.**

<sup>47</sup> CERD/MEX/CO/15 of 4 April 2006.

331. A question on membership in the community of Mexicans of African descent was included in the trials of the 2010 national census questionnaires in an effort to identify this population group.

332. On the basis of the results of those trials, INEGI is trying to determine the best way to identify this population group.

333. One of the main difficulties that INEGI has encountered is that the members of this small group of persons (less than 0.45 per cent of the population according to institutions specializing in the subject) are scattered in towns of varying sizes in different federal entities and are generally a minority in the areas in which they live.

**The Committee recommends that the State party put into practice the principles set out in the constitutional reform in relation to indigenous matters in close cooperation with the indigenous peoples.**

334. As mentioned in paragraphs 44 to 46 of this report, based on the constitutional reform of 14 August 2001, several federal entities have adopted specific laws on the rights of indigenous peoples and communities.

335. The congressional indigenous affairs committees of the Senate and the Chamber of Deputies, in collaboration with the National Commission for the Development of Indigenous Peoples, are currently working on a bill concerning the consultation of indigenous peoples and communities. Nationwide consultations will be held with indigenous peoples concerning this legislation in order to ensure their involvement in its formulation. Both legislative chambers and the National Commission will take part in this process. The Act is intended to permit real progress to be made in ensuring the effective exercise of the right of indigenous peoples to be consulted and reflects the importance that the legislature and the executive attach to that right.

336. The National Commission for the Development of Indigenous Peoples has defined and pursued lines of research in different areas of public policymaking with a view to documenting the problems facing indigenous peoples today. These lines of research centre around social and human development, the implementation of rights, cultural development and economic development. The research falls within the Commission's original mandate, which was approved in accordance with the constitutional reform of 2001. The focus is on gathering information that can serve as inputs for legislative proposals to strengthen the recognition of indigenous peoples' rights and as supporting evidence for advocacy of those proposals at the different levels of government.

337. The specific topics of research have been:

1. The people who have been internally displaced by violence in the indigenous areas of the state of Chiapas (2004). In view of the fact that displacement disrupts the reproduction of identity patterns, the objective of this research was to analyse the living conditions of these displaced persons and identify possible solutions for problems regarding the preservation and continuity of their institutions and culture.

2. The internal legal systems of the indigenous communities of the state of Querétaro (2004). Given the need to record and classify the legal systems of indigenous peoples, a case study was conducted on the institutions associated with the internal structure of Otomi indigenous communities which interact with the national justice system. The results of the research, which was undertaken in the context of the recognition of indigenous legal and authority systems, were published under the title *Sistemas normativos en comunidades indígenas del Estado de Querétaro*.

3. The practices, customs, rules and systems that the conciliation judges of the indigenous communities of the state of Campeche apply when settling a dispute that falls within their jurisdiction (2004). The aim of this study was to analyse the status of internal legal systems in terms of their application and recognition. The State's adoption of measures that provide for the appointment of conciliation judges was used as a frame of reference for this study with a view to gathering input for the design and implementation of public pro-multiculturalism policies.

4. Internal legal systems of the Cora, Huichol, Tepehuan and Mexicanero indigenous communities (2006). The aim of this research project was to catalogue the diverse range of justice systems in use at the time that proposed reforms to the laws on indigenous peoples' rights in the state of Durango were being drafted. The findings show that these peoples' social structures are closely linked to their ceremonial structures. This has been a source of conflict in cases where Mexican law has been invoked because the legal validity of some practices of indigenous justice systems has been a point of controversy.

5. The conditions and difficulties of using and developing the sacred sites of the Huichol (2006). This line of research involved analysing the protection and conservation of the sacred sites of the Huichol people and the importance of those sites in the perpetuation of social organization and identity. This project was prompted by incidents involving the illegal removal of peyote and offerings from the Huichol sacred sites, which the communities themselves had complained about. These communities had also called for legal authorization to use peyote on the grounds that it is a key element in their rituals. The project data were used as input for consultations concerning the steps that the Huichol intended to take to save and protect their sacred sites and rituals and any proposals that they had on the matter.

6. The legal systems of the indigenous peoples of the Sierra Tarahumara: case studies of the Rarámuri and the Ódami peoples (2007). The goal was to record information on the legal systems of these peoples prior to the passage of amendments to the legislation on the recognition of indigenous peoples' rights. Case studies covering the southern, central and northern parts of the Sierra Tarahumara were conducted.

7. The legal systems of the indigenous peoples of the Sierra Norte of Puebla and Totonacapan. Case studies were conducted of the indigenous courts of Cuetzalan and Huehuetla (2007). To reflect new policies on the recognition of indigenous peoples' rights, such as those regarding respect for their practices and institutions as a whole, several state legislatures have reformed their local constitutions and introduced new institutional arrangements. The creation of indigenous courts by the judiciary of the State of Puebla in 2002 was an outcome of the reform of article 2 of the Mexican Constitution in 2001 and the reorganization and decentralization of the judiciary. The reform, which established a new relationship between the State of Mexico and the indigenous peoples of the country, has led state governments to recognize certain specific indigenous rights. The research aimed to analyse the workings of the indigenous courts in the Sierra Norte area of Puebla State and in Totonacapan and their impact on the reproduction of the legal systems of the Nahuatl and Totonac peoples.

The results were presented to magistrates of the High Court of Justice of the State of Puebla. Indigenous judges were directly involved in the process so that they could provide first-hand accounts of the problems being encountered in the establishment of indigenous courts while awaiting the implementation of measures to resolve these difficulties.

8. Advisory services regarding the compilation of documentary sources for the recognition of the cultural heritage of indigenous peoples (2007). This project aimed to design a method for registering components of the cultural heritage of indigenous peoples. Inputs for inter-agency discussions on the subject were also generated.

338. The National Commission for the Development of Indigenous Peoples has held several consultations on specific topics related to the assets, work, cultures and environment of the indigenous peoples of Mexico with a view to taking their freely stated wishes on those topics into account. In 2003, formal hearings were held for the purpose of consulting indigenous peoples about their development processes and aspirations. The results were published in 2004.

339. The Consultative Council of the National Commission for the Development of Indigenous Peoples, which was an outcome of that consultation process, has, through its working group on the participation and representation of indigenous peoples, designed a consultation system that has become the principal instrument for monitoring and assessing the freely stated and informed wishes and aspirations of indigenous peoples as regards development issues (annex 11).

340. The Consultative Council held 14 regular meetings between 2004 and 2008. The outputs of those meetings, which took the form of the Council's proposals and recommendations to the Board of Governors of the Commission, are set forth in the records of the Consultative Council (annex 12) and the final report on the consultation of indigenous peoples on their forms of development and their development aspirations (annex 13).

**In light of the contents of general comment 31, section B, paragraph 5 (e), the Committee recommends that the State party guarantee the right of indigenous peoples, throughout legal proceedings, to interpreters and defence lawyers who know the languages, culture and customs of indigenous peoples.**

341. In addition to the measures mentioned in paragraphs 210 to 217 of this report, the right to full access to the Mexican legal system, which is guaranteed by the Constitution, means that indigenous persons and peoples have the individual and collective right to have the courts administer justice in a way that fully respects their cultural differences. This means that the following measures must be taken to protect the rights of indigenous persons in all trials and proceedings:

- They are to be assisted by interpreters and defence lawyers who know their language and culture so that they can understand and make themselves understood in legal proceedings
- They are to serve their sentences in the rehabilitation centre closest to their communities
- When criminal penalties are to be imposed, their economic, social and cultural characteristics are to be taken into account
- Preference is to be given to penalties other than imprisonment
- Cultural and anthropological expert appraisals are to be employed to ensure a fuller understanding of cultural differences

342. The Federal Code of Civil Procedure, the Federal Code of Criminal Procedure and some local procedural codes contain and are consistent with these provisions.

343. In the federal criminal court system, the Special Indigenous Affairs Unit of the Office of the Attorney General of the Republic works with the agencies of the Federal

Public Prosecutor's Office whenever a person who describes himself or herself as indigenous is detained in order to ensure that indigenous rights are respected.

*The translator and interpreter training project*

344. In 2007, the National Institute of Indigenous Languages worked with academic institutions to develop and implement a scheme for accreditation and certification in indigenous languages. Under this scheme, degree courses to train professional translators and interpreters of indigenous languages have been set up in several states, including Guerrero, Oaxaca and Chihuahua.

345. In order to ensure access to the justice system for members of indigenous peoples and communities, 80 indigenous lawyers received trained under a programme to modernize the pursuit and administration of justice in Mexico that is being conducted in cooperation with the European Union.

346. On 9 June 2009, the Technical Standard for Competency in the Oral Interpretation of Indigenous Languages into and out of Spanish in the Field of Justice was published in the *Diario Oficial de la Federación*. The standard describes the knowledge, abilities, skills and aptitudes required to perform the job well.

347. The Association for the Standardization of Indigenous-Language Translation and Interpretation has been established. This body comprises officials from the National Council for the Standardization and Certification of Occupational Skills, the Federal Institute of the Public Defender, the Council of the Federal Judiciary, the Organization of Translators and Interpreters of Indigenous Languages, the Foreign Language Training Centre of the National Autonomous University of Mexico, the Indigenous Affairs Unit of the Ministry of Foreign Affairs, the Directorate-General for Human Rights of the Ministry of Public Security, the National Commission for the Development of Indigenous Peoples and the government of Chihuahua State.

*Degree courses to train interpreters of indigenous languages*

348. In coordination with the National Institute of Indigenous Languages and state governments, the National Commission for the Development of Indigenous Peoples holds degree courses to train indigenous-language interpreters to work in the criminal justice system; this is a means of helping to uphold and ensure respect for the right of indigenous peoples to have access to the national justice system.

349. Since 2005, six degree courses have been held. The basic details are presented in the table shown below.

<i>No.</i>	<i>State in which held</i>	<i>Accredited students</i>	<i>Mother tongue of student (variants in brackets)</i>	<i>Status</i>
1	Chihuahua	10	Tarahumara (central) Pima (southern) Tepehuan (northern)	Completed
2	Guerrero	24	Mexican (Guerrero) Mixtec (Atlamajalcingo) Tlapanec (south-western) Amuzgo (northern) Mixtec (Tlalixtaquilla) Tlapanec (lower central) Mixtec (San Luis Acatlán) Mixtec (mid-eastern Guerrero) Mixtec (Cochoapa)	Completed

<i>No.</i>	<i>State in which held</i>	<i>Accredited students</i>	<i>Mother tongue of student (variants in brackets)</i>	<i>Status</i>
			Mixtec (Tlacoachistlahuaca)	
3	Oaxaca (Isthmus region)	27	Zapotec (coastal plain) Mixe (lowland) Huave (western) Zapotec (lower Isthmus mountain) Zapotec (Petapa) Mixe (mid-eastern)	Completed
4	Oaxaca (Mixteca region)	31	Triqui (highland) Mixtec (central south-western) Mixtec (lower northern) Mixtec (central-western) Triqui (San Juan Copala) Mixtec (south-western) Mixtec (central) Mixtec (lower central coast of Oaxaca) Mixtec (Puebla-Oaxaca border) Mixtec (higher western) Triqui (lowland) Triqui (middle) Mixtec (lower southern) Mixtec (north-eastern highlands) Mixtec (mid-southern) Chocholtec (southern) Mixtec (San Mateo Peñasco)	Completed
5	Veracruz	37	Náhuatl Tepehuan Otomi Totonaco (coastal) Totonaco (highland) Huasteco	Completed
6	Yucatán	35	Maya	Completed
<b>Total</b>		<b>164</b>	<b>43 variants</b>	

*Advisory services for translators*

350. The National Institute of Indigenous Languages has established ties with law enforcement and justice agencies in order to provide support and guidance for the training of interpreters and defence lawyers who are familiar with national indigenous cultures and languages.

351. From 2006 to July 2008, requests for translators from such bodies as state district and criminal courts, civil courts, public prosecutor's offices and the agrarian courts have been met.

352. Sentences in some appeals proceedings have been overturned and retrials ordered owing to the failure to provide an interpreter. For example, the National Institute of Indigenous Languages provided an interpreter in criminal proceedings involving a failure to uphold the individual guarantee set forth in article 2, section A (VIII), of the Mexican

Constitution and in international instruments. This case involved an Otomí man's right to be assisted by a translator of the variant of the Otomi language used by the El Hongo community in San Bartolo Tutotepec, State of Hidalgo. The man had been sentenced to imprisonment and ordered to pay a fine by the judge of the Seventh District Criminal Court of the Federal District.

353. Moreover, article 2 of the Mexican Constitution recognizes the right of indigenous peoples and communities to self-determination and their autonomy as regards the implementation of their own legal system for settling internal disputes, provided that the general principles of the Constitution are upheld and individual guarantees, human rights and the dignity and integrity of women are respected.

354. In line with the principle of respect for the dispute settlement methods traditionally used by indigenous peoples and communities, the High Court of Justice has established special indigenous courts which operate according to internal laws and regulations and use the indigenous language of the communities in question. The judges of such courts are appointed by the indigenous community's assembly in much the same way that traditional authorities are elected. The following indigenous courts are now in operation.

### **Campeche**

#### *Indigenous conciliation courts*

- These courts have the power to arrange conciliation proceedings to settle civil or domestic disputes whose import or nature do not require the intervention of a judge of first instance or a judge of a lower court
- They can also hear cases involving criminal offences in which a complaint has been lodged and for which the penalties do not exceed those of a warning, an admonition, security for good behaviour or a fine

### **Chiapas**

#### *Indigenous peace and conciliation courts*

- These courts have jurisdiction over matters and disputes in which both parties are indigenous persons
- Their status is below that of courts of first instance but above that of municipal courts
- They have jurisdiction over both civil and criminal matters

### **Hidalgo**

By means of a decision dated 12 January 2006 (published in the *Periódico Oficial del Estado de Hidalgo* on 23 January 2006), the High Court of Justice of the State of Hidalgo, sitting in plenary session, established the State Centre for Alternative Justice. The following bodies report to the Centre: indigenous courts presided over either by a single judge or a panel of judges and specialized and other judicial bureaus headed by indigenous officials with authority to settle disputes. These alternative dispute settlement mechanisms are not subject to formalities, function on the basis of the practices and customs of their host communities and hear matters that do not involve irrevocable or inalienable rights or acts that constitute an affront to a person's dignity or a threat to the public order.

**Jalisco**

The Act on the Rights and Development of Indigenous Peoples and Communities in the State of Jalisco establishes that one of the functions of the Indigenous Commission is to act as a mediation centre within the scope of the Alternative Justice Act. This makes it possible for indigenous peoples and members of indigenous communities to resolve disputes through a conciliatory procedure.

The aforementioned law recognizes the jurisdiction of traditional authorities (traditional judges) over certain types of issues and disputes that arise between members of the community provided that the parties agree to submit the matter to them.

**Puebla**

In Puebla, the judicial branch of the state government comprises:

- (i) The High Court of Justice;
- (ii) The Administrative Board of the State Judiciary;
- (iii) Civil, family and criminal courts;
- (iv) Municipal courts;
- (v) Magistrates' courts;
- (vi) Supernumerary judges;
- (vii) Indigenous courts.<sup>48</sup>

Indigenous courts are set up in regions with a majority indigenous population in order to ensure the proper administration of justice.

In 2002, a decree was issued which provided for the establishment of an indigenous court in the municipality of Cuetzalán. The decree refers to the establishment of juvenile civil courts and juvenile social protection courts, as well as magistrates' courts that hear cases involving persons from indigenous groups. These persons may make use of the mediation mechanisms provided for in the State Code of Civil Procedure and may follow indigenous practices and customs so long as they are in keeping with the Constitution of the United Mexican States.

**Quintana Roo**

Quintana Roo has an indigenous justice system:

- Traditional judges have the authority to hear and decide on civil, family and criminal disputes.
- The Indigenous Justice Act grants Mayan communities in Quintana Roo the right to resolve private legal disputes in accordance with their practices, customs and traditions. Accordingly, an indigenous justice system was established under which indigenous representatives participate in the Council of the Judiciary on Indigenous Justice.
- The State High Court of Justice includes the Judge for Indigenous Affairs, whose job is to promote the use of oral proceedings that dispense with excessive formalities

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<sup>48</sup> In the State of Puebla, there are currently five indigenous courts. They are located in the municipalities of Cuetzalán, Huehuetla, Pahuatlán, Tlacotepec de Juárez and Quimixtlán.



and red tape in order to provide rapid responses to indigenous communities, rural populations and the poor.

- The Judge for Indigenous Affairs and traditional judges are respected members of the community.
- The law provides for oral proceedings in which the parties are authorized to dispense with formalities.<sup>49</sup>
- The High Court of Justice, on advice from the Council of the Judiciary on Indigenous Justice, decides which communities will be assigned a traditional judge.

### **San Luis Potosí**

- The indigenous justice system is recognized as the system through which legal disputes between members of indigenous communities or between such persons and non-indigenous parties are to be resolved. Each community is authorized to determine its own judicial procedures in accordance with its internal legal system.
- Assistant judges are assigned in accordance with each community's rules on the subject. The corresponding assembly must notify the High Court of Justice and the Council of the Judiciary on Indigenous Justice of such appointments.
- Assistant judges have jurisdiction over their community or locality.
- Juvenile court judges preside over conciliation proceedings within their jurisdictions regarding disputes that arise between persons from their communities and act to safeguard the individual guarantees enjoyed under civil, family and criminal law in accordance with the Constitution.

355. In October 2006, the National Commission for the Development of Indigenous Peoples held a meeting for indigenous judges from various states in order to analyse the judicial institutions, procedures and authorities that form part of their communities' internal legal systems and the link between them and the judicial branch at the state government level. The meeting addressed the following issues: sharing experiences of institutions and authorities in charge of dispute settlement systems in their communities; procedures and methods used to implement their legal systems; forms of punishment; and links with the local judiciary and its impact on the communities.

**The Committee reminds the State party of article 5 (c) of the Convention, and recommends that it guarantee in practice the right of the indigenous peoples to participate in government and in the management of public affairs at every level.**

356. Information on this subject is provided in the section on article 5 under the heading "Political rights".

**The Committee reminds the State party of its general recommendation 23 on the rights of indigenous peoples, in particular paragraph 5, which calls on States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their lands and territories. The Committee also recommends that the State party should ensure the effective implementation of the programme for dealing with hot spots, which is designed to settle conflicts caused mainly by disputes over land ownership. The Committee requests the State party to supply information in its next periodic report on progress made in this area.**

<sup>49</sup> [http://www.tsjqroo.gob.mx/index.php?option=com\\_content&vie=article&id=20&Itemid=98](http://www.tsjqroo.gob.mx/index.php?option=com_content&vie=article&id=20&Itemid=98).

357. Current agrarian legislation, introduced in 1992, establishes the legal basis for a new agrarian justice system.

358. In accordance with article 2 of the Constitution, indigenous peoples and communities have the right to conserve and improve their habitat, preserve the identity of their lands and enjoy the preferential use of natural resources in the locations where these communities are settled and live in accordance with the forms and modalities of property and land ownership established in the Constitution of the United Mexican States, the laws on these matters and the rights acquired by third parties or by members of the community, without prejudice to the strategic areas that are reserved for the Nation.<sup>50</sup>

359. This provision should be interpreted in conjunction with article 27 of the Constitution, which refers to the legal regime that regulates land ownership in Mexico. Article 27 establishes that ownership of the lands and waters that are found within the boundaries of the national territory are vested originally in the nation. Using this as a basis, land ownership is categorized as public, private and social.<sup>51</sup>

360. Autonomous agrarian courts have been established to resolve indigenous peoples' land claims. The Office of the Attorney General for Agrarian Affairs has also been established to protect ejido rights and those of the communities and their members. There are currently 49 agrarian courts throughout the country.

361. The commitment to safeguard the rights of indigenous communities is reflected in the response to their requests and petitions and in the assistance provided in regularizing land titles and resolving agrarian disputes in accordance with the procedures provided for in current legislation.

362. There are two main methods for addressing agrarian disputes: conciliation and litigation. The conciliatory approach is the preferred method for resolving disputes, since it is based on the goodwill of the parties and the applicable legislation. Litigation in the agrarian courts is governed by title 10 of the Agrarian Act, which sets out the implementing regulations for article 27 of the Constitution. Article 164, paragraph 2, of the Agrarian Act establishes that, in agrarian proceedings that involve lands belonging to indigenous groups, the agrarian courts must take into account those groups' customs and practices and that, where necessary, the court must ensure that indigenous persons have access to translators.

### **Management and regularization of rural property**

363. In order to regularize land titles, the Mexican Government has implemented two main programmes: the first is aimed at resolving pending land claims, while the objective of the second programme is to certify land rights under the two collective land ownership regimes (the ejido and communal land systems).

364. On 21 August 1997, a report was published in the *Diario Oficial de la Federación* on the completion of the programme for the settlement of pending claims falling within the scope of the federal executive branch. The report states that 850 cases related to communal land had been submitted to the agrarian courts: 610 of these cases related to the recognition

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<sup>50</sup> See "La vigencia de los derechos indígenas en México. Análisis de las repercusiones jurídicas de la reforma constitucional federal sobre derechos y cultura indígena, en la estructura del Estado, México" (Indigenous rights in Mexico. Analysis of the legal repercussions of the amendment of the Federal Constitution with respect to indigenous rights and culture for the structure of the State), National Commission for the Development of Indigenous Peoples, December 2007.

<sup>51</sup> Ibid.

and issuance of communal land deeds, 68 to the restitution of communal lands, and 172 to boundary disputes.

365. Since 100 per cent of the legally constituted agrarian communities were invited to participate in the Programme for the Certification of Ejido and Land Titles (PROCEDE), the Programme was declared complete and closed down in 2006. The results of this initiative were as follows.

<i>Description</i>	<i>Number/percentage</i>
Agrarian communities in Mexico	31 201
Agrarian communities receiving certification and title	28 757
Percentage of agrarian communities receiving certification and title	92.16%
Beneficiary households	4 445 213
Deeds issued	9 569 129

366. The Programme for the Certification of Ejido and Land Titles was concluded on 17 November 2006 by means of a decision published in the *Diario Oficial de la Federación*. The Support Fund for Unregularized Agrarian communities (FANAR) was established for those communities for which the certification process could not be concluded. A number of other measures were also adopted, including the establishment of the Land Registry Modernization Programme to improve the services provided to users, which include many indigenous communities.

367. Between January 2003 and 30 June 2008, applications from 251 municipalities with indigenous populations were processed, benefiting 158,939 legal persons through the issuance of 236,653 certificates and title deeds covering a total area of 2,827,799 hectares across 306 communities. A comparison with the total increase in certified communities within the same period indicates that 53 per cent of all beneficiaries were indigenous persons and that they accounted for 55 per cent of the documentation issued, 42 per cent of the land that was certified and 45 per cent of the applicant communities awarded titles.

<i>State</i>	<i>Communities</i>	<i>Documentation issued</i>	<i>Beneficiaries</i>	<i>Area of land certified or for which title deeds were issued (ha)</i>
Chiapas	10	10 569	8 945	525 001
Chihuahua	12	1 241	639	107 067
Durango	7	2 630	2 630	293 743
Guerrero	37	51 071	48 959	327 267
Hidalgo	21	23 068	8 229	18 488
Jalisco	1	1	1	74 785
México	12	22 478	10 827	15 467
Michoacán	9	2 448	1 812	28 913
Morelos	1	430	207	353
Nayarit	5	2 704	2 637	226 823
Oaxaca	147	63 683	52 447	1 136 458
Puebla	3	4 720	1 695	4 461
Querétaro	0	258	121	1 148
San Luis Potosí	19	20 888	5 988	13 914

<i>State</i>	<i>Communities</i>	<i>Documentation issued</i>	<i>Beneficiaries</i>	<i>Area of land certified or for which title deeds were issued (ha)</i>
Sonora	0	2	2	0
Veracruz	22	30 418	13 800	53 831
Yucatán	0	44	0	80
<b>Total</b>	<b>306</b>	<b>236 653</b>	<b>158 939</b>	<b>2 827 299</b>

368. In all, 79 per cent of the 158,939 legal persons benefiting from this programme between January 2003 and 30 June 2008 came from four states: Oaxaca (52,477), Guerrero (48,959), Veracruz (13,800) and Mexico (10,827). These are the states with the largest indigenous populations. The largest number of municipalities submitting applications within that period were in Oaxaca (133), followed by Guerrero (21).

<i>State</i>	<i>Beneficiaries</i>	<i>Municipalities</i>
Oaxaca	52 447	133
Guerrero	48 959	21
Veracruz	13 800	12
México	10 827	8
<b>Total</b>	<b>126 033</b>	<b>174</b>

369. The total number of certifications and titles processed for all communities, including ones with indigenous populations, between January 2003 and 30 June 2008 was as follows.

<i>State</i>	<i>Community</i>	<i>Documentation issued</i>	<i>Beneficiaries</i>	<i>Area of land</i>
Aguascalientes	1	740	402	8 516
Baja California	1	96	96	190 133
Coahuila	0	5	4	13
Colima	1	240	240	4 603
Chiapas	23	18 016	13 938	569 003
Chihuahua	25	3 382	1 707	293 651
Durango	22	14 716	9 145	681 474
Guanajuato	3	1 986	1 501	5 273
Guerrero	74	107 148	80 560	1 032 411
Hidalgo	29	25 279	10 024	39 377
Jalisco	27	4 170	3 182	328 031
México	65	61 196	31 751	113 060
Michoacán	50	12 966	10 178	287 248
Morelos	12	3 314	2 850	29 890
Nayarit	16	7 354	5 813	589 964
Nuevo León	3	1 992	675	30 093
Oaxaca	233	105 513	82 174	2 121 397
Puebla	20	13 299	7 193	60 815

<i>State</i>	<i>Community</i>	<i>Documentation issued</i>	<i>Beneficiaries</i>	<i>Area of land</i>
Querétaro	1	846	360	4 607
San Luis Potosí	20	22 373	6 299	14 589
Sinaloa	12	5 148	2 746	100 255
Sonora	7	1 080	814	84 580
Tabasco	0	93	66	64
Tamaulipas	1	902	333	22 726
Tlaxcala	0	30	19	29
Veracruz	25	31 869	14 499	59 033
Yucatán	0	44	0	80
Zacatecas	2	344	235	23 076
<b>Total</b>	<b>673</b>	<b>444 141</b>	<b>286 804</b>	<b>6 693 991</b>

370. The measures and policies introduced by the Ministry of Agrarian Reform to ensure that the rights of indigenous peoples are respected include the following actions, which have already been implemented.

371. The Office of the Attorney General for Agrarian Affairs, in cooperation with the National Commission for the Development of Indigenous Peoples, is undertaking a research project on agrarian disputes in ejidos and indigenous communities. The objective is to contribute to the planning of measures and policies designed to resolve issues that arise in ejidos and indigenous communities. In addition, a workshop for civil servants is offered in order to raise their awareness of the diverse nature of Mexico's indigenous population so that, in the performance of their duties, they are able to offer specialized assistance and to recognize this diversity as an opportunity while avoiding exclusion and discrimination. This workshop has two parts; one for senior management and the other for staff throughout the organization. The workshop also seeks to build participants' skills in agrarian conciliation and arbitration.

372. Between 1992 and April 2008, the Office of the Attorney General for Agrarian Affairs provided legal assistance and representation, using interpreters where necessary, in 97,305 cases for the benefit of 969,510 indigenous persons.

373. Within the framework of the Agrarian Act, the efforts of the Office of the Attorney General for Agrarian Affairs to regularize ownership of land held under the communal system are based on the understanding that the communities in question are composed of groups of persons living in rural areas who share certain traditions, practices and customs. The Constitution recognizes the legal personality of these communities and affords special protection for their assets and resources.

374. The Office of the Attorney General for Agrarian Affairs respects these communities, which have preserved their way of life and their ethnic and linguistic traditions while maintaining traditional forms of social and political organization. It also has regard for the links that these communities have with the land, including land that they have owned collectively since time immemorial. In the light of these considerations, a total of 11,655,473 hectares of communal lands were regularized between January 1993 and July 2008.

375. The Office of the Attorney General for Agrarian Affairs provides oversight for ejido and communal land that is the source of the livelihoods of these agrarian communities. These tracts are made up of those lands that the communal assemblies have not earmarked for human settlement or designated as plots for the exclusive use of individual members. A

total of 62,563,089 hectares of common land belonging to agrarian communities was regularized between January 1993 and July 2008.

376. With regard to the transmission of land rights, article 17 of the Agrarian Act stipulates that communal landholders may name the person whom they wish to inherit their land and other rights; to this end, they may prepare a list containing the name of the person whom they have decided should inherit their rights, followed by the names of persons who may inherit those rights by succession.

377. Following the publication in the *Diario Oficial de la Federación* of 28 June 2007 of standards for the provision of advisory assistance in connection with the registration of lists of authorized heirs under the Agrarian Act and for their preparation, lawyers specializing in agrarian issues have been authorized to serve as registrars with whom agrarian wills may be deposited. This measure contributes to the adoption, development and implementation of this instrument, which seeks to provide legal certainty in respect of landownership.

378. With regard to indigenous communities' agrarian land rights, it is important to note that the procedures established to provide legal certainty in respect of land tenure are based on an implicit recognition of the right to equality, freedom, opportunity and non-discrimination.

379. All presidential decisions taken with regard to communal land rights since 2005 have respected the rights of indigenous communities on a wholly non-discriminatory basis. The only criterion on which such decisions are based is the right to the land in question.

380. The decisions grant the beneficiaries full legal certainty and the corresponding documentation on their land, which is contained in what is referred to as the "basic agrarian file". This file contains the relevant presidential decision, the deed showing the boundaries of the tract and the official title plan of the property. All of these documents are duly registered and placed on file in the National Agrarian Land Registry.

381. It is the federal executive's policy to resolve agrarian disputes through the Ministry of Agrarian Reform with the aim of preserving social peace and creating favourable conditions for development.

382. Within the framework of its programme for addressing social disputes in rural areas, the Ministry of Agrarian Reform has recognized and protected the rights of indigenous peoples. The settlement agreements for such disputes, which are signed by both parties with the concurrence of the Agrarian Section, establish the distribution of land rights.

383. Since 2005, 878 disputes have been resolved regarding a total area of 407,883 hectares of land (this figure includes what are known as "hot spots").

384. Statistics concerning the programme for addressing social disputes in rural areas, which is commonly known as the "hot-spot programme", are as follows:

- The programme was established in 2003
- While it was operational, 14 critical disputes were identified

In 2006, only 4 of these 14 disputes had not yet been settled, and significant progress had been made towards the resolution of 3 of them, which concerned land located in Chiapas, Oaxaca and Michocacán:

- In the community of the Lacandona area of the Montes Azules Biosphere Reserve, 33 disputes involving an area of 32,957 hectares were resolved definitively
- In the State of Oaxaca, two disputes concerning 6,415 hectares of land which dated back 66 years were resolved, benefiting 1,191 members of the Mixtec and Zapotec peoples

- In the Purepecha Plateau in the State of Michoacán, two disputes regarding 4,413 hectares of land were resolved, benefiting 1,419 persons

Disputes regarding the possession and/or ownership of land were also resolved in the Huasteca region, which encompasses the states of Tamaulipas, Veracruz, San Luis Potosí and Puebla.

#### During 2005

<i>State</i>	<i>Municipality</i>	<i>No. of cases</i>	<i>No. of hectares</i>	<i>No. of beneficiaries</i>	<i>Presence of indigenous ethnic groups</i>
Veracruz	Ixhuatlán de Madero	1	130	48	Teenek and Nahuat
	Tihuatlán	1	400	Undetermined	
Tamaulipas	Nuevo Morelos	1	533	Undetermined	Huastec or Cuextecos

#### During 2006

<i>State</i>	<i>Municipality</i>	<i>No. of cases</i>	<i>No. of hectares</i>	<i>No. of beneficiaries</i>	<i>Presence of indigenous ethnic groups</i>
Veracruz	Temapache	1	158	Undetermined	Teenek and Nahua
	Ixhuatlán de Madero	1	120	Undetermined	

#### During 2007

<i>State</i>	<i>Municipality</i>	<i>No. of cases</i>	<i>No. of hectares</i>	<i>No. of beneficiaries</i>	<i>Presence of indigenous ethnic groups</i>
Tamaulipas	Aldama	1	258	39	Huastecos or Cuextecos
San Luis Potosí	Tamuín	1	203	Undetermined	Teenek, Nahuat and Pames
	Ebano	4	1 001	Undetermined	
	Tamazunchale	1	64	Undetermined	
Veracruz	Tamiahua	1	197	Undetermined	Teenek and Nahua
	Chiconamel	1	129	Undetermined	
	Zonte Comatlán	1	230	Undetermined	
	Tantoyuca	1	147	20	
	Puebla	Fco. Z Mena	1	284	
	Pantepec	1	193	Undetermined	

**During 2008**

<i>State</i>	<i>Municipality</i>	<i>No. of cases</i>	<i>No. of hectares</i>	<i>No. of beneficiaries</i>	<i>Presence of indigenous ethnic groups</i>
Tamaulipas	Soto la Marina	1	898	72	Huasteco or Cuexteco
San Luis Potosí	Ebano	5	452	130	Teenek, Nahuat and Pames
	Tanlajas	3	571	72	
	Tamuín	1	174	25	
	Tamasopo	1	65	180	
Veracruz	Tamalin	8	390	89	Teenek and Nahuat
	Tamiahua	1	30	21	
	Tihuatlán	1	142	47	
Hidalgo	Atlapexco	1	-	-	Tepehua, Totonacos and Pames
Puebla	Pantepec	1	230	179	Totonacos

**During 2009**

<i>State</i>	<i>Municipality</i>	<i>No. of cases</i>	<i>No. of hectares</i>	<i>No. of beneficiaries</i>	<i>Presence of indigenous ethnic groups</i>
Veracruz	Ixhuatlán de Madero	1	327	73	Teenek and Nahuas
San Luis Potosí	Aquismón	3	631	145	Teenek, Nahuat and Pames
	Ciudad Valles	1	-	-	
	Tampamolón Corona	1	50	33	
Puebla	Venustiano Carranza	1	103	23	Totonacos

**Bearing in mind general recommendation No. 23 on non-citizens, the Committee recommends that the State party ensure the proper implementation in practice of programmes for migrant workers, such as the Programme of Documentation for the Legal and Migratory Security of Guatemalan Farm Workers, the Regularization of Migration Programme, the Programme for Upgrading Migrant Holding Centres, the Plan of Action for Cooperation in Migratory Matters and Consular Protection with El Salvador and Honduras and the Agricultural Day Labourers' Programme. The Committee calls on the State party to include in its next periodic report information on progress made in relation to the situation of migrant workers in the State party.**

385. Mexico's second periodic report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families includes detailed information on these subjects.



**The Committee urges the State party to take all necessary steps to put an end to practices of forced sterilization and to impartially investigate, try and punish the perpetrators of such practices. The State party should also ensure that fair and effective remedies are available to the victims, including remedies for obtaining compensation.**

386. The Government of Mexico has provided detailed information to the Committee on this issue. The additional report, submitted in compliance with the request made by the Committee in paragraph 21 of the concluding observations on Mexico that it issued in 2006, is contained in document CERD/C/MEX/CO/15/Add.1.

387. The Government of Mexico reaffirms the information contained in the above-mentioned report and reiterates that Mexico has no government policy or systematic practice of promoting forced sterilization of indigenous persons. On the contrary, there is a legal framework in place and a policy for the promotion of a greater awareness of reproductive health, particularly in rural indigenous communities and among other marginalized populations in urban areas. This policy has been strengthened in recent years by means of an institutional framework that has permitted an increase in coverage and in related policy measures.

388. The legal and institutional apparatus of the Mexican State also includes mechanisms for the punishment of such offences and the implementation of any recommendations concerning means of protecting people's rights in this respect.

389. As a demonstration of its willingness to cooperate with the Committee, the Government takes this opportunity to provide information on the institutional sexual and reproductive health services provided to indigenous men and women.

390. The provision of health services, including sexual and reproductive health services, together with education, constitutes one of the fundamental mechanisms for promoting true equality of opportunity.

391. In order to guarantee the right to health and the right to decide how many children to have and when to have them, the national health system has taken various actions to expand coverage and improve the quality of its services. Nevertheless, there are still many population groups among the indigenous population living in isolated areas who have limited or no access to these services or to sufficient and culturally appropriate information. Expanding access to services and reaching the population in greatest need is a basic condition for ensuring the full exercise of reproductive rights and is a fundamental aspect of equity and social justice.<sup>52</sup>

392. Improvements have been seen in recent years with regard to respect for the right to enjoy a satisfying and safe sex life, as more people become aware of the existence of at least one contraceptive method. There is still a gap, however, in this respect between women of childbearing age who speak an indigenous language and those who do not (82.7 per cent and 98.4 per cent, respectively).<sup>53</sup>

393. The unsatisfied demand for family planning services is still extremely high among indigenous women owing to the persistence of unfounded beliefs and fears and to women's lack of power within the household to make decisions about reproduction.

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<sup>52</sup> Final document on the strategy entitled "Comprehensive Support in Reproductive Health and Domestic Violence in Highly Marginalized Indigenous Communities", 2008.

<sup>53</sup> Ibid.

394. In Mexico, the existence of social gaps, this population group's lack of access to culturally appropriate health services, the geographical isolation of indigenous communities, the social and community pressures to which women are subject, weak linkages between traditional and modern medicine, and the predominance of unequal gender relations are all underlying factors.

395. Among other activities carried out to respond to these demands, in 2009 the National Centre for Gender Equity and Reproductive Health, through the Office of the Deputy Director-General for Reproductive Health, implemented the second phase of a strategy entitled "Comprehensive Support in Promoting Reproductive Health and Combating Domestic Violence in Highly Marginalized Indigenous Communities" in three states (Chiapas, Hidalgo and Veracruz). A number of steps were taken to implement and adapt this strategy.

396. Ongoing training efforts have been focused on ensuring that users give their informed consent when choosing a birth control method or strategy. In the case of permanent contraceptive methods, it is emphasized to the service providers that the user's signature or fingerprint on the informed consent form must signify an understanding on the part of the user not only of the effectiveness of the chosen method, but also of its possible side effects and of other available options. This process is closely tied in with the guidance and counselling to be furnished by the service provider, who must verify that potential users have received the relevant information on the characteristics, effectiveness, instructions for use, risks and benefits of contraceptive methods and have understood that information, as well as their own responsibility to use them properly.<sup>54</sup>

397. In an effort to prevent forced sterilizations, since 1998 the voluntary authorization form for contraceptive surgery (for both men and women) has been translated with the help of the National Indigenous Institute (now known as the National Commission for the Development of Indigenous Peoples). Enforcing widespread use of these forms continues to pose a challenge for the current administration, given the linguistic diversity of the country.

398. On 16 April 2009, an amendment to the official Mexican standard NOM-190-SSA1-1999, *Provision of health services. Criteria for medical care for victims of domestic violence*, was published in the *Diario Oficial de la Federación*, whereby it became NOM-046-SSA2-2005, *Domestic and sexual violence and violence against women. Approaches to prevention and assistance*. The objective of this amendment is to establish guidelines for the detection and prevention of domestic and sexual violence and for the medical and counselling services provided to users of health services in general, and to those involved in situations of domestic or sexual violence in particular, as well as for the reporting of cases of violence.

399. The Mexican Social Security Institute's Opportunities Programme is equipped with qualified staff to provide family planning services for the female population; women's right to make their own decisions about such matters is respected at all times.

400. From January to October 2009, guidance was provided to 43,478 individuals through family planning counselling services, and coverage was extended to 245,538 new users. These services were reinforced by community personnel, including more than 282,000 volunteers, who enrolled 32,113 new users and referred 9,750 individuals to

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<sup>54</sup> Ministry of Health, Pathfinder Mexico, Population Council. "El derecho a la libre decisión: La Planificación Familiar en el contexto de la salud reproductiva" (The right to decide freely: family planning in the context of reproductive health), Mexico, 2000.

medical units so that they could choose some kind of family planning method, in addition to holding 1,016,519 counselling sessions.

401. The effectiveness of counselling services is enhanced by the fact that the medical assistants in health-care units located in indigenous communities are from the region and master the dialect spoken by the community.

**The Committee recommends that the State party take appropriate steps to combat racial prejudice leading to racial discrimination in the media, both public and private. The Committee also recommends that in the area of information the State party foster understanding, tolerance and friendship among the various racial groups in the State party through, inter alia, the adoption of a code of media/journalistic ethics in this field.**

402. The section of this report on article 7 of the Convention provides ample information in this regard.

## IV. Conclusions

403. The Government of Mexico believes strongly in international cooperation and dialogue as a way to maximize the contributions of the treaty bodies. This report is therefore seen as an especially valuable opportunity, not only to provide an update on the situation in the country, but also to hear the opinions of specialists in the field.

404. Throughout this report, the Government has sought to closely follow the guidelines set by the Committee on the Elimination of Racial Discrimination. Reference has also been made to the actions taken by the Mexican authorities in response to the Committee's recommendations contained in document CERD/C/MEX/CO/15.

405. Generally speaking, the report outlines developments and advances in legislation, institutions and public policy regarding the promotion and protection of the human rights of indigenous peoples in the country and of other specific groups. The objective of this policy is to reverse, prevent and eliminate all types of discrimination.

406. The Government hopes that the recommendations which the Committee will make following its consideration of the report will prove to be of practical assistance in strengthening the Government programmes already in place. The conclusions presented below take into account the real possibilities for Government action between the consideration of this report and the next periodic report of Mexico. These are definite commitments in respect of the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, and the Government hopes that the Committee will take them into account when drafting its recommendations.

### Equality and non-discrimination

407. Notwithstanding the legislative efforts made at the federal level, including, inter alia, the amendment of article 1 of the Constitution to prohibit discrimination in the country, the passage of the Federal Act on the Prevention and Elimination of Discrimination and the establishment of the National Council for the Prevention of Discrimination, further progress needs to be made in harmonizing state laws and ensuring that all laws on the subject are truly effective. The Government needs to introduce affirmative action mechanisms to reverse the harm done and to compensate and support groups that have historically been in vulnerable situations and to step up its efforts to combat multiple discrimination.

408. Along with Government efforts, it is important to implement and support all types of awareness-raising programmes targeting the general public, as the elimination of racial discrimination requires a profound attitude change in society.

409. It is important for all states to adopt specific anti-discrimination laws that criminalize all discriminatory conduct, as has already been done in some states in the country.

### **Economic rights**

410. Poverty, marginalization and inequality all hinder the full exercise of rights and freedoms. For this reason, the main priority on the Government's national agenda is to eliminate extreme poverty.

411. The Government is well aware that, in order to improve the living conditions of those in greatest need, social policy must be closely linked with economic policy. Only a competitive, steadily growing economy will be able to generate more sources of employment and higher income opportunities for a greater number of people. By the same token, only by ensuring equal opportunities in health, education, food, housing and basic needs can individuals actively participate in this dynamic economy and enjoy the benefits it offers. Strengthening public policies to eliminate all types of discriminatory practices will allow for equitable development based on respect for differences.

412. In this regard, the following challenges and goals have been identified:

- Strengthening the design and construction of public policies aimed at preventing any and all types of discriminatory practices. This effort needs to be undertaken on a cross-cutting basis throughout the Federal Administration. All three branches of government must work within their individual areas of responsibility in order to ensure that this same cross-cutting perspective is used at the state and municipal levels to underpin greater inter-agency cooperation and synergy.
- Reinforcing mechanisms for consultation, participation, evaluation, monitoring, follow-up and accountability with a view to preventing discriminatory practices and thus ensuring full equality in access to health and education services, housing, sustainable development, well-paid employment and the right to a life free of violence and discrimination.
- In summary, putting an end to all discriminatory situations and promoting equitable development based on respect for differences.

### **Right to health**

413. Achieving universal health coverage and ensuring access to quality health services for all Mexicans are the main challenges facing the People's Health Insurance Scheme. The important steps that have been taken to achieve this include the following:

- A cooperation and coordination agreement has been signed by the country's 32 states on the provision of medical services and economic compensation for the beneficiaries and members of the People's Health Insurance Scheme. This agreement guarantees that medical services shall be provided to members anywhere in the country, regardless of their place of residence.
- The financing mechanism for the People's Health Insurance Scheme has been changed from a per-family premium to individual premiums. This makes the allocation of resources to states more fair and equitable and allows any individual

who does not receive health coverage under the social security system to become a member of the People's Health Insurance Scheme.

414. In primarily indigenous communities, people still turn more often to community medical systems. These systems have been used as a preventive mechanism, as they compensate for the lack of medical infrastructure and institutional services. It is therefore necessary to learn from past experiences regarding the complementarity of the two medical systems, not only as a practical necessity, but also as a means of exercising the constitutional right to make use of traditional medicine to promote:

- The expansion of coverage without necessarily entailing the expansion of infrastructure as a first recourse
- The improvement of conditions in order to encourage the indigenous population to voluntarily approach health centres and clinics on an informed basis
- A better understanding of the doctor-patient system, pathologies and therapeutics, through consultations with the assistance of an interpreter
- The establishment of a culture of health prevention at the community level

415. A whole series of elements are needed within the health sector. Consideration should be given to the following, among other issues:

- Medical staff should use a human rights perspective when treating patients.
- A specific budget for this strategy is needed so that the above-mentioned actions can be implemented.
- Specific regulations and standards need to be established that reflect this approach and that can be used by staff as a point of reference. In this regard, while guidelines are necessary, focus should also be placed on mainstreaming the human rights perspective in all actions and programmes carried out by health institutions.

### **Right to education**

416. With regard to work in the education sector involving human rights, non-discrimination and indigenous education, the challenge continues to be to train teaching staff in order to improve the quality of education. The aim is to achieve 100 per cent coverage for ongoing training activities within a maximum of two years.

417. Despite the advances made in indigenous education, the challenge continues to be to raise awareness among state and municipal public officials and authorities of the specific educational needs and characteristics of indigenous populations with a view to encouraging greater state investment and meaningful action.

418. Through collaboration with other bodies working in the sector, the National Adult Education Institute managed to obtain targeted funding from the National Commission for the Development of Indigenous Peoples for the first time in 2007 (and the allocation was increased incrementally in 2008 and 2009). It will be important to produce the types of results that will justify the continuation of this funding.

419. Once progress in indigenous literacy is consolidated, a greater effort will still be needed to promote and sustain educational continuity in order to achieve wider basic education coverage for these populations.

420. In order to achieve significant synergies at the federal and state levels, approaches and agreements are needed that will foster ties with local social programmes, especially the Opportunities Programme. Content and materials available from the General Coordinating

Office for Intercultural and Bilingual Education (CGEIB) and the Directorate-General for Indigenous Education (DGEI) of the Ministry of Education and from the National Council for the Promotion of Education (CONAFE) can be used for this purpose.

### **Right to access to justice**

421. Under article 2 of the Constitution, indigenous peoples and communities have the right to full access to the Mexican courts. In order to guarantee this right, court proceedings involving indigenous peoples, either individually or collectively, must take their specific cultural characteristics and customs into account, and they must at all times have the assistance of interpreters and defence lawyers who understand their language and culture.

422. The Government faces two challenges concerning justice for indigenous peoples. The first is to provide justice officials with the tools they need to become knowledgeable about the cultural practices and legal systems of indigenous peoples and communities so that these officials will be in a position to ensure that indigenous persons have unhindered access to the justice system and that their dignity and human rights are respected. The second is to provide the authorities with the tools that they need to ensure due process and, consequently, a fair trial in which assistance is provided by interpreters or translators and defence lawyers who know the language of the indigenous persons concerned and are familiar with the characteristics, values and way of life of their peoples.

423. Indigenous studies should be part of the training provided to all justice officials. Research in this area should be encouraged, given the multi-ethnic and multicultural nature of the country, in order to help solve problems stemming from the coexistence of different legal systems within the country's pluralistic legal framework and thus avoid errors in the administration of justice. Instances in which there is a failure to respect the legal systems of indigenous peoples and communities are a result of the fact that some justice authorities have a mistaken view of cultural practices, are not knowledgeable about indigenous issues and lack sensitivity.

### **Linguistic rights**

424. Pursuant to article 2 of the Constitution and article 24 of the General Act on the Linguistic Rights of Indigenous Peoples, which establishes the competence of federal, state and municipal authorities to issue laws to ensure the recognition of linguistic rights and establish penalties for infringements of those rights, the exercise of linguistic rights by speakers of indigenous languages is limited by the fact that not all states provide for the rights of indigenous peoples and communities in their constitutions and that no state has developed specific legal systems for recognizing the linguistic rights of indigenous peoples.

425. Given the above, the challenge to be met over the next few years is for states to develop specific laws on the recognition of linguistic rights and establish penalties for infringements of those rights.

426. Even though significant achievements have been made in this process, challenges remain. One of those challenges is to lay the groundwork for support in other priority sectors, such as health and education. The main task is to establish a system to certify qualified indigenous-language translators and interpreters. This will require the involvement of agencies that can serve as evaluation centres and certification boards. It also calls for an increase in resources for degree courses in the interpretation of indigenous languages.

## Acronyms

CGEIB	Office for Intercultural and Bilingual Education
COMAR	Mexican Commission for Aid to Refugees
CONADIS	National Council for Persons with Disabilities
CONAFE	National Council for the Promotion of Education
CONAPRED	National Council for the Prevention of Discrimination
DGEI	Directorate-General for Indigenous Education
FONHAPO	National Social Housing Fund
FOVISSSTE	Housing Fund of the Institute of Social Security and Services for State Employees
INEGI	National Institute of Statistics, Geography and Information Technology
INFONAVIT	National Workers Housing Fund Institute
PROCICEI	Inter-agency Coordination Programme for Quality Indigenous Education
UNAM	National Autonomous University of Mexico
UNHCR	United Nations High Commissioner for Refugees
UPN	National Pedagogical University

## List of annexes

1. Federal Act on the Prevention and Elimination of Discrimination.
  2. Proposal to reform federal legislation for the purpose of harmonizing federal non-discrimination laws.
  3. List of federal and state laws that have been brought into line with article 2 of the Constitution to date.
  4. General Act on the Linguistic Rights of Indigenous Peoples.
  5. National Human Rights Programme 2008–2012.
  6. National Programme for the Prevention and Elimination of Discrimination for the period 2006–2010.
  7. Programme for the Development of Indigenous Peoples 2009–2012.
  8. The *Vivir Mejor* Strategy (living better strategy).
  9. National Programme to Reduce Infant Mortality.
  10. Proposal to amend federal legislation regulating radio and television in order to guarantee the right to non-discrimination on the part of licence holders.
  11. System of consultations with indigenous peoples.
  12. Reports of the Consultative Council of the National Commission for the Development of Indigenous Peoples for 2004–2006 and 2007–2008.
  13. Final report of the consultation with indigenous peoples on development processes and aspirations.
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