



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Fifty-sixth session

### Summary record of the 1605th meeting

Held at the Palais Wilson, Geneva, on Monday, 31 January 2011, at 3 p.m.

*Chairperson:* Ms. Lee

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports of States parties** (continued)

*Initial report of Mexico under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*  
(CRC/C/OPSC/MEX/1, CRC/C/OPSC/MEX/Q/1 and  
CRC/C/OPSC/MEX/Q/1/Add.1) (continued)

*Initial report of Mexico under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*  
(CRC/C/OPAC/MEX/1, CRC/C/OPAC/MEX/Q/1 and  
CRC/C/OPAC/MEX/Q/1/Add.1) (continued)

1. *At the invitation of the Chairperson, the delegation of Mexico took places at the Committee table.*

*Initial report of Mexico under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

2. **Ms. Herrera** (Mexico) said that in March 2006 article 18 of the Constitution had been amended to create a system of justice for children and that the country's 32 states had amended their legislation to align it with the new constitutional provisions. In 2008, under a new reform of the Constitution, which laid the foundation for an adversarial system, crime victims, particularly children, had been provided with more safeguards. Provisions had been adopted to guarantee juvenile offenders the right to a fair trial, including the right to be accompanied by their parents or by counsel, the right to be heard, the right to information, the right to confidentiality of information concerning them, and the right to appeal court decisions. The new system emphasized restorative justice and encouraged recourse to conciliation measures for minor offences. Children aged 14 and above could be imprisoned for serious offences, their sentences being served in special facilities.
3. Trafficking in organs was punishable by 7 years' imprisonment.
4. **Ms. Ruiz** (Mexico) said that since the 2008 reform of the legal system and the improvements in victim protection, the identity of child victims was no longer revealed and videoconferencing prevented direct confrontation between criminals and their victims.
5. While there was no compensation fund for child victims, there were plans to establish a special fund for abductees and victims of crimes covered by the Optional Protocol.
6. **Ms. Ortiz** (Country Rapporteur for the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography) asked how Mexico's legislation defined "storage" of pornographic material, which was different from the notion of "possession" referred to in the Optional Protocol, and why the many cases involving crimes covered by the Optional Protocol that were brought to court did not all result in convictions.
7. **Mr. Kotrane** asked whether anyone had ever been arrested and sentenced to imprisonment for subjecting children to forced labour.
8. **Ms. Herrera** (Mexico) said that possession of pornographic material — for example, on a computer — might differ from storing photos in files or computer archives.
9. While the Office of the Attorney-General had no statistical data on the difference between the number of complaints concerning offences addressed by the Optional Protocol and the number of penalties handed down, many pornography-related cases were under review.

10. **Mr. Negrín** (Mexico) said that the tables in annex 7 of the report showed the number of criminal convictions in 2007 for crimes relating to sexual exploitation of children.
11. **Ms. Herrera** (Mexico) said that 3,456 cases dealing with pornography, prostitution, corruption of minors, child trafficking and procuring were being examined at the state level and 101 cases dealing with those crimes were being examined at the federal level.
12. **Mr. Kotrane** asked whether the media had brought the public's attention to convictions in cases of forced child labour. He stressed that Mexico had not ratified the ILO Convention (No. 138) concerning the Minimum Age for Admission to Employment and, that many children, in particular indigenous children, were subjected to forced labour, such as domestic work, at a very young age.
13. **Ms. Herrera** (Mexico) said that forced labour was tantamount to human trafficking. While there had been no convictions to date, legal measures had been taken to prevent impunity. A criminal case against an individual accused of using forced child labour was currently in progress.
14. **Mr. Zermatten** asked whether domestic adoptions involved financial transactions, which would be comparable to the sale of children.
15. **Ms. Ortiz**, supported by **Mr. Kotrane**, asked whether having an intermediary improperly induce consent for the adoption of a child was considered a crime.
16. **Mr. Mejía** (Mexico) said that, while the 32 states had different adoption laws, they all recognized the principle of the child's best interests. Reforms had recently been made in 27 states to better safeguard the legality of adoption procedures. Judges participated in the adoption process and took into consideration the psychological and sociological characteristics of the prospective adoptive family and ensured that no money changed hands and that there was no pressure to induce consent for the adoption. In some cases it was sometimes possible for a child to live with the prospective adoptive parents before the adoption in order to help him or her adapt.
17. Adoption was considered a last resort; where possible, efforts were made to return the child to his or her biological family.
18. **Ms. Ortiz**, noting that in 2009 there had been 2 domestic adoptions and 80 intercountry ones, asked how the State party intended to address the situation.
19. **Mr. Kotrane** asked whether anyone had yet been convicted of acting as an intermediary to facilitate adoption.
20. **Ms. Herrera** (Mexico) said that, while the Criminal Code did not expressly forbid acting as an intermediary, such activities could be punishable if associated with other crimes such as forgery of documents or child trafficking.
21. **Mr. Mejía** (Mexico) said that most children put up for adoption in Mexico were older than 5, which made their domestic adoption difficult.
22. **Ms. Landerreche** (Mexico) said that the authorities were endeavouring to change attitudes so that families would be more willing to adopt older children.
23. Adopted children were monitored domestically through visits by social workers to families and internationally through agreements with child protection organizations in the receiving countries.
24. **Mr. Citarella** asked whether intercountry adoption procedures were centralized at the federal level or fell under the states' authority and whether there were known cases of adoptions where the procedures had not been followed.

25. **Mr. Mejía** (Mexico) said that his country was a party to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. Upon signing that Convention it had been decided to establish 32 central adoption agencies, each of them required established procedures and the principles enshrined in the Hague Convention. Mexico was not currently involved in adoptions with countries that were not parties to that Convention. The Mexican authority had no knowledge of any actual adoptions in which the procedures required by law had not been followed.

26. **Mr. Zamora** (Mexico) said that in human rights matters the Government cooperated with civil society organizations, which often made specific proposals to improve the human rights situation in the country. It also worked with the OHCHR country office to enhance human rights mechanisms.

27. **Mr. Negrín** (Mexico) said that the National Human Rights Commission, an independent body with a budget of \$72 million, had, between 2006 and 2010, received 1,754 reports of statutory rape and had made 37 recommendations on the basis of those reports. During the same period it had also received some 100 reports of sexual exploitation of minors. The Commission was authorized to decide cases involving a conflict of jurisdictional competence. A draft constitutional reform was intended to make the Commission's recommendations more binding and provide it with more investigative resources. The Commission did not maintain a register of complaints regarding children recruited by force to participate in armed conflicts.

28. **Mr. Gurán** asked whether the services offered by the National Human Rights Commission were really accessible to children, in particular when it came to filing complaints.

29. **Mr. Zamora** (Mexico) said that the National Human Rights Commission had many local offices that could receive complaints from children and NGOs.

30. **Ms. Landerreche** (Mexico) said that the authorities were working on defining an institutional and legal framework to enable the existing Integral Child Rights Protection System as part of the Comprehensive Scheme for the Development of the Family to respond more effectively to the needs of vulnerable children.

31. **Ms. Maurás Pérez** asked how the State party planned to coordinate this initiative in the federated states and how budgetary resources would be allocated.

32. **Ms. Landerreche** (Mexico) explained that thought was being given to establishing a coordinating body that would also operate at the municipality level in order to strengthen local protection, which remained inadequate. It was somewhat difficult to determine the amount of budgetary resources allocated to comprehensive child protection as some entities had overlapping functions. Nevertheless, Mexico had a federal database of all child-related programmes which was used to determine how to best allocate budgetary resources.

33. Mexico was working with numerous civil society organizations to combat the crimes described in the Optional Protocol, including sexual exploitation of girls and trafficking for the purpose of sexual exploitation. The study of the effects of the crisis on children, conducted by the National Evaluation Council in cooperation with UNICEF, had shown that the crisis had not led to an increase in the number of children engaged in forced labour.

34. Under the Integral Child Rights Protection System that forms part of the Comprehensive Scheme for the Development of the Family, a network of child promoters visited schools to make other children aware of their rights. In the State of Michoacán a community radio station broadcast messages discouraging children from emigrating and warning them of the associated dangers, such as exploitation and human trafficking. In

addition, between 2007 and 2010, some 74,000 officials whose work involved contact with children had been trained in children's rights.

35. **Ms. Ortiz** said that the NGOs working with the Government on child protection issues regretted not being more closely involved in the development and monitoring of policies and programmes, particularly those concerning child trafficking.

36. **Mr. Zamora** (Mexico) explained that the National Programme to Prevent and Punish Trafficking in Persons had been developed in cooperation with civil society organizations and experts but that it had not been possible to get them all to participate.

37. **Mr. Pérez** (Mexico) said that in August 2009 the federal Government and representatives of Mexico's 32 federated states had concluded an agreement with civil society organizations to establish a national assistance network which provided shelters and services for victims of violence. The Ministry of Public Security, which has a national database of cases of violence against women and adolescent girls, and a national register of missing persons, coordinated investigations on missing persons and conducted prevention campaigns targeting young people.

38. Under the new juvenile justice system, the Ministry of Public Security had implemented programmes to provide restorative justice and help for child victims of sexual assault. Mentoring and statement-collecting procedures had been established for professionals working with child victims of sexual violence.

39. **Ms. Ortiz** asked how many officials were employed by these programmes, how many children benefited from them, and their budget allocations.

40. **Mr. Pérez** (Mexico) said that the National Victim Assistance Network had 580 members, including representatives of civil society organizations and various public institutions.

41. **The Chairperson** asked whether the State party had been able to shed light on the numerous abductions committed between 2008 and 2009 and whether any children were among the victims.

42. **Mr. Pérez** (Mexico) said that abductions were investigated by the concerned state's special unit for assistance to such victims, in cooperation with the national police.

43. **Ms. Herrera** (Mexico) noted that the federal Government also had a special anti-kidnapping unit which worked with the local units for assistance to kidnapping victims under a new federal law permitting countrywide coordination of investigations.

44. **Ms. Monteval** (Mexico) said that the drafting of a code of conduct for the tourism industry was under discussion and that awareness-raising campaigns concerning sexual tourism had been implemented for the industry's various operators, such as hotels, transport providers and tour guides. Not all the states had adopted the law criminalizing sexual tourism.

45. **Ms. Ortiz** asked how many children had availed themselves of the services offered by the National Victim Assistance Network and how many abducted children had been found.

46. **Mr. Pérez** (Mexico) said that, through the services provided by the National Victim Assistance Network, more than 5,000 children had received psychological support, more than 8,000 legal support and more than 14,000 health care, and that more than 7,000 had participated in support groups.

47. **Mr. Koompraphant**, stressing that migrant children were often kidnapped for purposes of sexual exploitation, asked whether Mexico distinguished such kidnappings from kidnappings for ransom and whether it took the necessary punitive measures.

48. **Mr. Filali**, pointed out that the State party considered kidnapping an ordinary crime, asked what punishment a perpetrator received.

49. **Ms. Aidoo** asked whether any particular preventive or punitive measures were applied in cities reputed to be hubs for sex tourism, and whether tourism professionals cooperated with the authorities.

50. **Ms. Monteval** (Mexico) said that campaigns against sexual violence against children had been conducted, including in Cancún, and that awareness-raising campaigns on sex tourism had been implemented in the States of Durango and Michoacán among others. Agreements designed to prevent sex tourism were being concluded with all sectors of the tourism industry, including the Mexico City Hotel Association, and initiatives were being undertaken in collaboration with civil society organizations and NGOs.

51. **Mr. Zamora** (Mexico) said that the United Nations Office on Drugs and Crime was expected to organize shortly, in collaboration with the Mexican authorities, an awareness-raising campaign targeting the cities worst affected by sex tourism. The campaign was based on a similar one conducted in India.

52. A significant portion of the resources devoted to the Programme to Prevent and Punish Trafficking in Persons for 2011 would go to improving the collection and use of data.

53. Under Mexican law, the various components comprising the crime of trafficking in persons and that of kidnapping were different. In the case of trafficking, the victim was not necessarily deprived of liberty and was recruited, transferred, handed over or accommodated for purposes of exploitation or of removal of organs or tissue, whereas a kidnap victim was deprived of liberty for purposes of ransom or some other benefit. It should be noted that under the new Act for the Prevention and Punishment of Kidnapping Offences the penalty for kidnapping was 20 to 40 years' imprisonment.

54. **The Chairperson** drew attention to the fact that, as the Special Rapporteur on the human rights of migrants had noted in his 2009 report, the definition of "minor" varied from state to state and according to sex, so that unaccompanied minors were not uniformly protected throughout the country.

55. **Ms. Herrera** (Mexico) said that under the new Act for the Prevention and Punishment of Kidnapping Offences, which applied to the whole country, kidnapping of a person younger than 18 or older than 60 was liable to attract a harsher penalty of 25 to 40 years' imprisonment.

56. **Mr. Pérez** (Mexico) explained that the Prevention of Trafficking in Persons Act and the Act for the Prevention and Punishment of Kidnapping Offences included provisions regarding the formulation of public policies and the authorities' obligations with regard to prevention and victim assistance. The Act for the Prevention and Punishment of Kidnapping Offences provided for the creation of a support fund to ensure, among other things, medical and psychological care for victims and help for minors in need.

*Initial report of Mexico under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

57. **Mr. Negrín** (Mexico) said that the report had been prepared by the Ministry of Foreign Affairs in consultation with other relevant ministries and had, before being submitted to the Committee, been presented for comments to the Commission on Government Policy on Human Rights, a body that promoted coordination with civil society.

58. **Mr. Zamora** (Mexico) stressed that no children in Mexico were at all involved in any domestic or international conflict. The Chiapas conflict had started in 1994 and the Optional Protocol had entered into force for Mexico in 2002. Between those two dates the

dialogue among the Zapatista National Liberation Army in Chiapas, the Mexican Government, civil society organizations and NGOs had transformed the conflict into a grass-roots movement which had led to extensive consultations with indigenous organizations and the establishment of many health-care, education and social assistance programmes in the region. In the Government's view there had not been any armed conflict in Mexico, including Chiapas, since 2002.

59. **Mr. Vázquez** (Mexico) explained that there were two types of military service: voluntary service performed by military academy students and persons enlisting for active army service; and compulsory service, performed by all males once they reached the age of 18. Youths aged 16 or 17 could enlist with their parents' permission. This service lasted one year and was performed only on Saturdays for a few hours at a time. It was not really military service but a type of social service which included community service such as painting of schools, and road maintenance.

60. **Mr. Cazares** (Mexico) said that Mexican law prohibited forcible recruitment of children and their use in hostilities. Only persons aged 18 and above were permitted to volunteer for service in the armed forces, with the exception of those aged at least 16 who wished to receive training; they enjoyed the safeguards contained in article 3 of the Optional Protocol. In no circumstances did underage students of military academies participate in hostilities.

61. Regarding penalties for offences, article 153 of the Code of Military Justice provided that minors under 18 years of age performing their military service in the army and committing an offence were liable to a penalty equivalent to half the penalty usually handed down for the crime in question. It should, however, be noted that article 18 of the Constitution, as amended in 2008, provided that imprisonment of minors was an extreme measure of last resort to be applied for the shortest possible period and only for adolescents aged over 14 displaying serious antisocial behaviour. A special commission had been established to harmonize the Code of Military Justice with the new constitutional provisions and do away with custodial sentences for minors.

62. **Mr. Filali** wished to know whether a person under 18 who committed an offence while performing military service was subject to civil or military law.

63. **Mr. Cazares** (Mexico) said that such crimes fell under military law but that the decisions of military courts, like those of civil courts, were subject to the authority of the highest court of the State, the Supreme Court.

64. **Ms. Salazar** (Mexico) said that in the framework of the Review Conference on the Rome Statute of the International Criminal Court, held in 2010, Mexico had committed to presenting, in the first quarter of 2011, a preliminary draft reform of its criminal legislation making it a crime to, inter alia, recruit children and involve them in armed conflict.

65. The Intersectoral Commission on International Humanitarian Law, established in 2009, coordinated Mexico's efforts to promote international human rights law and examining the possibility of Mexico's acceding to international agreements to which it was not yet a party.

66. The only reason why Mexico did not exercise its extraterritorial jurisdiction in cases of forced recruitment of children or involvement of children in armed conflict was that those acts were not explicitly criminalized in its domestic law. Mexico was a party to the Rome Statute of the International Criminal Court and responded to all requests for cooperation.

67. The Intersectoral Commission on International Humanitarian Law oversaw the dissemination of the Optional Protocol and annually organized, together with the International Committee of the Red Cross, a human rights course for State officials and

members of civil society. Members of the armed and security forces received training from the International Committee of the Red Cross in international humanitarian law, including protection of children in armed conflict.

68. **Ms. Ortiz**, citing the climate of pervasive violence in the country, said that, according to information the Committee had received, more than 34,000 people had been murdered in recent years, 1,000 of them children. The Government had declared war on drug trafficking, and that war left many casualties. She wished to know what role the army played in the fight against organized crime and what limits, including legal ones, were imposed on its activities. What steps were taken when troops violated children's rights or were involved in crimes? Were they investigated by civilian military authorities? With reference to the massacres of adolescents and young people in Ciudad Juárez and the State of Durango, the delegation might say how the Government of Mexico planned to protect children in such a situation, combat impunity and uphold the rule of law.

69. **Mr. Zermatten** said that in his view the State party's interpretative declaration at the time of ratification of the Optional Protocol to the Convention on the Rights of the Child, regarding the involvement of children in armed conflict, was restrictive and was tantamount to a reservation. He would like to hear the Mexican delegation's views.

70. **Ms. Maurás Pérez** asked what steps were taken to prevent the recruitment of children by criminal groups.

71. **Ms. Salazar** (Mexico) said that the interpretative declaration had not been formulated with the intention of restricting the scope of the Optional Protocol regarding the involvement of children in armed conflicts and that the Mexican Government had no intention of renegeing on its international obligations. On the contrary, it took care to prevent the recruitment of children by criminal groups. As the wording of the declaration lent itself to confusion, her Government undertook to amend it, as permitted under the review mechanism that the Ministry of Foreign Affairs had in place for reservations to international treaties.

72. The Mexican Government also planned to criminalize the recruitment of children by the armed forces and by armed groups in its preliminary draft reform of the federal legislation in order to give full effect to the relevant provisions of the Optional Protocol.

73. **Mr. Rubido** (Mexico) said that the Mexican Government's actions to safeguard security transcended combating drug trafficking. And yet 90 per cent of violent deaths in Mexico were attributable to the settling of scores among organized-crime groups. That was because Mexico was no longer merely a transit country for cocaine on its way to the United States, but a consumer country, entailing large cash transactions.

74. A "Safe Schools" programme had been implemented in 25,000 preschools and primary and secondary schools in the country's poorest areas under the national crime prevention policy, and 302 centres providing early treatment of addiction had been established countrywide. Mexico was also involved in joint activities with drug-producing countries as well as transit and final destination countries to free the world from the scourge of drugs.

75. **Ms. Ortiz** asked how the State party ensured that alleged "score settling" between rival groups was not in fact murder, given the very high number of violent deaths in Mexico. She also wished to know whether the State party was considering measures other than searching schoolchildren's satchels to ensure safety in schools.

76. **Mr. Filali** asked whether the State party drew a distinction among the armed groups covered by the Optional Protocol, organized gangs and consolidated groups or networks, and whether it thought that the last-mentioned were likely to recruit children and involve them directly in hostilities. He wished to remind the delegation that international

humanitarian law applied exclusively to conflicts between States, whereas in Mexico the acts of violence were perpetrated by rival groups.

77. **Mr. Rubido** (Mexico) said that the decision to search pupils' satchels under the "Safe Schools" programme had been made because head teachers had realized that drugs were circulating in schools. Also, 12 million sets of child-friendly teaching materials had been distributed to alert children to the risks from consuming illicit substances.

78. It was easy to identify a violent death as "score settling" as the operating methods of paramilitary groups were easy to recognize. In 2009, there had been 15 such deaths per 100,000 habitants, which was particularly alarming. True, four Central and Latin American countries and two Caribbean countries had much higher rates, but that did not make the situation less serious. Crime-fighting experience in cities like New York, Chicago, Palermo, Bogota and Medellín suggested that Government measures first triggered a resurgence of violence before proving their intended worth. Such was in fact the current situation in Ciudad Juárez, where the murder rate had dropped considerably since the third quarter of 2010, indicating that Mexico was on the right course.

79. To prevent the recruitment of children by groups linked to organized crime, Mexico countered criminal conduct with prevention campaigns, creation of a culture of legality, playgrounds for children and promotion of job creation.

80. **Mr. Negrín** (Mexico) said that in 2008 Mexico had written into its Constitution a definition of organized crime in conformity with the provisions of the United Nations Convention against Transnational Organized Crime. It had also adopted a federal law criminalizing unlawful acts linked to organized crime.

81. **Ms. Ortiz** asked for more information on private security firms which, according to reliable sources, sometimes committed murders, a case in point being National Human Rights Commission case No. 58/1995, which referred to the presence of armed civilians alongside the police force of the Chiapas region.

82. **Mr. Rubido** (Mexico) said that case dated back to 1995 and the uprising of the Zapatista National Liberation Army, and was a special situation. He maintained that no civilian militia currently existed in Mexico and that the General Act on the national public security system of 2 January 2008 strictly regulated the functioning of the private security services used by banks and other private firms. Employees of those services were required to meet the selection criteria applied to public security personnel and to undergo regular medical and psychological exams and drug and other tests.

83. **Ms. Ortiz** said that the State party should continue its efforts to implement the optional protocols to the Convention on the Rights of the Child.

84. **Mr. Pollar** (Country Rapporteur for the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict) said that in its concluding observations the Committee would recommend that the State party should withdraw the interpretative declaration it had made upon its accession to the Optional Protocol on the involvement of children in armed conflict.

85. **Mr. Zamora** (Mexico) assured Committee members that Mexico would give all due consideration to the Committee's concluding observations.

86. **Ms. Landerreche** (Mexico) said that the fruitful dialogue now drawing to a close would provide Mexico with new impetus to develop a comprehensive national child protection policy.

*The meeting rose at 5.55 p.m.*