



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the sixth periodic report of Mexico*

1. The Committee considered the sixth periodic report of Mexico (CCPR/C/MEX/6) at its 3653rd and 3654th meetings (CCPR/C/SR.3653 and 3654), held on 16 and 17 October 2019. At its 3675th and 3676th meetings (CCPR/C/SR.3675 and 3676), held on 31 October and 1 November 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its sixth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/MEX/QPR/6). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the legislative and institutional measures taken by the State party during the reporting period in the area of civil and political rights, including:

- (a) The General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment, promulgated on 26 June 2017;
- (b) The General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System, promulgated on 17 November 2017;
- (c) The General Victims Act, amended on 3 January 2017, and the Regulations implementing the General Victims Act, promulgated on 28 November 2014;
- (d) The Decree modifying, repealing and adding to various provisions of the Code of Military Justice, which amended article 57 of the Code in order to exclude cases involving civilian victims of human rights violations from military jurisdiction, promulgated on 13 June 2014;
- (e) The constitutional amendment related to human rights, published in the Official Gazette of the Federation on 10 June 2011.

* Adopted by the Committee at its 127th session (14 October to 8 November 2019).



C. Principal subjects of concern and recommendations

Legal framework within which the Covenant is implemented

4. The Committee notes with concern that the legal framework in the State party lacks uniformity in the area of human rights. In particular, the Committee is concerned about the failure to implement the provisions of the Covenant effectively, principally in the federative entities, and about the existence of conflicting laws within the State party, including some provisions that are incompatible with the Covenant. In this connection, the Committee recalls that, under the terms of article 50 of the Covenant, in States parties with a federal structure the Covenant's provisions "shall extend to all parts of federal States without any limitations or exceptions".

5. With reference to the Committee's previous recommendations (CCPR/C/MEX/CO/5, para. 5), the State party should ensure that legislation at both the federal and State levels is brought into line with the Covenant, and that the Covenant's provision are effectively implemented throughout the State party. It should also take measures to ensure that the authorities, including federal and local prosecutors and judges as well as lawyers, are aware of the rights set out in the Covenant.

Constitutional and legislative process

6. While taking note of the delegation's explanation that, in recent cases, the courts have applied international human rights treaties even when they run counter to the Constitution, the Committee notes with concern that the Supreme Court decision issued in conflicting rulings case No. 293/2011 established that, in the case of explicit restrictions on the exercise of human rights enshrined in the Constitution, the provisions of the Constitution should take precedence (art. 2).

7. The State party should ensure that the constitutional review process is effective, and incorporates, in law and in practice, sufficient judicial safeguards to ensure that the rights enshrined in the Covenant, including the pro persona principle, are fully protected within the domestic legal order. It should also strengthen its law-making processes, especially in respect of laws that have an impact on the exercise of human rights, ensuring that all amendments and reforms respect and uphold the provisions of the Covenant.

General Victims Act

8. The Committee is concerned that the General Victims Act has not been sufficiently implemented since its adoption. More specifically, the Committee is concerned that a number of federative entities have yet to designate an institution to oversee the new law's implementation; that most local-level institutions lack the resources and qualified staff necessary to take the measures envisaged in the law; that reparation measures are focused almost exclusively on compensation; and that the administrative procedures for obtaining legal recognition of victim status are complex, and often result in revictimization. The Committee is also concerned that the mechanisms established in the General Victims Act are not accessible to certain population groups, particularly indigenous peoples, and that no specialized care is available for women victims of human rights violations (art. 2).

9. The Committee urges the State party to provide the institutions responsible for implementing the General Victims Act with the necessary resources, appropriate training and effective oversight mechanisms so as to ensure that victims of human rights violations receive prompt and comprehensive reparation that is sensitive to cultural and gender considerations. The State party should also ensure, if necessary by amending legislation, that the procedure for obtaining legal recognition of victim status is swift and efficient.

Non-discrimination

10. The Committee is concerned about the discrimination suffered by women, Afro-Mexican communities, indigenous peoples and persons living in rural areas, and about the limited extent to which these groups participate in political and public life. It is also concerned about the gap between men's and women's wages. The Committee welcomes the recent decision of the Supreme Court of Justice to guarantee access to the social security system for all domestic workers but notes that administrative and legislative action is needed before the decision can be implemented (arts. 2, 3, 25 and 26).

11. The State party should ensure comprehensive protection against discrimination, including the discrimination suffered by women, Afro-Mexican communities and indigenous peoples. It should take steps to increase the representation of women, indigenous peoples and Afro-Mexicans in public and political life, if necessary by using temporary special measures to give full effect to the provisions of the Covenant. The State party should also further its efforts to reduce the gender pay gap and to eliminate, in theory and in practice, the gender stereotypes associated with men's and women's roles and responsibilities in childcare, the family and society. Lastly, it should take the steps necessary to implement the decision of the Supreme Court of Justice to guarantee access to the social security system for all domestic workers and to enhance the social security and labour protection afforded to them by aligning working conditions and legal protection in these sectors with those prevailing in other sectors of employment.

Discrimination and violence based on sexual orientation and gender identity

12. The Committee is concerned about the discrimination and the high level of violence, including a large number of homicides, that are motivated by the victim's sexual orientation or gender identity and regrets that consolidated data on investigations and prosecutions initiated, convictions and punishments handed down and reparations granted in such cases are not available. In spite of the explanations provided by the State party's delegation, the Committee is concerned about reports of irreversible and invasive medical procedures being performed on intersex children (arts. 2, 6, 7, 17 and 26).

13. The State party should adopt the investigation protocols necessary to ensure that: (a) crimes motivated by the victim's sexual orientation or gender identity are systematically registered and investigated from a gender perspective; (b) the perpetrators of such crimes are investigated, prosecuted and punished appropriately; and (c) victims have access to safe complaint mechanisms, due support and assistance, adequate protection and comprehensive redress. The State party should redouble its efforts to combat stereotypes and prejudice against lesbian, gay, bisexual, transgender and intersex persons and to guarantee that acts of discrimination and violence directed against them are prevented. It should also take steps to stop irreversible medical treatments being performed, in particular surgical procedures performed on intersex children who do not yet have the capacity to give fully informed and free consent, except when these procedures are absolutely necessary from the medical point of view.

Violence against women

14. Although it recognizes the State party's institutional efforts to address violence against women and girls, the Committee remains concerned about the progressive increase in violence of this kind. The Committee is particularly concerned about:

- (a) The lack of alignment between the definitions of the offence of femicide contained in the General Act on Access to a Life Free from Violence for Women and the state-level criminal codes and protocols for the conduct of criminal investigations of femicide;
- (b) The challenges affecting the implementation of the gender-based violence alert mechanism, including lack of financial resources and lack of information on the part of the authorities responsible for coordinating the mechanism;
- (c) The lack of an effective mechanism, accessible throughout the State party, for implementing the protection orders provided for in the aforementioned General Act;

(d) The small number of prosecution brought and convictions obtained in cases of violence against women and girls and for the offence of femicide (arts. 3, 6 and 7).

15. The State party should redouble its efforts to prevent and combat acts of violence against women and girls. In particular, it should:

(a) **Bring the definition of the offence of femicide used through the country into line with the Covenant, and also with the protocols for the conduct of criminal investigations of femicide, and establish, without delay, effective mechanisms to take charge of processing and implementing the protection orders provided for in the General Act on Access to a Life Free from Violence for Women through the country;**

(b) **Endow all institutions responsible for implementing the General Act, including those responsible for implementing the alert mechanism and issuing protection orders, with sufficient financial resources and sufficient, duly trained human resources;**

(c) **Make it easier for victims to make complaints and ensure that all acts of violence against women and girls are investigated thoroughly, promptly, exhaustively, and impartially from a gender perspective, that the perpetrators are tried and punished and that victims have access to assistance, protection orders and full reparation;**

(d) **Continue its drive to train judicial personnel, police officers and forensic experts, with a view to eliminating gender stereotypes and preventing revictimization;**

(e) **Foster engagement and cooperation with civil society organizations working to uphold the rights of women and girls who are victims and survivors.**

Voluntary termination of pregnancy and reproductive rights

16. The Committee is concerned that the criminal law provisions regulating voluntary termination of pregnancy differ from one state to another and that in many states abortion is either illegal or permitted only in a limited number of circumstances, resulting in significant numbers of unsafe abortions and in prosecutions and prison sentences. The Committee notes with particular concern that some federative entities have created obstacles to the application of article 35 of the General Victims Act and the official Mexican regulations (NOM-046-SSA2-2005) on family, sexual and gender-based violence, pursuant to which abortion is permitted in cases of rape. The Committee is further concerned about the lack of regulations governing conscientious objection, which was introduced under the General Health Act in 2018, and the absence of safeguards to ensure that the provisions of the new law do not restrict access to abortion. The Committee is also concerned about reports that women who seek terminations in public hospitals are sometimes reported for the offence of abortion by medical or administrative staff. The Committee is concerned about the high rate of teenage pregnancy and limited access to emergency contraception, and also about reports of a lack of appropriate reproductive health services and a failure to fully implement the comprehensive sex education programme. The Committee is likewise concerned about the high rate of maternal mortality among women from indigenous communities (arts. 2, 3, 6, 7, 17 and 26).

17. The State party should:

(a) **Harmonize national and state-level legislation in order to guarantee safe, legal and effective access to voluntary termination of pregnancy when the life or health of the pregnant woman or girl is in danger and when carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is the result of rape or incest or is not viable;**

(b) **Repeal the criminal penalties imposed upon women and girls who undergo abortions and upon medical service providers who help them to do so, since such measures compel women and girls to resort to unsafe abortions, and ensure that the professional secrecy of medical staff and patient confidentiality are observed;**

(c) **Regulate conscientious objection so that it does not in effect constitute a barrier to voluntary termination of pregnancy in safe, legal conditions; and**

(d) **Ensure unimpeded access to sexual and reproductive health services and to holistic, evidence-based sexuality education in order to raise awareness among men, women, boys and girls throughout the country, including in remote, rural areas.**

Right to life and security of person

18. The Committee is concerned about the high – and rising – rate of homicide, the reports of extrajudicial killings and the number of fatalities recorded in the State party in general. While it appreciates that the National Guard is defined in the Constitution as a civilian institution, as the State party’s delegation pointed out, and welcomes the decision of the Supreme Court of Justice (application for constitutional review No. 6/2018 and joined cases Nos. 8/2018, 9/2018, 10/2018 and 11/2018) declaring the National Security Act to be unconstitutional, the Committee is concerned about the militarized nature of the armed forces in general, including the National Guard, and the lack of a clear timeline for the military’s withdrawal from public security operations (arts. 2, 6, 7, 9 and 14).

19. **The State party should move away from the militarized approach within the forces of order, move forward in the process of cementing the National Guard as a civilian institution and draw up a plan to ensure the armed forces’ progressive and orderly withdrawal from public security operations. In this connection, the State party should ensure that the armed forces are involved in operations of this kind in exceptional circumstances only, for limited periods of time, in accordance with clear, pre-established protocols and subject to the supervision of civilian oversight and accountability mechanisms. It should also continue its efforts to provide all officers of the National Guard with intensive training in international human rights standards and consider introducing break periods for officers transferring from the armed forces to the National Guard. The State party should also ensure that all cases of alleged extrajudicial killings and human rights violations are investigated in a prompt, thorough and impartial manner, that the perpetrators are prosecuted and punished and that the victims receive full reparation. The State party should, as a matter of urgency, adopt policies that are effective in reducing homicides and extrajudicial killings.**

Excessive use of force and National Act on the Use of Force

20. The Committee is concerned about the numerous reports of excessive use of force and firearms by law enforcement officers. In this connection, the Committee notes with concern that some of the provisions contained in the National Act on the Use of Force, which was published in the Official Gazette on 27 May 2019, run counter to the provisions of the Covenant and the Committee’s general comment No. 36 (2019) on the right to life. It is of particular concern to the Committee that the law does not clearly specify the circumstances in which the use of lethal force is permissible, does not provide for records to be kept of cases in which force has been used and for appropriate mechanisms to be established to ensure transparency and accountability in the use of force, and affords protection against the use of weapons at public demonstrations and meetings only if the event is deemed to have a lawful purpose (arts. 6, 7 and 21).

21. **The State party should take measures to effectively prevent and eliminate all forms of excessive use of force by law enforcement bodies, specifically by:**

(a) **Reviewing the National Act on the Use of Force, on the basis of the Covenant, and bringing it into line with the Committee’s general comment No. 36 on the right to life and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**

(b) **Intensifying the training on international standards on the use of force provided for law enforcement personnel and raising awareness of these standards among judges, prosecutors and lawyers;**

(c) **Introducing procedures to guarantee that law enforcement operations are properly planned, in a manner consistent with the need to minimize the risk they pose to human life; and**

(d) **Ensuring that all cases of excessive use of force are recorded and independently investigated, that the perpetrators are prosecuted and sentenced to penalties commensurate with the seriousness of their acts, and that victims are provided with comprehensive reparation.**

Impunity

22. The Committee is concerned about the impunity for human rights violations including extrajudicial killing, enforced disappearance and torture that law enforcement officers continue to enjoy. In this connection, the Committee notes with concern the severe deficiencies that hamper the investigation and prosecution of serious human rights violations, which include, in particular: a failure to assign the necessary resources to those responsible for investigations; a lack of autonomy, independence, impartiality and promptness in carrying out investigations; a lack of prosecutors' offices and units specializing in serious crimes and recurring human rights violations in the State party; the limited training received by public officials in charge of investigations; a lack of autonomy and independence among experts in charge of investigations; and the very low number of prosecutions and convictions. The Committee is also concerned about reports of intimidation and violence being used against victims and members of their families when they report cases of serious human rights violations. With reference to the high-profile case of the enforced disappearance of 43 students from Ayotzinapa in September 2014, which is one of many cases of grave human rights violations that remain unpunished, the Committee regrets that, despite the gravity of this case, the recommendations of various international human rights bodies and the measures adopted, the State party has yet to ascertain the students' whereabouts, to punish those responsible and to provide the victims with comprehensive reparation (arts. 2, 6, 7, 9 and 14).

23. **The State party should step up its efforts to investigate all violent crimes and other serious offences, including the disappearance of the 43 students in Ayotzinapa in September 2014, in a prompt, thorough and impartial manner, to prosecute and punish those responsible and to ensure that the victims receive comprehensive reparation. To this end, it should increase the investigative capacity and independence of all actors involved in investigations, including prosecutors and experts, reinforce the adversarial system and guarantee the autonomy of the country's judicial institutions. For all these purposes, it should take international human rights standards into consideration, including the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). The State party should also take the necessary steps to protect witnesses, victims, their relatives and all persons involved in investigations from threats, attacks and any form of reprisals.**

Human rights violations committed during the so-called "dirty war"

24. The Committee notes with interest the information provided by the State party about efforts made to recognize responsibility for, ascertain the truth of and investigate the serious human rights violations that were committed during the so-called "dirty war" and to provide reparation for the victims; the fact that, in 2019, the President expressed an intention to open up the archives of the Centre for Investigation and National Security; and the recent agreement providing for the transfer of historical documents to the General National Archive. However, the Committee regrets that to date there has been only one conviction in a case of enforced disappearance dating from the period known as the "dirty war" and that the remains of only two persons buried clandestinely during this period have been found (arts. 2, 6, 7, 9, 14 and 16).

25. **The State party should step up its efforts to recognize responsibility, ascertain the truth, locate disappeared persons, foster and preserve memory and provide comprehensive reparation for the victims of crimes committed during the so-called "dirty war". The State party should expedite proceedings in all cases involving serious human rights violations that occurred during this period, including all cases of enforced disappearance, extrajudicial killing and torture, identify those responsible and ensure that they are prosecuted and punished with appropriate sanctions that are commensurate with the gravity of their crimes. The State party should also take the**

measures necessary to ensure that records transferred to the National Archives Office and records held by the Centre for Investigation and National Security become sources of public access to information and, for this reason, appropriate mechanisms for ensuring the preservation, protection, systematization and publications of records should be established.

Self-defence groups

26. The Committee is concerned about the existence of self-defence groups in some federative entities, including the State of Guerrero and the State of Michoacán, and about allegations of violations committed by these groups. The Committee notes with concern the absence of information about the existence of such groups, and the lack of any record of their overall number, the number that are active and any investigations carried out in cases in which they have used violence (arts. 6, 7 and 14).

27. The State party should reinforce the presence of civilian public security institutions so as to guarantee civil security throughout the country and prevent self-defence groups from taking the place of the State and performing law-enforcement tasks. It should also conduct investigations and prosecute all alleged members of self-defence groups who commit human rights violations, and, if they are found guilty, it should sentence them appropriately.

Enforced disappearances

28. The Committee welcomes the delegation's assurances that the issue of enforced disappearance is one of the Federal Government's main priorities. Although the information provided by the State party indicates that a new system for registering details of disappeared persons has been finalized, the Committee is concerned about the tardiness shown in implementing this system and the other databases and tools envisaged in the general law covering enforced disappearance and related issues. While the establishment of search commissions and special prosecutor's offices to investigate offences of enforced disappearance is a positive development, the Committee is concerned about the alarming degree of impunity evident in cases reported, including in those in which collusion between criminal groups and the security forces is alleged, and about the number of bodies of deceased persons that are still waiting to be identified (arts. 2, 6, 7, 9, 14 and 16).

29. **The State party should:**

(a) **Establish all records, databases and tools envisaged under the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System;**

(b) **Strengthen the capacity of the prosecutors' offices specialized in cases of disappeared persons and redouble efforts to investigate all cases of alleged enforced disappearance in a thorough, credible, impartial and transparent manner in order to clarify the whereabouts of disappeared persons and prosecute and punish those responsible;**

(c) **Ensure that victims and members of their families are regularly informed of the progress and results of search and investigation efforts and receive the official administrative documents required pursuant to international standards, and that they are provided with comprehensive reparation, including rehabilitation, compensation, satisfaction and guarantees of non-repetition;**

(d) **Ensure that perpetrators are prosecuted and, if found guilty, receive sentences that are commensurate with the gravity of the crime;**

(e) **Take all necessary measures to ensure that search commissions operate in institutional, budgetary and security conditions that allow them to fulfil their mandate without delay, in accordance with the relevant legislation; and**

(f) **Ensure that the forensic institute has sufficient resources, personnel and competence to cover existing needs for the investigation and identification of the large number of unidentified corpses and human remains.**

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

30. The Committee welcomes the adoption of the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment in 2017 but regrets that the Act has not been effectively implemented. The Committee is concerned about reports of widespread use of torture, ill-treatment and excessive use of force by the police, armed forces and other public officials, particularly during arrest and the initial period of detention. It is also concerned that, according to information received, investigations into and convictions for acts of torture are rare. Although national law prohibits the use of evidence obtained through torture or violations of fundamental rights, the Committee is concerned about allegations that torture is used to extract information or confessions which are then used in court as evidence, and that the courts fail to follow up on such allegations (arts. 7 and 10).

31. **The State party should, as a matter of urgency, put an end to the practice of torture and ill-treatment. In particular, the State party should:**

(a) **Ensure the effective implementation of the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment of 2017 at both the federal and state levels;**

(b) **Ensure that all allegations of torture and ill-treatment are investigated promptly, thoroughly and effectively; where appropriate, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offence; and provide effective remedies for the victims, including rehabilitation;**

(c) **Ensure that national legislation is applied, and thus that evidence and confessions obtained under torture cannot be used;**

(d) **Take all measures necessary to prevent torture, particularly by enhancing training for judges, prosecutors, medical experts, forensic experts and officers of the National Guard, armed forces and other security forces; and**

(e) **Collect accurate data on cases of torture and ill-treatment and on the ensuing prosecutions, convictions and sentences, and make such information public.**

Migrants and asylum seekers

32. Despite the measures taken by the State party, the Committee is concerned about recurrent allegations that migrants, particularly those in an irregular situation, are subjected to violations including torture and cruel, inhuman and degrading treatment, enforced disappearance, extortion, trafficking, homicide and other crimes. The Committee is also concerned about the migration policy recently implemented in the State party, which involves widespread use of detention and, very often, the use of force by State agents. The Committee is likewise concerned that this detention policy causes migrants to take more dangerous routes that increase the risk of their falling victim to crime. An additional concern for the Committee are the Migrant Protection Protocols introduced in 2019, which require persons seeking asylum in the United States of America to remain in Mexican territory during the asylum process and have thus exposed a number of persons to violations including kidnapping and extortion. The Committee is also alarmed by the impunity and very limited access to justice apparent in the State party. Lastly, the Committee is concerned about reports of children, and especially unaccompanied migrant children, being detained and being denied adequate protection and assistance (arts. 7, 9, 10, 12, 13, 14, 24 and 26).

33. **The State party should:**

(a) **Ensure that all allegations of human rights violations committed against migrants, refugees and asylum seekers are investigated promptly, impartially and thoroughly, and that the perpetrators are prosecuted and, if found guilty, receive appropriate sentences;**

(b) **Avoid the administrative detention of asylum seekers and migrants, prioritizing non-custodial alternatives and ensuring that detention is used only as a measure of last**

resort and for the shortest possible period of time, and refrain from depriving migrant children and asylum seekers of their liberty and from separating migrant families;

- (c) **Ensure that migrants, refugees and asylum seekers, particularly children, receive protection and assistance in appropriate conditions as well as access to basic services;**
- (d) **Step up its efforts to prevent, combat and punish trafficking in persons and ensure that the measures it takes are implemented effectively;**
- (e) **Ensure that asylum seekers have access to legal aid and the right to initiate appeal proceedings;**
- (f) **Implement training programmes covering the Covenant, international asylum standards and human rights for the staff of migration institutions and border personnel.**

***Arraigo* (precautionary detention without charge) and mandatory pretrial detention**

34. Although the State party's delegation has indicated that the practice of *arraigo* has been eliminated from the legal framework, the Committee is concerned that this form of detention continues to be used since the repeal amendment has not yet been submitted to the Senate and the State legislatures for approval. The Committee is particularly concerned about the use of mandatory pretrial detention, since this practice runs counter to the requirements set out in articles 9 and 14 of the Covenant. In particular, the Committee regrets that the use of this practice has been extended to other offences by a constitutional amendment promulgated in April 2019. The Committee is likewise concerned about the large numbers of people held in pretrial detention (arts. 9 and 14).

35. **The State party should comply with the Committee's previous recommendation and complete the constitutional amendment process as soon as possible in order to eliminate the practice of *arraigo* from the State party's legal order (CCPR/C/MEX/CO/5, para. 15). It should also eliminate mandatory pretrial detention in law and in practice. The State party should significantly reduce the use of pretrial detention and ensure that it always considers the possibility of using alternatives to deprivation of liberty and that pretrial detention is used as a last resort only, on an exceptional and reasoned basis, when strictly necessary and for the shortest possible time, in accordance with general comment No. 35 (2014) on liberty and security of person.**

Conditions of detention

36. The Committee is concerned that, despite reductions, levels of overcrowding remain high, and this contributes to a lack of separation between remand and convicted prisoners and to precarious living conditions. The Committee notes with concern that prisoners are repeatedly transferred in a bid to ease overcrowding and regrets that this practice often affects detainees' right to mount a defence and limits contact with members of their families. The Committee takes note of the explanation given by the State party for the existence of a central register of detainees only, but it is concerned about reports which indicate that the system is not efficient and that the register does not contain comprehensive, detailed information about detainees. The Committee also notes with concern the excessive length of time that children spend in prison with their mothers and the lack of guidelines regulating this area (arts. 6, 7, 9 and 10).

37. **The State party should:**

- (a) **Implement effective measures to reduce overcrowding, especially in prisons in the federative entities, in particular by promoting non-custodial alternatives to detention such as bail and house arrest;**
- (b) **Safeguard the right of all persons deprived of their liberty to be treated with humanity and dignity and ensure that conditions of detention in all prison facilities comply with the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the provisions of the National Criminal Enforcement Act;**

- (c) **Take the necessary measures to separate prisoners according to age, sex and reasons for detention, and to combat inmate self-rule in prison facilities;**
- (d) **Adopt clear guidelines for situations in which children live with their mothers in detention facilities and ensure that the conditions in which they live are not detrimental to their physical, psychological, moral and social development and that they are protected from violence; and**
- (e) **Effectively implement the National Act on Detention Registers, ensuring that registers are accessible to interested parties, including family members.**

Military jurisdiction

38. The Committee welcomes the amendment introduced to the Code of Military Justice in 2014 to establish that abuses committed against civilians by military personnel must be tried before the ordinary criminal courts. However, the Committee is concerned about subsequent amendments to the Military Code of Criminal Procedure and the Code of Military Justice that grant military prosecutors and judges' broad powers to search homes and public buildings and listen to private telecommunications without a warrant issued by an ordinary court (arts. 14 and 17).

39. **The State party should amend the Military Code of Criminal Procedure and the Code of Military Justice in order to ensure that all cases involving violations of human rights are heard before the civil courts and that the military criminal justice system does not interfere in cases in which the victims are civilians. Victims of human rights violations perpetrated by military officers must have access to effective remedies.**

Independence of the judiciary

40. The Committee is concerned about reports of frequent attempts to interfere with the judiciary and the public prosecution service on the part of public and private actors. It is particularly concerned about measures that weaken the salary protection afforded to judges and magistrates. It is also concerned about proposed legislative amendments that, if adopted, would undermine the independence of the judiciary and the public prosecution service in respect of, for example, appointments, transfers, promotions, disciplinary procedures and termination of office. The Committee is concerned about reports of judges and magistrates being attacked in arbitrary accusations of corruption and naming and shaming campaigns, and of unwarranted disciplinary measures and transfers being imposed on judges who take decisions contrary to Government interests (arts. 14 and 25).

41. **The State party should take immediate measures to uphold the full autonomy, independence, impartiality and safety of judges, magistrates and prosecutors and ensure that they can conduct their activities without unwarranted pressure and interference from other bodies, including the executive and legislative branches of Government, and that all judicial and due process safeguards are effectively implemented in the event of disciplinary proceedings being initiated against them. The State party should ensure that draft laws originating from within the judiciary are widely discussed with the various stakeholders and safeguard the independence and impartiality of the judiciary, and that the administrative bodies of the judiciary and public prosecution service responsible for appointing, transferring, promoting, disciplining and terminating the office of judges, are composed primarily of judges and public prosecutors elected by their peers.**

Freedom of expression and association

42. The Committee regrets the high levels of intimidation and violence, including lethal violence, to which human rights defenders and journalists are exposed. The Committee welcomes the establishment of the mechanism for the protection of human rights defenders but is concerned that both the mechanism and the state-level protection units have been allocated insufficient resources; that the State party does not have a comprehensive policy promoting the implementation of effective protective and preventive measures; and that the protective measures adopted fail to take a multifaceted approach that incorporates a gender perspective. The Committee is concerned about the seriously high levels of impunity enjoyed

by those who commit crimes against human rights defenders and journalists. It regrets that, as yet, no specialized unit has been established to deal with offences committed against human rights defenders and that the Office of the Special Prosecutor for Offences committed against Freedom of Expression has not been able to respond effectively to serious human rights violations, with the result that there have been very few convictions. The Committee is also concerned about the fact that legal provisions that make it illegal to express ideas and opinions remain in force in Mexico, especially at the individual state level, and that these provisions have been used to criminalize the work of journalists, whistle-blowers and human rights defenders, particularly defenders of indigenous rights, defenders of environmental rights and opponents of economic development projects and megaprojects (arts. 6,7,19, 21 and 22).

43. **The Committee urges the State party to:**

(a) **Strengthen the mechanism for the protection of human rights defenders and journalists and the state-level protection units by allocating sufficient financial and human resources for their work, incorporating a gender perspective into their activities, taking action to address structural risk factors on both a reactive and preventive basis and organizing activities that increase public awareness of the legitimacy of the mechanism's work;**

(b) **Strengthen the institutions responsible for law enforcement and the administration of justice, and also the administrative bodies responsible for internal oversight, so as to ensure that all attacks are investigated promptly, thoroughly, independently and impartially, that the perpetrators are brought to justice and that victims receive adequate assistance and comprehensive reparation;**

(c) **Ensure that guarantees of due process are upheld in cases in which human rights defenders and journalists stand accused of committing offences; and**

(d) **Ensure that any restrictions on the right to freedom of opinion and expression and the right to freedom of assembly and association comply fully with the strict requirements set out in articles 19 (3), 21 and 22 (2) of the Covenant.**

Rights of indigenous peoples

44. The Committee notes with concern the significant number of reports that attest to licences for exploration and exploitation activities in the context of megaprojects conducted in the territories of indigenous people having been granted without the free and informed prior consent of the indigenous peoples affected having been obtained. The Committee takes note of the proposals to amend legislation, including the Constitution, in order to guarantee the right to consultation, but regrets that some judicial decisions are based on a restrictive interpretation of the principles of consultation while other court decisions ordering consultations to be carried out have not been enforced. The Committee is also concerned about reports indicating that the criteria used to determine which peoples should be considered indigenous have been interpreted very narrowly in order to justify the failure to carry out consultations (arts. 2, 25, 26 and 27).

45. **The State party should ensure that meaningful consultations are held in good faith with the indigenous peoples concerned with a view to obtaining their free and informed prior consent before the adoption or application of any measure that may have an impact on their way of life and/or culture. The State party should also ensure that indigenous peoples are consulted prior to the adoption of any regulatory instrument relating to the consultations. It should redouble its efforts to ensure that the rights of indigenous peoples, particularly in relation to land, territory and natural resources, are promoted, protected and recognized in law and in practice. The State party should ensure that interpretations as to which persons are considered indigenous are based on their right to belong to an indigenous community or nation and their right to determine their own identity and membership.**

D. Dissemination and follow-up

46. The State party should widely disseminate the Covenant, its two Optional Protocols, its sixth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public, including members of minority communities and indigenous peoples.

47. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, within two years of the adoption of the present concluding observations, that is, by 8 November 2021, information on the implementation of the recommendations made by the Committee in paragraphs 19 (right to life and security of person), 23 (impunity) and 43 (freedom of expression and association).

48. In accordance with the Committee's planned review cycle, the State party will receive the list of issues prior to reporting from the Committee in 2025, and will be expected to submit its replies to this list of issues, which will constitute its seventh periodic report, within one year. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2027.
