



Convention on the Rights of the Child

Committee on the Rights of the Child

Fifty-sixth session

17 January–4 February 2011

Written replies of the Government of Mexico to the list of issues (CRC/C/OPAC/MEX/Q/1) to be taken up in connection with the consideration of the initial report of Mexico under article 8, paragraph 1, of 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) *

[Replies received on 23 August 2010]

Reply to paragraph 1 of the list of issues (CRC/C/OPAC/MEX/Q/1)

1. The Ministry of Defence has shown an unambiguous commitment to the recognition and implementation of human rights. This is apparent in the process undertaken to consolidate the structures within the Ministry that specialize in human rights and in raising awareness and providing training to Ministry staff on the subject.

2. The process started in 1991 with the creation of a Human Rights Section within the Office of the Military Prosecutor-General to follow up on complaints and recommendations made by the National Human Rights Commission.

3. In July 2000, a Human Rights Division was established within the General Staff of the Armed Forces.

4. Subsequently in 2007, a Subdepartment for Human Rights was set up in the Department for Military Justice.

5. And, a Department for Human Rights was opened in January 2008. That Department's functions include: advising the Ministry of Defence on human rights matters and international humanitarian law; proposing actions that help foster a climate of respect for fundamental rights within the institution; and working with other government ministries to fulfil Mexico's human rights commitments. The Department for Human Rights also has the authority to initiate criminal or administrative proceedings against military personnel accused of human rights violations and, as applicable, to order compensation for the damages incurred.

6. Also in 2008, a Citizens Services Bureau was created to ensure citizens' the free exercise of their rights of petition and of access to information.

7. As part of a joint civic-military action programme currently being carried out by the Ministry of Defence to strengthen its ties with civil society, the Ministry published an agreement in the official gazette, *Diario Oficial de la Federación*, on 21 June 2010, which created a Citizens Relations Unit for forging links between citizens and the Mexican army and air force. The Unit's basic objective is to establish closer relations between the Armed Forces and civil society so as to avoid or resolve any conflicts that the military presence in urban areas might generate. The contents of the agreement whereby the Unit was established are presented below:

"AGREEMENT

"ARTICLE 1. – The Citizens Relations Unit, hereinafter the 'Unit', is hereby created within the Mexican army and air force. The Unit shall be under the responsibility and mandate of a General, who will report directly to the Minister of Defence.

"The Unit shall be staffed solely with military personnel, but civilians with knowledge and experience of public policies and citizens relations may be invited to participate in its activities.

"ARTICLE 2. – The purpose of the Unit shall be to establish closer relations between the Mexican army and air force and society at large, as needed to resolve conflicts that a military presence in the streets may generate, by developing methods to establish, arrange and maintain adequate and effective communication between the aforementioned interlocutors.

"ARTICLE 3. – The administrative provisions and actions required to bring this Agreement into force are hereby implemented."

8. The military education system consists of several institutions run by the Department for Military Education and the Office of the Rector of the University of the Mexican Army and Air Force.

9. The subjects of human rights and gender equity are included in the syllabuses of the various military academies and/or training courses. The goal is to foster respect for the corresponding norms among trainees and ensure they develop the necessary knowledge and engage in the type of conduct required as they progress through the ranks in their military careers. How these subjects are taught varies according to the academic level and rank of the trainees and the functions they are expected to perform upon completion of the course.

10. Under the present Government, scholarships have been granted to military personnel to take specialized courses in human rights at universities in Mexico and abroad.

11. Diploma courses, ordinary courses, workshops and seminars are given at the Army and Air Force Studies Centre to officers up to the rank of colonel to educate military personnel about human rights and keep them abreast of the latest developments in that field, as well as to train instructors and thus generate a multiplying effect.

12. In July 2009, an agreement on human rights was signed between the Mexican office of the United Nations High Commissioner for Human Rights and the Ministry of Defence. The agreement includes a plan of work that revolves around four areas of action: human rights training; the development of indicators to measure the impact of that training; follow-up to international recommendations; and the monitoring of any human rights situations that arouse concern.

13. The plan of work is being implemented in the Ministry of Defence by the Department for Human Rights, the Department for Military Education and the Office of the Rector of the University of the Mexican Army and Air Force.

14. The Ministry of Defence has also organized various training and awareness-raising programmes for its personnel:

(a) The 2008–2010 Ministry of Defence Human Rights Programme, which pursues the objectives, strategies and lines of action established in the National Human Rights Programme for 2008–2012, which the Ministry of Defence is obliged to implement;

(b) The Programme to Promote and Strengthen Human Rights and International Humanitarian Law, which is updated annually and aims to accommodate the requirements of the Armed Forces, the Mexican legal system and the international agreements that Mexico has signed and ratified. Its main objectives are to:

(i) Contribute to the execution of the National Human Rights Programme for 2008–2012, particularly regarding respect for human rights during the participation of the Armed Forces in the fight against organized crime and in the legitimate use of force and the use of firearms;

(ii) Carry out activities to promote and increase respect for human rights and international humanitarian law among military personnel, by inculcating strict adherence to the law through the military training and education systems.

(c) The Gender Equity Programme, which upholds the commitment to ensure equal opportunities for men and women by promoting, spreading and strengthening a culture of peace and respect for human rights in the Mexican army and air force through training, awareness-raising and action to ensure that priority in human resources is awarded on the basis of gender equity and equal opportunities. This programme has spawned several offshoots, such as: the 2008 Training and Awareness Programme on Peace and the Gender Perspective; the 2009 Training and Awareness Programme for the Military on the Gender Perspective; and the current 2010 Training and Awareness Programme for the Military on the Gender Perspective;

(d) The Continuous Programme to Prevent Domestic and Gender Violence and Provide Comprehensive Care, which aims to take and promote action to prevent and address domestic violence, to eradicate the phenomenon among Mexican army and air force personnel and to investigate and analyse its causes. The programme covers prevention, education, early detection, care, the dissemination of information, and research, and its activities target all military personnel and beneficiaries;

(e) The 2008–2012 Ministry of Defence Programme of Equal Opportunities for Men and Women, which sets out strategic objectives and lines of action for guaranteeing human rights and non-discrimination and increasing capacity to expand opportunities for the men and women of the Mexican army and air force.

15. The Ministry of Defence issues all its staff with a copy of the Mexican Army and Air Force Human Rights Manual, as well as a brief summary of human rights standards. Both are published by the Ministry itself.

16. The Ministry of the Navy, for its part, has incorporated a human rights perspective at all levels of the institution through the creation of a Department for Human Rights to oversee the process. Under previous Governments as well as the present one, the Ministry of the Navy has enhanced overall respect for human rights in its interactions with civil society and in the performance of its duties through the adoption of various internal regulations.

17. Staff at the Ministry of the Navy receive training courses on human rights and international humanitarian law that cover the rights of the child and the participation of children in armed conflicts. Given the importance of the Protocol, the Ministry is planning to hold specific talks or academic seminars on the subject.

18. The Inter-Ministerial International Humanitarian Law Commission (CIDIH-Mexico) is launching an annual nationwide course on international humanitarian law for public officials and the general public. The course covers the special protection afforded children in armed conflicts under international humanitarian law and international human rights law.

19. The course is being organized to fulfil one of the promises made by the Government of Mexico at the Thirtieth International Conference of the Red Cross and the Red Crescent (Geneva, November 2007), on the promotion and respect of international humanitarian law.

Reply to paragraph 2 of the list of issues

20. The statistics on volunteers aged under 18 years engaged in military service are as follows:

<i>Year</i>	<i>Number aged 16 years (year of birth for enrolment purposes in brackets)</i>	<i>Number aged 17 years (year of birth for enrolment purposes in brackets)</i>	<i>Total</i>
2007	101 (1990)	1 143 (1989)	1 244
2008	109 (1991)	1 152 (1990)	1 261
2009	138 (1992)	1 219 (1991)	1 357
Total number of persons under 18 who served between 2007 and 2009		3 862	

21. Military service is provided in accordance with the General National Military Service Training Programme, which covers various military topics so that new recruits master the basics of military doctrine.

22. Those under the age of 18 doing their military service early are under no circumstances involved in the fight against organized crime and the drug cartels.

Reply to paragraph 3 of the list of issues

23. The data on the institutions that make up the military education system are presented in the table below:

<i>Institution</i>	<i>Percentage of time spent in</i>	<i>Sex</i>	<i>Age</i>	<i>Zone</i>	<i>Origin</i>	<i>Academic level</i>	<i>Academic education</i>	<i>Military training</i>	<i>M</i>	<i>F</i>	<i>15</i>	<i>16</i>	<i>17</i>	<i>Region</i>	<i>Rural</i>	<i>Urban</i>	<i>Social origin</i>	<i>Ethnic origin</i>
Military Academy for Training Air Force Specialists	Officer Training – Flight Control	3 years	High school	44.46	55.54	12	1	6	5	1	South	12	10	Centre			middle income	
	Officer Training – Weather Control	3 years		44.70	55.30	6	9	6	8	1	5	South	15	9	Centre		middle income	
Military Academy for Maintenance and Supply Training	Officer Training – Air Force Materials Supply	3 years	High school	50.33	49.67	12	4	7	1		Centre	12		Southeast			middle income	
	Officer Training – Electronic Aviation Specialists	3 years		58.74	41.26	10	2	4	4		Southeast	10	5	Centre			middle income	
Military Academy for Training Specialized Air Force Troops	Training of Sergeants 2nd Class – Aviation Maintenance Specialists	3 semesters	High school (occupational training)	58	42	8	3	5			5	Centre	8	3	South		middle income	
	Training of Sergeants 2nd Class – Electronic Aviation Specialists	3 semesters		58	42	6	2	4			3	Centre	6	3	South		middle income	
Military Academy for War Materials Training	Training of Sergeants 2nd Class – Air Force Materials Supply	3 semesters		60	40	2		2			2	Centre	2				low income	
	Training of Sergeants 2nd Class – Aircraft Weapons Systems	3 semesters		58	42	4	1	3			2	Centre	4	1	North		low income	
Military Academy for War Materials Training	Training of Sergeants 2nd Class – War Materials	1 year	Middle (secondary) school	28.16	71.84	1					1	Centre	1				low income	
														1	North		5	

Military Academy for Signals Training	Training of Sergeants 2nd Class – Signals	1 year	Middle school (occupational training)	52.22	47.78	10	4	9	1	4	10	Centre 13	1	middle income 1 Zapotec
											3	South		8 low income

24. The academic personnel employed are as follows:

<i>Academies</i>	<i>Civilian instructors</i>	<i>Military instructors</i>
Military Academy for War Materials Training	49	50
Military Academy for Training Specialized Air Force Troops	31	61
Military Academy for Signals Training	26	53
Military Academy for Maintenance and Supply Training	21	32
Military Academy for Training Air Force Specialists	26	30

25. Civilians who study at military training academies may ask to withdraw in accordance with the relevant regulations and will accordingly be released.

26. Regarding access to complaint mechanisms, students in institutions of the military education system who feel they have suffered abuse may file a complaint before the civil or military authorities; proceedings will then be initiated in accordance with the applicable legislation.

27. Information on the naval education system is presented below:

<i>Institution</i>	<i>Degree course/ title offered</i>	<i>Academic level</i>	<i>Type of course</i>	<i>Percentage of time in academic education/ military training</i>	<i>Duration of course</i>	
Heroic Naval Academy	Naval Sciences Engineer	Bachelor's degree	On-site	88.53	11.47	10 semesters
	Marine Infantry			87.77	12.23	10 semesters
	Naval Logistics			87.86	12.14	10 semesters
Naval Medical Academy	Naval Surgeon	Bachelor's degree	On-site	99.5	05.17	9 semesters, with 1 year of undergraduate practice
Engineering Academy of the Mexican Navy	Naval Mechanical Engineer	Bachelor's degree	On-site	96.25	03.75	10 semesters
	Naval Electronics and Communications Engineer			95.13	04.87	10 semesters
Naval Nursing Academy	Naval Nursing	Bachelor's degree	On-site	93.11	06.89	8 semesters

28. With regard to the right of students to leave the schools at any time, Mexican naval legislation provides that cadets or students may ask to withdraw whenever they wish, given that admission to the various naval academies is strictly voluntary.

29. Regarding complaint mechanisms, it should be pointed out that cadets and students, as human resources of the Ministry of the Navy, enjoy the rights and considerations established in the applicable naval laws and regulations and thus have the right to submit complaints through the normal channels and at the corresponding level of authority. If they do not receive a reply to their complaint or have been the victim of an offence, they may take their complaint to the next level, and so on up to, if necessary, the President of the Republic, Supreme Commander of the Mexican Armed Forces. Irrespective of the above, at no point are they denied the possibility of exercising their rights under Mexican positive law.

Reply to paragraph 4 of the list of issues

30. The Government of Mexico does not recognize any paramilitary groups in its territory.

31. The Government does not have data on the participation of children in armed groups.

Reply to paragraph 5 of the list of issues

32. Mexico is a State party to the Rome Statute of the International Criminal Court, an international treaty ratified by Mexico on 28 October 2005 that has been in force in the country since 1 January 2006.

33. Article 8, paragraphs b (xxvi) and e (vii), of that treaty classifies the acts of conscripting or enlisting children under the age of 15 years into the national armed forces or using them to participate actively in hostilities, whether in international or other kinds of armed conflict, as war crimes.

34. Given that the Rome Statute is an international treaty signed and ratified by Mexico in accordance with article 89, section X, article 76, section I, and article 133 of the Mexican Constitution, all of its provisions have the status of supreme law throughout the country and take precedence over federal laws.

35. As is known, the jurisdiction of the International Criminal Court is complementary to that of the States parties to the Rome Statute. In other words, if States, which first have the obligation to prosecute and try perpetrators of such crimes, are unwilling or unable genuinely to do so, then the International Criminal Court may exercise its jurisdiction over such perpetrators.

36. At the national level, special protection is granted to children in situations of armed conflict under article 21 of the Act on the Protection of the Rights of Children and Adolescents, which states that "they shall be protected if they are affected by [...] armed

conflicts, natural disasters, refugee or displacement situations, and attempts to recruit them to participate in armed conflicts”. Failure to comply with the article, as set out in chapter 2 of the Act, incurs administrative sanctions.

37. Under Mexican law, the minimum age for participating in hostilities is 18 years, as established in the following instruments:

(a) The Military Service Act:

“Article 24. – Volunteers may be admitted to join the army until the quota set annually by the Ministry of Defence is reached, provided that they:

I. Submit an application.

II. Are Mexican citizens and over 18 and under 30 years of age, or under 40 years of age in the case of army specialists. Persons under 18 and over 16 years of age may be admitted to be trained as technical operatives in signal units under contracts with the State that do not exceed five years.

III. Are single, widowed or divorced without children.

IV. Satisfy the requirements set forth in the regulations to this Act.

Article 25. – Only those who meet the following requirements may join the army before they have attained the required minimum age:

I. Those who wish to leave the country during the time when, under army regulations, they would ordinarily be required to serve, provided that they are over 16 at the time they request to join.

II. Those who need to do so because of their studies.

The maximum number of persons who can join early shall be set each year by the Ministry of Defence.”

(b) General Ordinance of the Navy:

“Title 2.

Recruitment.

Article 31. – The navy recruitment system shall be based on voluntary enlistment for a set number of years, until Congress passes the relevant law, which shall form part of the provisions under this title.

Article 32. – The following are essential conditions for the admission of apprentice sailors and apprentice stokers:

[...]

I. When applicants are under age, the consent of their parents or legal guardians must be obtained.

Article 33. – For the admission of seamen first class and seamen second class and their equivalents in other branches of the navy, the conditions laid out in the previous article must be met, except those in sections II and VII, because those admitted shall not be under 18 or over 30 years of age, and the period of service shall be three years.

Article 34. – Sea corporals and cannon corporals, warrant officers, gunners, masters of arms, sea officers and their equivalents in other branches of the navy, shall also be subject to the entry requirements listed in article 32, except that they must be between the ages of 19 and 45 years, and the period of service shall be two years.”

38. While the recruitment and use of children in hostilities is not expressly criminalized in military law, it should be noted that failure to comply with the provisions of the Military Service Act (including those on the minimum age for recruitment) constitutes a breach of military duty under article 63 of the Military Service Act and article 382 of the Code of Military Justice.

39. Nevertheless, at the national level, the Federal Criminal Code currently does not classify the recruitment or participation in hostilities of minors under 18 years of age as an offence.

40. In that regard, in order to fulfil Mexico’s international obligations with regard to international humanitarian law, including bringing the Federal Criminal Code into line with the relevant international instruments, in August 2009, the Government of Mexico established the Inter-Ministerial Commission on International Humanitarian Law (CIDIH-Mexico), a consultative and technical body of the Federal Executive whose purpose is to spread and promote respect for the norms, principles and institutions of international humanitarian law and encourage their implementation at the national level.

41. The Commission comprises representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of the Navy and the Ministry of the Interior and has the option to invite other relevant stakeholders to participate in its work.

42. One of the priorities established in the Commission’s programme of work for 2010 was the drafting of an amendment to the Federal Criminal Code to criminalize the offences referred to in the Rome Statute, the four Geneva Conventions of 1949 and the Additional Protocol I thereto of 1977.

43. Indeed, one of the promises the Government of Mexico made during the Review Conference of the Rome Statute (Kampala, 31 May to 11 June 2010) was to prepare and submit the aforementioned draft amendment to Congress during the first half of 2011.

44. In accordance with the aforementioned international instruments, the draft amendment will criminalize the recruitment, enlistment and use of children under the age of 18 to participate in hostilities.

45. As may be seen, even though Mexican criminal legislation does not criminalize the forced enlistment, recruitment or participation in hostilities of children under 18 years of age, Mexican law does not provide for their recruitment.

Reply to paragraph 6 of the list of issues

46. In accordance with articles 2 and 4 of the Federal Criminal Code, in order for the Government of Mexico to exercise jurisdiction in the case of offences committed by Mexicans in foreign territory, the accused must be located in Mexican territory. Also, as explained above, Mexico is presently still in the process of establishing the recruitment or participation in hostilities of children under 18 years of age as an offence under national law.

47. Thus, Mexico currently does not assume extraterritorial jurisdiction in cases where the war crimes of forced recruitment or participation in hostilities of children under 18 years of age have been committed outside its territory.

48. However, as a State party to the Rome Statute, the Mexican Government recognizes the principle of complementarity underpinning the actions of the International Criminal Court, according to which, in cases where a Mexican citizen is accused of committing a crime that falls within the competence of that Court, the Government of Mexico would exercise its jurisdiction, and only if it was unwilling or unable genuinely to do so could the Court then exercise its jurisdiction.

49. Furthermore, and also as a State party to the Rome Statute, Mexico complies with the requests for cooperation it receives from the International Criminal Court. In December 2009, the Senate approved the bill implementing article 21, paragraph 8, of the Mexican Constitution, known as the Act on Cooperation with the International Criminal Court, which is currently being reviewed by the Chamber of Deputies and, if adopted, will fully establish the Government's ability to engage in such cooperation.

50. To date, the hypothetical situation the Committee refers to in paragraph 6 of the list of issues has not arisen.

Reply to paragraph 7 of the list of issues

51. On 30 March 2007, the Under-Secretariat of Population, Migration and Religious Affairs of the Ministry of the Interior established the Inter-Institutional Roundtable on Unaccompanied Migrant Children and Adolescents and Migrant Women, with the primary objective of planning concrete actions to support these groups and establishing itself as a strategic planning body.

52. Institutions participating in the round table include the International Organization for Migration (IOM), the United Nations Children's Fund (UNICEF) and the United Nations High Commissioner for Refugees (UNHCR), along with the Ministry of Foreign Affairs, the National System for the Full Development of the Family (SNDIF), the National Institute for Migration (INM), the National Institute for Women (INMUJERES) and the Mexican Commission for Aid to Refugees (COMAR), among other federal agencies. The round table has so far met on nine occasions.

53. The round table has a technical working group that draws up public policies to protect and guarantee the rights of the child. The group is currently working on a model for the protection of the rights of unaccompanied and repatriated migrant children and adolescents, which is intended to guarantee their rights throughout the entire process of deportation or return to their countries of origin. The bodies participating in the group include UNICEF, IOM, UNHCR, SNDIF and INM.

Child protection officers

54. Child protection officers are federal migration officers who are responsible for protecting and guaranteeing the rights of foreign migrant children and adolescents during the migration and holding process. They also assist unaccompanied Mexican children and adolescents who have been repatriated from the United States of America.

55. There are currently 324 federal migration officers acting as child protection officers, working in the 32 regional offices of the National Institute for Migration. The child protection officers refer the migrant children and adolescents to the shelters run by the National System for the Integral Development of the Family while they are in the custody of the National Institute for Migration and until their migratory status is resolved. They also accompany the children and adolescents at all times, including in cases of deportation, when they travel by air with the children or adolescents to their place of origin.

56. On 12 February 2010, Circular No. 001/2010 was published in the *Diario Oficial de la Federación*, outlining the procedures for assisting unaccompanied migrant children and adolescents. The circular establishes the difference between the procedure for assisting unaccompanied foreign migrant children and the procedure for assisting unaccompanied Mexican migrant children.

57. The child protection officers receive in-service training on various subjects, such as managing crisis situations and providing information to children on their rights and responding to the questions they may have about immigration procedures in language appropriate for their age and level of maturity. The officers are also thoroughly trained in topics such as: the rights of the child; physical and psychological protection; and the identification of asylum-seekers, possible victims of crime and children who need complementary international protection.

58. Regarding the latter, on 3 July 2007 the Migrant Regularization Coordinating Centre of the National Institute for Migration published Circular No. CRM/016/2007 on complementary protection, which refers to the protection of unaccompanied migrant children and adolescents who do not meet the conditions to be recognized as refugees but have the option to receive complementary forms of protection. This is based on Conclusion No. 103 (2005) of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, on the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating

to the Status of Refugees and on regional instruments for the protection of refugees, such as the 1984 Cartagena Declaration. The Circular is intended to respect the international principle of non-refoulement, as stipulated in article 37, paragraph (a), of the Convention on the Rights of the Child, among other international documents.

59. Circular No. CRM/016/2007 authorizes an extended stay for unaccompanied foreign migrant children and adolescents if they require international protection and for humanitarian reasons, on the basis of the need to guarantee respect for the human rights and freedoms of the child and uphold the principles of non-discrimination, the child's best interests and family unity.

60. Identifying asylum-seekers, particularly unaccompanied children or adolescents, is a priority in the context of the international protection of refugees. For that reason, the Mexican Commission for Aid to Refugees (COMAR) makes efforts to improve the identification of unaccompanied children who might require protection as refugees. These efforts include the following:

(a) Developing an inter-institutional care model for unaccompanied children and adolescents that includes the identification of possible asylum-seekers. Developing this model is part of the work of the Inter-Institutional Roundtable on Unaccompanied Migrant Children and Adolescents and Migrant Women;

(b) Participating in the training of child protection officers on international protection for refugees;

(c) Establishing ties with the National Institute for Migration and the Office of the Special Prosecutor for Violent Crimes against Women and Human Trafficking (FEVIMTRA) of the Office of the Attorney-General, in order to identify, determine the eligibility of, and assist victims of trafficking who might qualify as refugees, including unaccompanied children.

61. With regard to attending to the needs of, guarding and caring for unaccompanied children or adolescents who are recognized as refugees, COMAR has developed a care network with the cooperation of institutions specialized in assisting and caring for minors. These institutions have programmes to help children develop the skills needed to become independent and make life choices and offer psychological care and housing, among other services.

62. COMAR has set up mechanisms for direct collaboration with civil society organizations and institutions, to which it refers refugee children. The organizations and institutions assess whether the children, based on their profile, can be admitted to one of their programmes and remain in their care until they reach the age of 18 years. If the children are admitted, COMAR continues to monitor their cases and to provide the necessary institutional assistance. Currently, the institutions that collaborate with COMAR in assisting and caring for unaccompanied refugee children are the following: Ayuda y Solidaridad con las Niñas IAP, Fundación Pro Niños de la Calle, Casa Alianza México and Instituto Poblano de Readaptación Cultural, AC (IPODERAC).

63. It should be noted that the majority of unaccompanied child refugees in Mexico are of Central American origin and that, under the Convention relating to the Status of Refugees, one of the grounds for recognition as a refugee is membership of a particular social group. Many of the boy refugees have fled from their country of origin because of fear or threats of being recruited by gangs, while in general the girls have been harassed by gangs or are victims of domestic violence or trafficking in persons.