



# Convention on the Rights of the Child

## Committee on the Rights of the Child

### Fifty-sixth session

17 January–4 February 2011

### Written replies by the Government of Mexico concerning the list of issues (CRC/C/OPSC/MEX/Q/1) to be taken up in connection with the consideration of the initial report of Mexico under article 12, paragraph 1, of 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) \*, \*\*

[Replies received on 12 October 2010]

### Replies to paragraph 1, subparagraph (a), of the list of issues (CRC/C/OPSC/MEX/Q/1)

1. The following table lists the preliminary investigations that have been initiated, conducted and concluded based on complaints filed with the Office of the Attorney General of the Republic between 2007 and 2009 concerning the offences of pornography and procuring of persons under 18 years of age, as well as the status of related criminal proceedings.

<i>Number</i>	<i>Offence</i>	<i>Victims</i>	<i>State</i>	<i>Disposition of the case</i>	<i>Status of criminal proceedings</i>
<i>Age</i>	<i>Sex</i>				
2007					
1	Child pornography	16	F	Jalisco	Indicted
An arrest warrant was issued on 7 July 2009 but has not been executed.					
The Judge of the Fourth Federal District Criminal Court declined jurisdiction on the grounds that the case dealt with an ordinary offence; proceedings are under way before the Presiding Judge of First Instance of the Judicial District of Ecatepec, Mexico State.					
2	Procuring of children	15	F	Mexico State	Indicted
Under investigation (application to produce evidence). The defence presented testimony on 25 June 2010.					
2008					
1	Child pornography	No data	F and M	Baja California	Indicted
2	Child pornography	No data	F and/or M	Veracruz	Dismissed
3	Procuring of children	No data	F	Federal District	No jurisdiction, assigned to Federal District Attorney General
2009					
1	Child pornography	7	F	Federal District	Confidentiality invoked
2	Child pornography	3	F	Federal District	Pending
3	Child pornography	No data	F	Not known	Pending

4	Child pornography data	No	F	Baja California	Pending
5	Child pornography data	No	F	Aguascalientes	Pending
6	Child pornography	7	F	Not known	Pending
7	Procuring of children	No data	F	Federal District	No jurisdiction, assigned to Federal District Attorney General
8	Procuring of children	2 victims, each 17	F	Chiapas	No jurisdiction, assigned to Federal District Attorney General

2. Between 2007 and August 2010, the Office of the Attorney General of the Federal District initiated the following preliminary investigations:

<i>Year</i>	<i>Child pornography</i>	<i>Child trafficking</i>	<i>Total</i>
2007	5	1	6
2008	10	2	12
2009	8	4	12
2010	2	0	2
<b>Total</b>	<b>25</b>	<b>7</b>	<b>31</b>

3. For its part, the National Human Rights Commission received four complaints concerning paedophilia, child prostitution and child pornography during the same period. In two of these cases, the parties concerned received counselling. In another, no action was taken because the complainant did not wish to pursue the case further, while the fourth did not fall within the Commission's purview.

### Replies to paragraph 1, subparagraph (b), of the list of issues

4. No statistical data are available on the subject. Since 2008, however, the Comprehensive Victim Support System of the Ministry of Public Security has provided support for victims of these and other types of offences. The objectives of that system are to guarantee the enjoyment, protection and exercise of all rights and means of protection in respect of crime victims or other aggrieved parties; provide them with comprehensive, appropriate, effective and confidential services free of charge in a way that respects their dignity and/or, as appropriate, refer them to the public, private or social institutions that provide such services; and design and implement a comprehensive support model that includes minimum standards for victim support and makes provision for reparation and crime prevention measures. The aforementioned services are provided through comprehensive victim support centres, information modules, mobile units, support teams and self-help groups. These services can be accessed through the Ministry of Public Security's e-mail address ([atencionavictimas@ssp.gob.mx](mailto:atencionavictimas@ssp.gob.mx)), its website ([www.atencionavictimas.gob.mx](http://www.atencionavictimas.gob.mx)) and the phone number 01 80090 AYUDA (29832).

### Replies to paragraph 1, subparagraph (c), of the list of issues

5. The National System for Comprehensive Development of the Family (SNDIF) coordinates national and intercountry adoptions in Mexico. The requested information can be found below, disaggregated by federal state.

#### 2007 Adoptions

<i>State or Agency</i>	<i>Adoptions</i>		<i>Total</i>
	<i>National</i>	<i>Intercountry</i>	
Aguascalientes	0	0	0
Baja California	87	7	94
Baja California Sur	No data	No data	No data
Chiapas	13	0	13
Campeche	5	0	5
Chihuahua	107	7	114
Coahuila	135	10	145
Colima	0	0	0
SNDIF	23	0	23
Durango	6	0	6
Mexico State	88	4	92
Guanajuato	49	4	53

Guerrero	84	3	87
Hidalgo	25	2	27
Jalisco	0	0	0
Michoacán	21	1	22
Morelos	4	0	4
Nayarit	2	0	2
Nuevo León	48	0	48
Oaxaca	15	15	30
Puebla	30	7	37
Querétaro	30	3	33
Quintana Roo	14	Not applicable	14
San Luis Potosí	0	0	0
Sinaloa	14	0	14
Sonora	42	0	42
Tabasco	28	5	33
Tamaulipas	No data	Not applicable	0
Tlaxcala	3	No data	3
Veracruz	11	12	23
Yucatán	45	Not applicable	45
Zacatecas	2	0	2
<b>Total</b>	<b>931</b>	<b>80</b>	<b>1 011</b>

*Note:* “Not applicable” refers to the fact that those states do not conduct intercountry adoptions.

#### *2008 Adoptions*

<i>State or Agency</i>	<i>Adoptions</i>		<i>Total</i>
	<i>National</i>	<i>Intercountry</i>	
Aguascalientes	11	2	13
Baja California	26	7	33
Baja California Sur	No data	No data	No data
Chiapas	16	0	16
Campeche	17	0	17
Chihuahua	165	31	196
Coahuila	118	7	125
Colima	1	0	1
SNDIF	13	1	14
Durango	14	0	14
Mexico State	63	5	68
Guanajuato	64	8	72
Guerrero	2	0	2
Hidalgo	29	0	29
Jalisco	160	19	179
Michoacán	11	0	11
Morelos	18	0	18
Nayarit	7	0	7
Nuevo León	89	0	89
Oaxaca	25	3	28
Puebla	29	7	36
Querétaro	20	8	28
Quintana Roo	7	Not applicable	7
San Luis Potosí	40	0	40
Sinaloa	12	0	12
Sonora	41	1	42
Tabasco	20	1	21
Tamaulipas	11	Not applicable	11
Tlaxcala	6	No data	6
Veracruz	No data	4	4
Yucatán	70	Not applicable	70
Zacatecas	0	0	0
<b>Total</b>	<b>1 105</b>	<b>104</b>	<b>1 209</b>

*Note:* “Not applicable” refers to the fact that those states do not conduct intercountry adoptions.

#### *2009 Adoptions*

##### *Adoptions*

<i>State or Agency</i>	<i>National</i>	<i>Intercountry</i>	<i>Total</i>
Aguascalientes	10	1	<b>11</b>
Baja California	No data	No data	<b>No data</b>
Baja California Sur	No data	No data	<b>No data</b>
Chiapas	9	0	<b>9</b>
Campeche	7	1	<b>8</b>
Chihuahua	112	9	<b>121</b>
Coahuila	35	8	<b>43</b>
Colima	1	0	<b>1</b>
SNDIF	16	0	<b>16</b>
Durango	9	0	<b>9</b>
Mexico State	2	80	<b>82</b>
Guanajuato	24	2	<b>26</b>
Guerrero	8	0	<b>8</b>
Hidalgo	22	3	<b>25</b>
Jalisco	106	7	<b>113</b>
Michoacán	12	0	<b>12</b>
Morelos	24	0	<b>24</b>
Nayarit	8	0	<b>8</b>
Nuevo León	No data	0	<b>0</b>
Oaxaca	21	15	<b>36</b>
Puebla	17	4	<b>21</b>
Querétaro	25	4	<b>29</b>
Quintana Roo	1	Not applicable	<b>1</b>
San Luis Potosí	9	0	<b>9</b>
Sinaloa	4	0	<b>4</b>
Sonora	No data	1	<b>1</b>
Tabasco	28	0	<b>28</b>
Tamaulipas	13	Not applicable	<b>13</b>
Tlaxcala	6	No data	<b>6</b>
Veracruz	17	6	<b>23</b>
Yucatán	56	Not applicable	<b>56</b>
Zacatecas	5	0	<b>5</b>
<b>Total</b>	<b>607</b>	<b>157</b>	<b>764</b>

*Note:* “Not applicable” refers to the fact that those states do not conduct intercountry adoptions

## Replies to paragraph 2 of the list of issues

6. The Mexican Government is implementing the Optional Protocol through coordination, prevention and support activities, legal protection actions and investigations conducted under the National Action Plan to Prevent, Address and Eradicate the Commercial Sexual Exploitation of Children.

7. The Plan is implemented by means of two mechanisms:

(a) The National Coordinating Office to Prevent, Address and Eliminate the Commercial Sexual Exploitation of Children; and

(b) The implementation of action plans at the state level.

8. The subcommittees or working groups of the National Coordinating Office are updating the Action Plan so that it will serve as an operational framework for addressing the issue of child sexual exploitation in a way that corresponds to the country’s current needs and characteristics.

9. SNDIF implements the National Programme to Prevent and Punish Trafficking in Persons through the National Coordinating Office to Prevent, Address and Eliminate the Commercial Sexual Exploitation of Children and through the promotion of action plans at the state level.

10. The first objective of the National Programme is to “prevent trafficking in persons, by taking action to counteract the associated risk factors, taking into account age, sex and other causes of vulnerability and discrimination”. The achievement of this objective involves “conducting a study on the possible correlations between statistics on cases of trafficking in persons and various socio-economic variables, especially those related to poverty and marginalization”.

11. This study, which is coordinated by the Ministry of Social Development, will be completed by November 2011. It will be conducted in conjunction with the Office of the Special Prosecutor for Violent Crimes against Women and Human Trafficking, which will provide a statistical database on the incidence of trafficking in persons.

## Concrete measures

12. The Inter-Agency Committee to Prevent and Sanction Trafficking in Persons includes representatives of various federal Government departments, as well as the National Human Rights Commission.

13. In April 2010, the National Human Rights Commission coordinated the launch of the Blue Heart Campaign. The objective of this campaign is to raise awareness among the general population and to mobilize governments, civil society, the private sector and society in general in the fight against human trafficking. As part of the launch, reports on the work of the Advisory Subcommission, the body responsible for establishing the National Programme to Prevent and Punish Trafficking in Persons, were disseminated.

14. In May and June 2010, the following bodies participated in the work of the Subcommission on Victim Assistance and the Subcommission on Prevention of the Commercial Sexual Exploitation of Children, which are coordinated by SNDIF, with a view to creating a national programme that will encompass various lines of action in order to address the issue through an inter-institutional approach: the Ministry of Public Security, the National Victim Assistance Network, the National Institute of Psychiatry, the Office of the Special Prosecutor for Violent Crimes against Women and Human Trafficking of the Office of the Attorney General of the Republic, the Office of the Assistant Attorney General for Victim Assistance and Human Rights, and the National Centre for Planning and Intelligence.

15. Participation in the intelligence-gathering operations of the Office of the Attorney General of the Republic is of particular interest as a way to reduce impunity for such crimes and expose the criminal networks involved.

16. Since 2009, a joint work programme has been established by the National Institute for Women and the National Human Rights Commission under which awareness-raising and training days on human trafficking are offered for key actors from both Government and society. The Office of the Special Prosecutor for Violent Crimes against Women and Human Trafficking, the United States Agency for International Development (USAID) and Microsoft have all joined in this initiative. Six awareness-raising and training days have been held thus far in the following states: Puebla, Tamaulipas (two), Jalisco, Baja California and Aguascalientes. A total of 534 people participated (293 women and 241 men), and four more awareness-raising and training days are scheduled for the remainder of 2010. In addition to the general aspects of trafficking in persons, during these events the public is also informed about how traffickers use the Internet to find their victims and about anonymous and regular reporting mechanisms. Another activity that stands out is the creation, with the assistance of USAID, of a short film on the problem of trafficking in persons. About 14,000 copies had been distributed between the time of its release and September 2010.

17. For its part, in 2010 the National Human Rights Commission has carried out various activities to combat the sexual exploitation of children, such as awareness-raising workshops designed to promote a culture of self-protection among children and encourage their parents to protect them from the dangers of the Internet by identifying the basic aspects of the cyberstalking of children. Workshops on the topic have also been held for public officials from all three levels of government, academic institutions, human rights defence associations and civil society organizations.

18. Within the framework of the "Unite against Human Trafficking" campaign, which the National Human Rights Commission is currently implementing in conjunction with the Revolutionary Confederation of Workers and Campesinos and with Microsoft, four events have been held as part of the Surf the Internet Safety Initiative in Mexico State, Querétaro and Colima. A total of 670 people (public officials, teachers, parents and students, among others) have been trained at these events and alerted to the danger of child pornography and the risk of children being targeted by traffickers through the Internet. Awareness-raising activities dealing with trafficking in persons have likewise been held for members of the Revolutionary Confederation of Workers and Campesinos, especially for those employed in the tourism, catering and transport sectors, as well as other industries related to trafficking in persons. This has made it possible for some social workers of the Confederation to become trainers within their organization.

19. For its part, the National Institute for Migration has carried out the activities described below.

## **2010**

20. The following activities should be mentioned:

(a) On 12 February 2010, Circular No. 001/2010 was published in the *Diario Oficial de la Federación*. This circular, which outlines procedures for assisting unaccompanied migrant children and adolescents, specifies the steps that Child Protection Officers should take to protect the rights of unaccompanied migrant children and adolescents. It also contains a specific section on protecting possible trafficking victims;

(b) Official Instruction No. INM/334/2010 outlines the procedure to be followed by the National Institute for Migration to detect, identify and assist foreign victims of crime (see annex I);

(c) Participation in the Blue Heart Campaign; and

(d) Two specific coordination agreements (one with the State of Chiapas and the other with the Office of the Attorney General of the Federal District) are being readied for signature. These agreements will help to ensure the enjoyment, protection and exercise of constitutional guarantees in connection with the provision of assistance and support for foreign victims of crime.

## **2009**

21. The following activities should be mentioned:

(a) The Mexico-El Salvador Memorandum of Understanding for the Protection of Victims, Especially Women and Minors, of Illicit Trafficking was signed on 21 March 2009;

- (b) A protocol was developed for the identification of victims of trafficking. This protocol includes an identification manual, interview guidelines and a questionnaire for identifying child and adolescent trafficking victims and adult victims (see annex II);
- (c) Links with the International Organization for Migration, Casa Alianza, SNDIF and the Office of the Special Prosecutor for Violent Crimes against Women and Human Trafficking were established to help to ensure that victims are safe during their stays at any of the shelters that have been set up for that purpose;
- (d) On 17 February 2009, the Framework Convention to Fulfil Commitment 2, section 6, of the National Agreement on Security, Justice and Law was signed. This section of the Framework Convention is aimed at strengthening support networks for victims of crime at the national level. The instrument will serve as a validation and foundation for conventions and protocols to strengthen support for victims at the national level;
- (e) The position of Child Protection Officer was created as a result of the Round Table on Unaccompanied Migrant Children and Adolescents and Migrant Women, held in March 2008. The duties of those officers include the following: identify and provide special care to meet the most urgent needs of child and adolescent migrants; make use of the necessary tools for intervening in crisis situations and for dealing with asylum requests and cases of trafficking; inform child and adolescent migrants of their rights using appropriate language; answer their questions about immigration procedures; refer children and adolescents to the shelters run by SNDIF; and assist them with repatriation procedures while ensuring their protection at all times. The National Institute for Migration currently employs 324 Child Protection Officers in its 32 regional offices throughout the country. These officers have been trained by international organizations, civil society associations and other government departments on issues such as asylum, trafficking, and gender and violence;
- (f) Procedures for detecting, identifying and assisting possible trafficking victims were created and implemented with a view to harmonizing, at the national level, the activities undertaken by the National Institute for Migration in support of trafficking victims;
- (g) Training was provided to 1,545 public officials (648 from the National Institute for Migration and 897 from other Government departments, such as the federal police force and local prosecutors' offices) in coordination with Mexico's Human Trafficking Victim Support Programme (PROTEJA) and the International Organization for Migration;
- (h) Guidelines were developed for use by staff when asking questions designed to identify possible trafficking victims. These guidelines are used by National Institute for Migration staff during inspections and visa status checks and at public service desks and entry points;
- (i) Anti-trafficking operations were carried out as part of a special programme for the inspection of questionable business establishments and in response to complaints, which may be made anonymously. As part of these operations, support was received from public prosecutors' offices for the identification and, when necessary, rescue of victims of Mexican nationality. The federal police force assisted in safeguarding the physical integrity of the victims who were identified;
- (j) In accordance with article 37 of the implementing regulations of the Act to Prevent and Punish Human Trafficking, in cases where victims are under 18 years of age or are unable to understand the significance of the act, rather than obtaining victims' consent to repatriation, a professional investigation is undertaken to determine whether they would be at risk of revictimization if returned to their country. The subsequent action to be taken is determined based on the results of the investigation, with priority given to the child's best interests;
- (k) Community liaison mechanisms were set up for receiving reports of cases of human trafficking and disseminating information on the different government support and protection measures available. These arrangements include the 01800 00 TRATA (87282) telephone hotline and a dedicated e-mail address ([casosdetrata@inami.gob.mx](mailto:casosdetrata@inami.gob.mx));
- (l) On 10 August 2009, the 32 regional offices of the National Institute for Migration were instructed to regularize any foreign national presumed to be a possible victim or witness of a crime, in accordance with Circular CRM/189/2007; and
- (m) On 7 October 2009, the new operational rules for migrant holding centres were issued. Under these rules, persons in charge of migration holding centres must inform foreign nationals being held in those centres, in writing, of their rights and obligations, including the right to file a complaint if they have been victims of a crime and to receive legal representation and assistance.

## 2008

22. The following activities should be mentioned:

- (a) The National Institute for Migration participated in drafting the implementing regulations for the Act to Prevent and Punish Human Trafficking (published on 27 February 2009). It was particularly closely involved in drafting chapter VII, which deals with immigration procedures;
- (b) The National Institute for Migration concluded a cooperation agreement to facilitate referrals of child and adolescent migrants, as well as agreements with the following bodies: the Ministry of Health (on verification of the health status of possible trafficking victims), the International Organization for Migration (on ensuring dignified and effective reintegration into the country of origin), the Commission for Aid to Refugees and the Office of the United Nations High Commissioner for Refugees (on guaranteeing the right of trafficking victims to seek asylum) and the Office of the Special Prosecutor for Violent Crimes against Women and Human Trafficking (on ensuring adequate and safe accommodation and proper assistance);
- (c) Representatives of the National Institute for Migration participated in a regional workshop entitled Strengthening Regional Cooperation to Reintegrate Trafficking Victims, held in Managua, Nicaragua, on 21 and 22 July 2008. The workshop was organized by the International Organization for Migration and the Regional Conference on Migration with a view to providing training on the

process of reintegrating trafficking victims into society and raising awareness in this regard;

(d)The Inter-American Commission of Women, a specialized body of the Organization of American States (OAS), carried out a project to combat trafficking in women, adolescents and children in Mexico, in cooperation with the International Organization for Migration, the National Institute for Women and the National Institute for Migration; and

(e)Under this 12-month project, various tasks were carried out, including: the preparation of documentation on the scale of trafficking in persons across the country's northern and southern borders; training workshops in the cities of Monterrey, Nuevo León, Tuxtla Gutiérrez, Chiapas and two such workshops in Mexico City; and systematization of the available information on possible victims (disaggregated by sex, marital status, age, nationality, type of victimization and migration status, where applicable). This information is classified as restricted because, if circulated, it could put the lives of the victims and the public officials involved at risk. This classification does not diminish the obligations of the National Institute for Migration to protect the personal data of victims, possible victims and aggrieved parties. The National Institute for Migration also initiated inspections of questionable business establishments and of businesses that employ foreign nationals in order to detect possible victims of trafficking and violations of the Population Act.

## 2007

23.The following activities should be mentioned:

(a)Official Instruction No. CRM/189/2007 (see annex III) was issued with a view to bringing internal procedures into line with international norms on trafficking in persons. The instruction authorizes the regularization of foreign nationals who are possible victims or witnesses of a crime and grants them permission to engage in any legal and honest remunerated activity for a period of one year, which can be extended for up to four more years;

(b)On 16 October, the National Institute for Migration created 32 inter-agency committees on human trafficking, one for each state. These committees bring together representatives of the main state offices that work in this area. They are divided into a social-assistance subgroup, for those that provide support and protection to victims, and a penal subgroup, for those that implement cooperation measures to prevent and combat crime. The committees meet at least once per year and provide inputs for the annual programme for inter-agency committees.

## Replies to paragraph 3 of the list of issues

24.As the Committee was informed in Mexico's initial report, the following agencies of the Federal Government are responsible for implementing the Protocol.

**25.The National System for Comprehensive Development of the Family (SNDIF).** This agency is responsible for setting up the committees for the follow-up and monitoring of the Convention on the Rights of the Child and implements the National Action Plan to Prevent, Address and Eradicate the Commercial Sexual Exploitation of Children, which was approved by the Mexican Government in 2002.

**26.The Ministry of Public Security.** Within this Ministry, the Cybercrime Prevention Department of the Scientific Division of the Federal Police, working in coordination with the Public Prosecutor's Office, takes preventive action and monitors activities to identify, locate and neutralize organizations or individuals that use computer systems and equipment, whether in the country or elsewhere, to commit cybercrimes in Mexico, including those targeting children. Also, a comprehensive system of services for crime victims, including victims of trafficking, has been in place since 2008.

**27.The Office of the Attorney General of the Republic.** The Office's Department for Crime Prevention and Community Services takes action to help combat the commercial sexual exploitation of children.

**28.The Ministry of the Interior.** This Ministry presides over the Commission on Government Policy on Human Rights, which was created by a presidential agreement published in the official journal, the *Diario Oficial de la Federación*, of 11 March 2003. This permanent body functions as a forum for dialogue on governmental human rights policy among Federal Government agencies and civil society organizations. The Commission is composed of 12 subcommissions. Each one addresses a particular human rights topic and is jointly coordinated by a representative of the Federal Government and a representative of civil society. The Subcommission for the Rights of the Child was established in 2007.

**29.The Ministry of Labour and Social Security.** This Ministry carries out comprehensive child-focused programmes to combat child labour, including the commercial sexual exploitation of children.

**30.The Ministry of Social Development.** This Ministry presides over the National Children's and Adolescents' Council, which drafts coordinated public policies and strategies to ensure the full and comprehensive development of children and adolescents. The Council engages in action to promote the welfare and development of children and adolescents and improve their quality of life.

**31.The Ministry of Health.** This Ministry, through the National Centre for Child and Adolescent Health and in conjunction with the Ministry of Public Education, follows up on the recommendations of the United Nations Secretary-General's Study on Violence against Children, which was conducted in Mexico City in April 2007.

**32.The National Institute for Women.** In coordination with other agencies of the Federal Government, this Institute publishes information and training materials, as well as its own publications, on its web page with a view to warning the population of the risk (for women and girls, in particular) of becoming a victim of trafficking ([www.inmujeres.gob.mx/programas/prevencion-de-la-trata-de-personas.html](http://www.inmujeres.gob.mx/programas/prevencion-de-la-trata-de-personas.html)).

33. **The National Institute for Migration.** This body engages in various activities aimed at addressing the problems of human trafficking.

34. **The National Human Rights Commission.** The Childhood and Family Affairs Programme run by this Commission includes the organization of training activities to foster respect for the rights of the child and facilitate their practical, everyday implementation in the family and society at large.

### Replies to paragraph 4 of the list of issues

35. The National Human Rights Commission is authorized at the national level to receive complaints from children or their representatives of alleged violations of their human rights by authorities or public servants employed by the Federal Government, with the exception of those working for the federal judiciary. When a complaint involves both public servants at the state or municipal level and Federal Government employees, it also falls within the Commission's purview.

36. The Commission investigates such complaints and, if its analysis of the evidence reveals a human rights violation, draws up a recommendation that, once approved and signed by the President, is served on the public servant in question so that the corresponding measures can be taken. The recommendation indicates the steps to be taken to restore the victim's rights and, if appropriate, to provide compensation for material and non-material damage.

37. State-level human rights commissions or attorneys generals can also receive complaints from children when the alleged human rights violations involve state or municipal government employees only.

38. The recommendations issued by the Human Rights Commission and state-level human rights agencies are public and non-binding.

39. The Commission's campaigns, programmes and actions to combat human trafficking and the ill-treatment and abuse of children also encourage people to report human rights violations.

### Replies to paragraph 5 of the list of issues

40. SNDIF promotes the implementation of the operational protocol that has been developed for the detection, protection and care of children and adolescents who are victims or who are at risk of commercial sexual exploitation. The operational protocol was designed as a tool for public servants and staff at civil society organizations to help them identify possible cases of child sexual exploitation and provide timely protection and care.

41. The National Institute for Migration meanwhile has created and implemented a scheme for the detection, identification and support of possible trafficking victims, the goal of which is to standardize procedures for assisting trafficking victims. In 2009, staff at all regional offices received training in the procedure, which is designed to ensure that possible trafficking victims are identified and receive proper assistance. Although the procedure is already being applied in all the regional offices, its publication in the *Diario Oficial de la Federación* is still pending.

42. The National Institute for Migration has, since 2005, kept statistics on the foreign victims of trafficking who have received assistance in Mexico. The records on possible trafficking victims include their ages, sex and nationality and the migratory assistance provided. The confidentiality of the personal information on victims and possible victims is scrupulously protected. Files on possible victims are classified as restricted, since the disclosure of their contents could endanger their lives.

43. All necessary measures are therefore taken in handling this information to protect victims and possible victims of trafficking.

### Replies to paragraph 6 of the list of issues

44. On 19 August 2010, a decree amending the Federal Criminal Code was published in the *Diario Oficial de la Federación* (see annex IV). This decree extends the scope of compensation for crimes against the free development of personality, liberty and normal psychosexual development. It also rules out the possibility of parole for persons convicted of corruption, pornography, sexual tourism, procurement for prostitution or pederasty involving persons under the age of 18. The amended provisions furthermore classify corruption, pornography, sexual tourism, procurement for prostitution and pederasty involving persons under the age of 18, as defined in the Federal Criminal Code, as serious offences under the Federal Code of Criminal Procedures. A comparative table is presented in annex V.

45. The Federal Criminal Code criminalizes all the aspects of child prostitution referred to in article 2 (b) and article 3 (b) of the Optional Protocol.

46. A separate chapter of the Federal Criminal Code is devoted to the procurement for prostitution of persons under the age of 18 or of persons who do not have the capacity to understand the significance of the act or are unable to offer resistance.

47. The acts associated with child prostitution mentioned in the Optional Protocol are criminalized in the Federal Criminal Code as follows:

**Article 203.** Anyone who promotes, publicizes, invites, facilitates or arranges, by any means, for a person or persons to travel inside or outside the national territory for the purpose of performing any kind of real or simulated sexual act with one or more persons aged under 18 years or with one or more persons who do not have the capacity to understand the significance of the act or are unable to offer resistance shall be deemed to have committed the crime of sexual tourism.

Perpetrators of this crime shall be penalized with between 7 and 12 years' imprisonment and a fine of between 800 and 2,000

minimum daily wages.

**Article 203 (bis).** Anyone who, within the context of sexual tourism, performs any kind of real or simulated sexual act with one of more persons aged under 18 years or with one or more persons who do not have the capacity to understand the significance of the act or are unable to offer resistance shall be penalized with between 12 and 16 years' imprisonment and a fine of between 2,000 and 3,000 minimum daily wages. Such persons will be required to undergo specialized psychiatric treatment.

**Article 204.** The following persons shall be deemed to have committed the crime of procurement for prostitution of persons aged under 18 years or persons who do not have the capacity to understand the significance of the act or are not able to offer resistance:

I. Anyone who exploits the body of the aforementioned persons by involving them in sexual commerce or who profits therefrom in any way;

II. Anyone who induces or encourages the aforementioned persons to sell their bodies or who provides the means for their engagement in prostitution; and

III. Anyone who directly or indirectly manages, administers or maintains brothels, meeting houses or places expressly devoted to the prostitution of persons aged under 18 years or persons who do not have the capacity to understand the significance of the act or are not able to offer resistance, or anyone who derives any benefit therefrom.

Perpetrators of this offence shall be penalized with between 8 and 15 years' imprisonment and a fine of between 1,000 and 2,000 minimum daily wages, as well as the definitive closure of the establishments described in section III above.

48. Chapter VIII of the Federal Criminal Code establishes the following penalties for pederasty:

**Article 209 (bis).** Anyone who takes advantage of the trust or subordinate position of a person under the age of 18 years, or of a superior position over that minor by virtue of that person's standing as a relative, guardian, legal representative, carer or custodian of any kind or of the existence of a pedagogic, religious, work-related, medical, cultural, domestic or other type of relationship, and performs or obliges, induces or convinces the minor to perform any sexual act, with or without his or her consent, shall be sentenced to between 9 and 18 years' imprisonment and a fine of between 750 and 2,250 minimum daily wages.

The same penalty shall apply to anyone who commits the acts described in the preceding paragraph against a person who does not have the capacity to understand the significance of the act or is unable to offer resistance.

If the perpetrator uses physical violence, the penalties shall be increased by half.

The perpetrator of the offence may be subjected to comprehensive medical treatment for the period of time deemed necessary, which may not, however, exceed the prison term.

Additionally, the perpetrator shall lose any parental authority, guardianship, trusteeship, adoption rights, alimony or child support entitlements and any other rights that he or she may have with regard to the victim's assets under civil law.

If the crime is committed by a public servant or by a professional through or in the exercise of his or her profession, then, in addition to incurring the aforementioned prison sentence, the perpetrator shall be barred, removed or suspended from his or her public office or profession for a period equal to that of the prison sentence.

**Article 209 (ter).** For the purpose of determining the scope of the damage caused in terms of the free development of the victim's personality, the corresponding rulings must be requested and issued. If the Public Prosecutor's Office fails to comply with this provision, that Office shall be penalized in accordance with the provisions of this Code and applicable law.

If the person convicted of this offence refuses or is unable to secure the medical, psychological or specialized treatment required, then the State must provide those services to the victim.

49. The Federal Criminal Code and the Act to Prevent and Punish Human Trafficking define the sale of children and adolescents in accordance with articles 2 (a) and 3 (a) of the Optional Protocol.

50. Chapter VI of the Federal Criminal Code establishes the offence of procurement for prostitution as follows:

**Article 206.** Procurement for prostitution shall be penalized with between 2 and 9 years' imprisonment and a fine of between 50 and 500 minimum daily wages.

**Article 206 (bis).** The following persons shall be deemed to have committed the offence of procurement for prostitution:

I. Anyone who exploits the body of another for the sexual commerce or who derives a livelihood or profits in any way therefrom;

II. Anyone who induces or asks a person to use their body to conduct sexual commerce or who provides the means for their engagement in prostitution; and

III. Anyone who directly or indirectly manages, administers or maintains brothels, meeting houses or places expressly devoted to the exploitation of prostitution or derives any benefit therefrom.

51. The Act to Prevent and Punish Human Trafficking also refers to the sale of persons as a form of trafficking in the following articles:

**Article 5.** Anyone who promotes, solicits, offers, facilitates, procures, transfers, delivers or receives, for himself or herself or for a

third party, a person by means of physical or psychological violence, deceit or abuse of power in order to submit that person to sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs, tissue or their components shall be deemed to have committed the offence of trafficking of persons.

When this offence is committed against persons under the age of 18 or persons who are not capable of understanding the significance of the act or of offering resistance, no verification of commissive means shall be required.

**Article 6.** Anyone who commits the offence of trafficking in persons shall receive the following sentences:

I. From 6 to 12 years' imprisonment and a fine of between 500 and 1,500 minimum daily wages;

II. From 9 to 18 years' imprisonment and a fine of between 750 and 2,250 minimum daily wages if the offence is committed against a person who is under the age of 18 or not capable of understanding the significance of the act or of offering resistance;

III. The penalties arising from the offences set forth in sections I and II of this article shall be increased by half in the following situations:

(a) If the perpetrator used the public office that he or she held or claimed to hold (in which case the public servant shall lose his or her job and be removed and barred from office and public service in general for a period equal to the prison sentence imposed), if the victim is over 60 years old or if the victim is an indigenous person;

(b) If the perpetrator is related by blood, affinity or civil status to the victim or lives in the same residence as the victim, whether or not there is any relationship between them, or is the guardian or carer of the victim. Additionally, as applicable, the perpetrator may lose parental authority, as well as any entitlements to alimony or child support that he or she may have by virtue of his or her relationship with the victim and any rights with regard to the victim's assets;

(c) If, in the commission of the offence of trafficking of persons, the perpetrator also commits another offence, the regulations established in the First Book of the Federal Criminal Code shall apply;

(d) Consent of the victim shall be determined in the light of article 15, section III, of the Federal Criminal Code.

52. Mexico has a legal framework which establishes the conditions that must be met in order to ensure that adoptions are carried out in the best interests of the children concerned.

53. In fulfilment of the commitment to provide children with the protection and care they need for their well-being and to adopt all appropriate measures to safeguard their best interests (assumed when the Government of Mexico signed the Convention on the Rights of the Child), on 7 April 2000, article 4, paragraph 6, of the Constitution was amended to establish the duty of the State to provide whatever is required to ensure respect for the dignity of children and the full exercise of their rights.

54. In January 2007, the legislature passed the Act on the Protection of the Rights of Children, article 3 of which sets out the guiding principles for protecting children's rights, including the principles of the best interests of the child and the full and equal enjoyment of human rights and constitutional guarantees. Chapter VII, on the right to live in a family, states that:

**Article 26.** Federal authorities and the authorities of the Federal District, states and municipalities shall, within their realms of competence, ensure that adoptions are conducted in keeping with the adoption regulations in force, which shall be designed to ensure that children's and adolescents' rights are fully respected in adoption processes and shall contain provisions designed to ensure that:

A. The opinions of children and adolescents are heard and taken into consideration in accordance with applicable law.

B. Legal counsel is provided both to those who consent to the adoption and those who accept the adoption so that they are aware of the consequences of the act.

C. The adoption does not generate undue economic benefit to those participating in it.

55. As a result of the reform of article 4 of the Constitution and the passage of the Act on the Protection of the Rights of Children, laws to protect the rights of children have been passed in 31 of the 32 states of Mexico.

56. Family conflicts are considered public order issues in Mexico and are therefore regulated by the Federal Civil Code. In cases involving children and adolescents, judicial authorities have the power to intervene and impose any measures deemed necessary to protect them. The subject of adoption is covered in chapter IV of the Federal Civil Code.

57. The Ministry of Public Security, in accordance with article 5 of the Constitution, articles 2 and 17 of the Act to Prevent and Punish Human Trafficking, articles 4, 7 (section III), 8, 19, 24, 25 and 27 of its implementing regulations, and the Ministry's internal regulations, is drawing up strategies to coordinate the provision of assistance to trafficking victims among the three branches of government and with the population in general. These strategies provide for ongoing training of security corps at the various levels and in the different administrative areas of government and for raising awareness of the issue among civil society.

## **Replies to paragraph 7 of the list of issues**

58. Mexico has a legal framework which establishes the conditions that must be met in order to ensure that adoptions are carried out in the best interests of the children concerned.

59. In fulfilment of the commitment to provide children with the protection and care they need for their well-being and to adopt all appropriate measures to safeguard their best interests (assumed when the Government of Mexico signed the Convention on the

Rights of the Child), on 7 April 2000, paragraph 6 of article 4 of the Constitution was amended to establish the duty of the State to provide whatever is required to ensure respect for the dignity of children and the full exercise of their rights. In this context, in January 2007, the legislature passed the Act on the Protection of the Rights of Children, article 3 of which sets out the guiding principles for protecting children's rights, including the principles of the best interests of the child and the full and equal enjoyment of human rights and constitutional guarantees.

60. Family conflicts are considered public order issues in Mexico and are therefore regulated by the Federal Civil Code. In cases involving children and adolescents, judicial authorities have the power to intervene and impose any measures deemed necessary to protect them. The subject of adoption is covered in chapter IV of the Federal Civil Code.

61. To date, no reports of any adoptions being conducted outside the legal framework and its guidelines have been received.

### **Replies to paragraph 8 of the list of issues**

62. There is no systemized information on allegations of corruption among public officials. The Government of Mexico recognizes, however, the importance of upholding the principle of legality and of fighting corruption to ensure appropriate relations between citizens and government authorities. The Ministry of the Public Service was set up to coordinate, assess and monitor the Federal Government's performance of its public duties. Its priorities include: fostering a culture of legality and an appreciation of accountability; expanding the scope, impact and preventive effect of the supervision and monitoring of the actions of public officials; suppressing and sanctioning corrupt practices; setting up professional, efficient and effective government structures; and improving the regulation, activities and administrative processes of the federal government service.

63. In the exercise of its functions, the Ministry, through its governmental control and assessment system, assigns representatives to each decentralized agency and body within the federal government service. The representatives submit periodic reports to the Ministry that are then analysed and evaluated by the offices of the various under-secretaries and the Office for the General Coordination of Supervisory and Oversight Bodies, which forms part of the Ministry.

64. On 21 August 2008, federal and state authorities and senior representatives of the three branches of government signed the Agreement for Security, Justice and Legality (see annex VI), which establishes a number of time-bound commitments. The Agreement indicates that all authorities at every level of government are obliged to act in an efficient, transparent and wholly accountable manner and to combat corruption so as to regain the citizens' trust. The commitments made under the Agreement concern such areas as the creation of a national confidence evaluation and monitoring model; the ongoing assessment of social rehabilitation centres and the institutions involved in the areas of law enforcement, justice and migration; support for efforts at the state level to combat the crimes having the most detrimental effect on society; and the strengthening and consolidation of support networks for crime victims.

65. Within the framework of the Agreement, the Ministry of the Public Service set up a free telephone hotline (01 800 FUNCION) for reporting misconduct by public servants.

66. The 2007–2012 National Development Plan sets out the objectives, strategies and priorities that are meant to guide the current Administration. The first chapter of the Plan, on the rule of law and security, establishes the principle that every nation should be based on the effective justice provided by the rule of law and refers specifically to the need for full respect for the law so that citizens can have better life opportunities and participate freely and responsibly in the democratic process. The fifth chapter, on effective democracy and responsible foreign policy, focuses on strengthening democracy by forging agreements among the different branches and levels of government, political parties, and other social and political organizations and by promoting citizens' participation.

67. The National Human Rights Programme for 2008–2012 incorporates the human rights perspective into all public policy and includes lines of action to fight corruption, such as strategy 2.3, which establishes the duty to hone administrative procedures so as to ensure that public servants found guilty of corruption or negligence receive the corresponding penalties.

68. On the international front, Mexico participates in the Inter-American Convention against Corruption and the Follow-Up Mechanism for its Implementation (MESICIC), the intergovernmental instrument established within the framework of OAS to support States in the implementation of the Convention. In March 2010, Mexico submitted its country report under this mechanism, entitled the "Report on Implementation in Mexico of the Convention Provisions Selected for Review in the Third Round, and on Follow-Up to the Recommendations Formulated to that Country in Previous Rounds", which included a description of the standards applied and measures taken to prevent and discourage the bribery of public officials.

### **Replies to paragraph 9 of the list of issues**

69. The following measures should be mentioned:

(a) In 2008, the National Institute for Migration processed 30 possible victims of trafficking. Of these, 13 were recognized as crime victims and were given the option to regularize their migratory status on those grounds. Only seven chose to do so. The other 17 persons opted for repatriation to their country of origin;

(b) In 2009, the Institute processed 74 possible trafficking victims, of whom 58 were repatriated and 14 were given the option to regularize their status (2 of whom were granted complementary protection, which guarantees that they will not be returned to their country of origin). The case of one of the other possible victims is currently being reviewed. The Institute has declared itself incompetent in the case of the other possible victim as it involves a Mexican national;

(c) Of the 14 possible victims given the option to regularize their status, only 13 presented themselves at the corresponding office to carry out the relevant procedure;

(d)Of the five possible victims of trafficking processed by the Institute in the first two months of 2010, three were given the option to regularize their status, one opted for repatriation, and one case is still pending.

### Distribution of victims by age, sex and nationality

70.The following data are worthy of note:

(a)Of the 30 possible victims identified in 2008, 23 were women and 7 were men; 22 were adults and 8 were children or adolescents;

(b)Of the 74 possible victims identified in 2009, 47 were women and 27 were men; 21 were adults and 53 were children or adolescents;

(c)Of the eight possible victims identified in the first two months of 2010, five were women (three adults and two children or adolescents).

### Foreign victims of trafficking, by age group and resolution of migratory status

	2007	2008	2009	2010
Number of victims identified	22	30	74	8
Age groups				
Children and adolescents	N/A	8	53	5
Adults	N/A	22	21	3
<b>Total</b>		<b>30</b>	<b>74</b>	<b>8</b>
Resolution of migratory status				
Children and adolescents				
Repatriation	N/A	8	48	3
Option to regularize status	N/A		3	
Mexican	N/A		1	
Pending	N/A		1	2
<b>Total</b>		<b>8</b>	<b>53</b>	<b>2</b>
Adults				
Repatriation	N/A	9	10	1
Option to regularize status	N/A	13	11	2
<b>Total</b>		<b>22</b>	<b>21</b>	<b>3</b>

*Source:* Matrix of trafficking victims prepared by the Office of the Under-Secretary for the Identification and Assistance of Victims of Human Trafficking of the National Institute for Migration.

### List of annexes

Annex IOfficial Announcement No. INM/334/2010

Annex IIGuidelines for interviewing child and adolescent victims or potential victims of human trafficking

Guidelines for interviewing persons for the purpose of identifying victims and potential victims of human trafficking

Questionnaire to be completed nationwide by possible child and adolescent victims of human trafficking

Annex IIIOfficial Announcement No. CRM/189/2007

Annex IVDiario Oficial de la Federación. Decree amending the Federal Criminal Code and the Federal Code of Criminal Procedure (19 August 2010)

Annex VComparative table of the amendments of 19 August 2010

Annex VIDiario Oficial de la Federación. Agreement for Security, Justice and Legality (25 August 2008)