



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.
GENERAL

CAT/C/MEX/Q/5-6
23 July 2009

ENGLISH
Original: SPANISH

COMMITTEE AGAINST TORTURE

**List of issues prior to the submission of the fifth and sixth
periodic reports of MEXICO (CAT/C/MEX/5-6)¹**

**Specific information on the implementation of articles 1 through 16 of
the Convention, including information relating to the Committee's
previous recommendations**

A. Articles 1 and 4

1. Please provide detailed information about the efforts and actions undertaken thus far to align federal and state laws so that the crime of torture is defined throughout Mexico in accordance with international and regional standards, including those set forth in the Convention against Torture and the Inter-American Convention to Prevent and Punish Torture.²

¹ The present list of issues was adopted by the Committee at its forty-second session in keeping with the new optional procedure established by the Committee at its thirty-eighth session, which consists of the preparation and adoption of a list of issues for transmittal to a State party prior to the submission of its periodic report. The State party's replies to this list of issues constitute the report which the State party is required to submit under article 19 of the Convention.

² CAT/C/MEX/CO/4, para. 1; A/HRC/11/27, para. 93, recommendation 6; CAT/C/MEX/CO/4/Add.1, para. 1.

2. Please provide detailed information on the contents of the draft model law to punish torture³ that has been formulated by civil society and the assessments made of it by the various government bodies that have taken it under consideration. What stage has the assessment reached, and has a deadline been set for the bill's consideration?

3. Please furnish information about proposed amendments to the Code of Military Justice⁴ dealing with the crime of torture and other crimes, along with their penalties, as defined under the Rome Statute of the International Criminal Court. Please provide detailed, up-to-date information on these proposed amendments.

4. Please indicate what stage has been reached in the process of amending the Federal Criminal Code to establish the non-applicability of the statute of limitations to certain serious crimes, including torture.⁵

5. In its earlier observations, the Committee expressed concern about the use of excessive force by the police during the events and disturbances that occurred in Guadalajara and San Salvador Atenco:⁶

(a) Please provide detailed, up-to-date information on the investigations conducted to date into the incidents that took place in Guadalajara, State of Jalisco, on 28 May 2004 and in San Salvador Atenco on 3 and 4 May 2006;

(b) Please give details of how many people have been brought before judicial authorities to answer for these acts and what penalties have been applied. Also please state whether or not victims have received compensation and, if so, please describe the nature of the compensation awarded to them;

(c) Kindly provide detailed information on the conclusions presented in the report of the Commission of Enquiry designated by the Supreme Court to look into the incident that occurred in Atenco. According to the Supreme Court's written opinion, besides the 4 station chiefs who were dismissed, 11 officers were suspended and 12 officers received warnings; 14 of them then appealed and were later absolved. Please specify in which cases these exonerations applied to persons who had received warnings and in which they applied to persons who had been suspended from their duties;

(d) Please provide detailed information on the steps taken by the Governor of the State of Mexico, the Commissioner of the National Institute for Migration and the Secretary for Public Security to comply with recommendation 38/2006 of the National Human Rights Commission.

³ CAT/C/MEX/CO/4/Add.1, para. 3.

⁴ CAT/C/MEX/Q/4/Add.1, para. 4; A/HRC/11/27, para. 93, recommendation 36.

⁵ CAT/C/MEX/CO/4, para. 16.

⁶ Ibid., para. 18.

B. Article 2

6. Please furnish information about the efforts made to comply with the Committee's earlier recommendations concerning the trial of cases involving human rights violations, especially torture and cruel, inhuman or degrading treatment, committed by military personnel against civilians.⁷ Kindly include information on the progress made in defining torture inflicted on military personnel as an offence under military law.⁸

7. Kindly provide up-to-date, detailed information on the reform of the criminal justice system. Please include information on the progress of legislative procedures in those states that have begun to introduce an oral accusatory system and in those that are still discussing the implementation of oral proceedings. Also furnish up-to-date information on the public stance taken by Supreme Court Justices towards the transition to an oral, accusatory model. Please report on what efforts or measures are being taken to expedite the reform of criminal procedural law.⁹

8. Please give a detailed account of the means used to ensure the effective enforcement of due process as it relates to the standard of proof provided for in the reform of the justice system as a whole.

9. Please provide detailed information about the legal measures now in force to protect the personal liberty of a person who is detained by a public official under circumstances other than those permitted by law without a crime having been committed.

10. In its conclusions on the fourth periodic report, the Committee expressed concern about the institution of *arraigo penal* (short-term detention) and urged the State party to ensure that it was eliminated from legislation and in actual practice at both the federal and state levels:¹⁰

(a) Provide information as to the legal foundations and reasons for endowing the institution of *arraigo* with constitutional status under the reform provisions in the case of organized crime,¹¹ bearing in mind the Committee's earlier recommendations,¹² the concerns expressed by other international human rights mechanisms¹³ and the ruling on the subject handed

⁷ CAT/C/MEX/CO/4/Add.1, paras. 18-28; A/HRC/11/27, para. 94, recommendation 7; A/HRC/WG.6/4/MEX/3, para. 22.

⁸ CAT/C/MEX/CO/4, para. 14; E/CN.4/2006/6/Add.2, paras. 179-182.

⁹ CAT/C/MEX/CO/4/Add.1, paras. 11-13; CAT/C/MEX/CO/4/Add.1, paras. 4-11.

¹⁰ CAT/C/MEX/CO/4, para. 15; A/HRC/11/27, para. 93, recommendation 39; A/HRC/WG.6/4/MEX/3, para. 20; E/CN.4/2006/6/Add.2, paras. 169-170.

¹¹ CAT/C/MEX/CO/4/Add.1, para. 5.

¹² CAT/C/MEX/CO/4, para. 15.

¹³ E/CN.4/2003/8/Add.3, A/HRC/11/27.

down by the Supreme Court in September 2005. Please indicate whether or not any sort of evaluation of the institution of *arraigo* has been conducted which takes the Committee's observations into consideration;

(b) Please inform the Committee whether efforts have been made to align the definition of organized crime with that given in the United Nations Convention against Transnational Organized Crime;¹⁴

(c) Transitional article 11 of the amendments to the Constitution relating to criminal law and public security indicates that the institution of *arraigo* will continue to apply to serious crimes until such time as the accusatory criminal law system enters into force. Bearing in mind the recommendations regarding the institution of *arraigo* made both by the Committee and by other international human rights mechanisms, please specify which crimes are covered by this article. Please also inform the Committee what mechanisms and measures are currently in place to safeguard against illegal or arbitrary arrests in cases to which *arraigo* applies;

(d) Please supply information on how people are registered when they are held under *arraigo* orders. Kindly include detailed, up-to-date information on the different types of *arraigo* orders that exist at the state and federal levels. Please also inform the Committee how many people have been subject to *arraigo* orders during the period under review and on what grounds.

11. Kindly furnish detailed, up-to-date information on the number of complaints or reports of torture submitted during the review period. Please include detailed information on the number of persons who have been prosecuted for this crime during that period, how many of them have been convicted and what penalties have been imposed. Please also indicate whether there have been complaints or reports of migrants being tortured and, if so, please indicate the number of such cases and what steps have been taken in each instance.

12. Please provide detailed, up-to-date information on the efforts made and steps taken to implement the Istanbul Protocol in the various states. Include current information on the number of cases in which the Protocol has been applied, the number of preliminary investigations into allegations of torture and/or ill-treatment that have been undertaken and presented to the courts, and the number of sentences handed down in such cases. Please include information on efforts to standardize the application of the Protocol throughout the country.

13. Please supply a detailed account of how the full procedural validity of medical/psychological certificates is ensured when they are submitted in connection with criminal proceedings in accordance with article 225 of the Federal Code of Criminal Procedure.

14. Please provide detailed information on the workshops held to date at the state and federal levels to disseminate information about the Istanbul Protocol, including any assessments of their results that have been conducted.¹⁵

¹⁴ A/HRC/WG.6/4/MEX/3, para. 20; A/HRC/11/27, para. 94, recommendation 1.

¹⁵ CAT/C/MEX/CO/4/Add.1, paras. 34-38.

15. Kindly furnish detailed, up-to-date information on all steps taken to date at the state and federal levels to set up a juvenile justice system. Please include information on the present status of such efforts.¹⁶

16. Please submit detailed, up-to-date information on the functions performed by human rights commissions in Mexico. Detailed information is requested on the steps taken to ensure that such commissions have been established at the state level in accordance with the Paris Principles.

C. Article 3

17. Please supply detailed information on efforts to comply with the Committee's recommendation that the State party take all steps necessary to ensure that persons subject to an expulsion order have access to judicial remedies enabling them to challenge the order. Kindly furnish detailed information on the status of proposed amendments to the Constitution relating to human rights in this connection, and specifically those amendments which would give constitutional rank to provisions protecting fundamental rights, including judicial challenges to expulsion orders.¹⁷

18. Kindly provide current information on the number of applications for asylum and refugee status submitted, granted and denied during the period under review, together with statistics, disaggregated by sex, age and ethnic origin, on applicants for asylum and refugee status and the number of persons currently taking asylum and holding refugee status in Mexico.

D. Articles 5-7

19. Please supply information about the Mexican legislation that establishes universal jurisdiction over acts of torture. Please indicate whether or not that legislation fully meets the requirements of the Convention.

E. Article 10

20. Please indicate whether an assessment has been made of the impact of the human rights training programmes dealing with torture offered by the Office of the Attorney-General of the Republic, the Secretariat of Public Security and the Secretariat of Defence. Also please provide information about the participation of non-governmental organizations in these courses and the budgets available for these programmes. Detailed information is requested about existing programmes aimed at ensuring the impartiality of those responsible for documenting and investigating allegations of torture or ill-treatment.

¹⁶ CAT/C/MEX/Q/4/Add.1, paras. 55-56; A/HRC/WG.6/4/MEX/3, para. 4.

¹⁷ CAT/C/MEX/CO/4/Add.1, para. 54.

F. Articles 12 and 13

21. In its earlier conclusions and recommendations, the Committee referred to the State's duty to investigate all allegations of human rights violations by public officials, particularly those concerning violations committed in the course of police operations.¹⁸ Please provide information on the enquiries conducted into all allegations of human rights violations by public officials and into reports of excessive use of force by law enforcement personnel in the course of criminal investigations. How many people have been prosecuted and how many sentences have been handed down? Please also give the ranks of those found guilty and information on the enforcement of their sentences.

22. Please describe the steps taken to act upon the Committee's recommendation regarding the State's obligation to investigate allegations of arbitrary detention and to punish anyone found to have committed such an offence.¹⁹ Kindly furnish detailed, up-to-date information indicating how many public officials have been brought before the courts for having committed such offences as abuse of authority, abuse of public office, abuse of official functions or any other such instance of abuse during the review period. Please specify, in detail, the penalties that have been imposed for these types of offences. Is consideration being given to defining arbitrary detention as an offence under the Criminal Code?

G. Article 14

23. Please provide the Committee with information about the steps taken to make reparation to or compensate and rehabilitate victims of torture and/or cruel treatment. Kindly include up-to-date information on the types of programmes that have been developed and implemented to provide victims with comprehensive support and care. Please also include current information on the numbers of victims served by these programmes.

H. Article 15

24. Please report on the efforts made to ensure that, in accordance with article 15 of the Convention, judicial authorities do not accord evidentiary value to any confession obtained by means of physical or psychological violence. Please indicate, in detail, the types of situations, under the amended Constitution, in which exceptions would be allowed to the requirement that only confessions made in court shall be considered for purposes of sentencing, thereby permitting evidence to be presented in pretrial proceedings.²⁰

¹⁸ CAT/C/MEX/CO/4, para. 18 (c); A/HRC/11/27, para. 93, recommendations 27-28 and 44; A/HRC/WG.6/4/MEX/3, para. 15.

¹⁹ CAT/C/MEX/CO/4, para. 13; CAT/C/MEX/CO/4/Add.1, paras. 14-17; A/HRC/WG.6/4/MEX/3, para. 12.

²⁰ CAT/C/MEX/CO/4, para. 22; CAT/C/MEX/CO/4/Add.1, para. 171; E/CN.4/2006/6/Add.2, paras. 167-168.

I. Article 16

25. In the conclusions and recommendations presented by the Committee in connection with the fourth periodic report, the Committee expressed concern about the fact that many of the over 400 murders and disappearances of women in Ciudad Juárez since 1993 remained unpunished and that acts of violence, including murders, continued to occur.²¹

(a) Please provide detailed, up-to-date information on the progress made in investigating these incidents, including the penalties imposed upon anyone who has been tried and sentenced;

(b) The Committee also voiced concern about the fact that over 170 government officials were alleged to have committed disciplinary and/or criminal offences during the investigation of those cases, including the use of torture to extract confessions.²² Please furnish detailed, up-to-date information on the investigations into these cases, indicating whether or not any civil servants have been prosecuted for using torture to obtain evidence and, if so, what penalties have been imposed.

26. In its earlier recommendations, the Committee said that the State should step up its efforts to fully comply with the recommendations made by the Committee on the Elimination of Discrimination against Women following the inquiry it carried out under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.²³

(a) Please provide detailed, up-to-date information on all the steps taken to comply with these recommendations. Please indicate whether or not specific follow-up mechanisms have been established so that progress in acting upon these recommendations and, in particular, in preventing such offences can be assessed on a systematic basis;

(b) Kindly furnish detailed information on the outcome of the review of the Federal Government's 40-item action plan conducted by the Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez. Please include information on how the new text of Official Regulation No. 046 on domestic and sexual violence and on violence against women guarantees protection and appropriate care in cases of abuse committed against women;

(c) Please supply detailed, up-to-date information on programmes and preventive measures put in place in order to eradicate criminal practices on the part of the police and armed forces at the state and federal levels that threaten the lives or the physical and psychosexual integrity of women;

²¹ CAT/C/MEX/CO/4, para. 20; A/HRC/11/27, para. 93, recommendation 20; A/HRC/WG.6/4/MEX/3, para. 16.

²² CAT/C/MEX/CO/4, para. 20; A/HRC/11/27, para. 93, recommendation 20.

²³ CAT/C/MEX/CO/4, para. 20; A/HRC/11/27, para. 93, recommendations 11 and 16-18.

(d) Please furnish information about the efforts made to act upon the Committee's recommendation that the State should establish transparent criteria for clearly identifying, in the event of jurisdictional disputes, cases in which the Special Prosecutor responsible for handling offences involving acts of violence against women is empowered to assume jurisdiction in respect of certain offences against women.²⁴

27. Kindly provide detailed information on the steps taken by the State party to facilitate the filing of complaints when violent acts are committed against persons deprived of their liberty. Please include detailed information on the number of complaints received during the review period and their outcomes. Also please indicate, in detail, how many investigations have been launched, how many people have been prosecuted for such actions and how many people have been convicted.

28. Please comment on the measures adopted by the State party to eradicate trafficking in women and children for purposes of sexual and labour exploitation.

29. Please provide an account of the steps taken by the State party to include a gender perspective in legislation prohibiting torture. Also indicate what measures have been taken to prevent acts of sexual violence. Please provide statistics on the number of investigations and on their outcomes.

30. Kindly furnish detailed, up-to-date information on the number of prisons, their capacity in terms of number of prisoners, and the actual number of male and female prisoners being held. Information on measures taken in the areas of educational and vocational activities is also requested. Please include detailed information on numbers of prison guards and the job training they receive.

31. Please supply detailed, up-to-date information on the steps taken to reduce overcrowding in the country's prisons, the priority placed on giving prisoners better access to medical professionals and court-appointed defence attorneys, and the number of attending physicians for the prison population in each prison facility. Please include detailed information on the budget which the State party has allocated for the country's prison system and detention centres in the review period.²⁵

J. Other

32. Please indicate what steps the State party has taken to publicize, in indigenous and other languages, the reports it has submitted to the Committee and the Committee's conclusions and recommendations via the media, official websites and non-governmental organizations.

33. Please furnish information on legislative, administrative and any other measures adopted to combat terrorism. Please indicate whether or not these measures have had any impact on legal or practical human rights safeguards.

²⁴ CAT/C/MEX/CO/4, para. 19 (d); A/HRC/WG.6/4/MEX/3, paras. 16-17.

²⁵ A/HRC/11/27, para. 93, recommendation 29; A/HRC/WG.6/4/MEX/3, para. 23.

**K. General information on the human rights situation in the country
and the implementation of human rights at the national level**

34. Please provide detailed information on legal and institutional changes, including any relevant case law, affecting the promotion and protection of human rights in Mexico since the submission of the preceding periodic report.

35. Please furnish detailed information on administrative, policy and any other measures adopted by Mexico to promote and uphold human rights at the national level. Please describe the efforts being made to strengthen mechanisms for effectively implementing the National Human Rights Programme.²⁶

36. Please supply any additional information you may have on steps taken to implement the Convention and to act upon the Committee's recommendations since its consideration of the preceding periodic report in 2006, including any pertinent statistics, and information on any other developments in the State party relevant to the Convention.

²⁶ A/HRC/11/27, para. 93, recommendation 9; A/HRC/WG.6/4/MEX/3, para. 7.