



**Convention on the  
Rights of the Child**

Distr.  
GENERAL

CRC/C/125/Add.7  
24 August 2005

ENGLISH  
Original: SPANISH

---

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Third periodic reports of States parties due in 2002**

**Addendum**

**MEXICO\* \*\***

[16 December 2004]

---

\* For the second report of the Government of Mexico, see document CRC/C/65/Add.6; for its consideration by the Committee see documents CRC/C/SR.568, 569, 596 and CRC/C/15/Add.112.

\*\* This report has not been edited.

## CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1 - 7	4
I. GENERAL MEASURES OF IMPLEMENTATION .....	8 - 35	5
II. DEFINITION OF THE CHILD .....	36 - 44	9
III. GENERAL PRINCIPLES .....	45 - 58	11
A. Non-discrimination .....	45	11
B. Best interests of the child .....	49 - 50	11
C. The right to life, survival and development .....	51 - 52	12
D. Respect for the views of the child .....	53 - 58	12
IV. CIVIL RIGHTS AND FREEDOMS .....	59 - 101	13
A. Right to a name and to a nationality .....	59 - 64	13
B. Preservation of identity .....	65 - 67	14
C. Freedom of expression .....	68 - 82	15
D. Freedom of thought, conscience and religion .....	83 - 85	17
E. Freedom of association and peaceful assembly .....	86 - 88	18
F. Protection of privacy .....	89 - 90	18
G. Access to appropriate information .....	91 - 93	19
H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment .....	94 - 101	19
V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE .....	102 - 131	20
A. Parental guidance .....	102 - 103	20
B. Parental responsibilities .....	104 - 109	21
C. Separation from parents .....	110 - 111	22
E. Illicit transfer and non-return .....	112 - 113	22
F. Adoption .....	114 - 116	23
G. Abuse and neglect, including physical and psychological recovery and social reintegration .....	117 - 131	23

**CONTENTS (*continued*)**

	<i>Paragraphs</i>	<i>Page</i>
VI. BASIC HEALTH AND WELFARE .....	132 - 193	25
A. Health and health services .....	132 - 184	25
B. Social security and childcare services and facilities .....	185 - 193	34
VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES .....	194 - 274	35
A. Education, including vocational training and guidance .....	194 - 254	35
B. Aims of education .....	255 - 273	44
C. Leisure, recreation and cultural activities (art. 31) .....	274	46
VIII. SPECIAL PROTECTION MEASURES .....	275	46
A. Children in situations of emergency .....	278 - 285	47
B. Children involved with the system of justice .....	286 - 308	48
C. Children in situations of exploitation, including physical and psychological recovery and social reintegration .....	309 - 342	53
D. Children belonging to minorities or indigenous groups .....	343	59
CONCLUSIONS .....	353 - 356	61

*Note:* This report has been prepared in accordance with the document CRC/C/58 entitled “General Guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b), of the Convention”. The numbers shown for the titles of chapters and sections of the report are therefore the same as the equivalent paragraph numbers of the Guidelines document.

## Introduction

1. On 20 November 1989, in resolution 44/25, the General Assembly approved the Convention on the Rights of the Child (the Convention). The Convention was opened for signature in New York on 26 January 1990 and entered into force on 2 September of that year, that is to say, on the 30th day after the deposit with the Secretary-General of the twentieth instrument of ratification or accession. By 22 June 2004, 194 States had ratified or acceded to the Convention.
2. As a result of the World Summit for Children and the Convention on the Rights of the Child, the heads of State and Government of many countries<sup>1</sup> undertook a joint commitment to offer a better future to children. This live, dynamic commitment led to an international social movement to build institutions and implement policies in favour of children.
3. In this respect, Mexico was one of the first countries to promote the World Summit for Children, held in New York in September 1990. At that summit world leaders committed themselves to a set of goals benefiting children for the year 2000 and undertook to adopt a Plan of Action to fulfil them.
4. Mexico resolutely undertook its commitment in favour of children and, as established in the Diagnosis of the Human Rights Situation in Mexico of the United Nations High Commissioner for Human Rights (the Diagnosis),<sup>2</sup> the country has achieved significant progress towards implementing the rights of children in recent decades. Fewer children die now than before, more go to school and there is less child malnutrition. There are more opportunities for children nowadays in Mexico. The efforts of the last decade are reflected in better conditions of health, education and protection.
5. Significant advances have been made, especially in the legal field, to guarantee the rights of children, including the reform of article 4 of the Constitution, which now includes specific rights for children. In 2000, the Act on the Protection of the Rights of Children was approved with the backing of all the country's political parties. In December 2003 reforms were introduced in the Federal Penal Code, the Federal Code of Penal Procedure, the Federal Act against Organized Crime and the Act establishing Minimum Rules for the Social Rehabilitation of Convicted Persons, all with a view to protecting children's rights.
6. Much still remains to be done, however, fully to meet the objective of protecting all children's rights and ensuring the maximum development of their human and social potential. For example, according to the Diagnosis, 24.7 million children between the ages of 0 and 17 live in poverty and a significant number of children still have difficulty satisfying their basic needs.<sup>3</sup>
7. Essentially the general goal consists in making it possible for all children in Mexico to start off in life on an equal footing in conditions that favour their full development.

## I. GENERAL MEASURES OF IMPLEMENTATION

### 12. Measures adopted to bring national legislation and practice into full conformity with the principles and provisions of the Convention

8. According to the Diagnosis, there are some points with respect to which Mexican legislation concerning minors needs to be aligned with international standards, and in particular with the Convention. Nevertheless, it must be recognized that Mexican legislation offers extensive guarantees for the rights of children, with a broad variety of institutions, sectoral programmes and plans of action. There is a need to build up a culture whereby the rights of children and young persons cease to be privileges, and the necessary legislative and public policy measures are undertaken.

9. With the reform of article 4 of the Political Constitution of Mexico in the year 2000, the right of children to satisfy their needs in terms of food, health, education and healthy recreation was raised to constitutional status. In addition the duty to protect these rights extends to parents, guardians and custodians, while the State has been placed under an obligation to provide whatever is required to preserve the dignity of children and ensure the full exercise of their rights.

10. On 27 May 2000, in order to ensure the full development of children, the Act on the Protection of the Rights of Children was promulgated in order to regulate article 4 of the Constitution, which guarantees the protection and respect of children's rights. Similar legislation has been enacted in 11 states of the Republic,<sup>4</sup> although it must be admitted that further reforms are needed to provide children with access to justice and to introduce public policies that guarantee the rights established in the Convention.

11. In view of the fact that most of the violence against children originates in the home and/or in the family, new laws have been passed to provide assistance in the event of and to prevent domestic violence in 18 states,<sup>5</sup> which constitute the legislative framework of efforts made to deal with this problem. Furthermore, domestic violence is defined as an offence in 15 state penal codes.<sup>6</sup>

12. The Mexican Government recognizes that changes need to be made in the codes of civil procedure; these contain provisions which make family proceedings very inflexible and thus impede the prompt response required by children. As things stand, since children are not considered to be subjects of law, in many of the proceedings in which they are involved no account is taken of their wishes, and the interests of parents and guardians are imposed instead.

13. Reforms are also required in substantive and procedural civil codes to give children the opportunity to be heard by judicial authorities when proceedings involving children are conducted before them.

14. At present the offences of procurement, corruption of minors, child pornography and trafficking of persons are recognized both in the Federal Penal Code (articles 201 bis 1, 201 bis 2, 201 bis 3 and 207)<sup>7</sup> and in the Federal Act against Organized Crime (article 2, section V).<sup>8</sup>

**13. Legal status of the Convention in domestic law**

15. According to article 133 of the Mexican Constitution, all treaties concluded by the President of the Republic, with the approval of the Senate, shall be deemed to constitute the supreme law of the Union, together with the Constitution and the laws of the Congress of the Union. In addition, according to doctrinal thesis LXXVII/99 of November 1999, international treaties are ranked second immediately after the Mexican Constitution and ahead of federal and local laws. This interpretation of article 133 of the Constitution is derived from the fact that such international commitments are assumed by the Mexican State as a whole and therefore commit all its authorities. This is why the Constituent Assembly authorized the President of the Republic to sign international treaties as Head of State and authorized the Senate to act in such cases as the representative of the wishes of the federal entities. The Convention on the Rights of the Child is therefore part of national law and may serve as a legal basis in any proceedings before the national courts; it is also part of the supreme law of the Union as a whole and must be implemented at federal level and in all the individual states.

**14. Provisions of the national legislation which are more conducive to the realization of the rights of the child in accordance with article 41 of the Convention**

16. The Act on the Protection of the Rights of Children guarantees the protection of the rights of children by fathers, mothers, relatives and by the State itself.

**17. Steps taken to adopt a comprehensive national strategy for children**

17. In response to the recommendation prepared by the Committee on the Rights of the Child concerning the need for close cooperation between the Government and civil society in the preparation and implementation of policies and programmes, the Mexican Government has prepared a Programme of Action 2002-2010: *A Mexico fit for children*, which is assessed each year. In the 2003 report on this programme, the Government reviewed the situation of children, the participation of children and the attitude of civil society organizations working in this field and gave a general assessment of the Programme of Action. It may be mentioned that the contribution by civil society to the content of this report constitutes an essential input for the development of future public policies.

18. The Programme of Action takes its inspiration from the outcome of the special session on children held by the United Nations General Assembly in 2002, which provided Mexico with an opportunity to reaffirm its commitment to children by approving the document "*A world fit for children*".

19. In this respect, Mexico undertook to promote a healthy life for children; to offer them good quality education; and to protect them against ill-treatment, exploitation, violence and HIV/AIDS. As a result the country provides more opportunities for children in terms of their growth and development, within a context of equal opportunities that are propitious to their full development.

20. It may be mentioned that civil society organizations, academics and experts actively assisted with the preparation of the 2002-2010 Programme of Action.

**18. Existing or planned mechanisms at the federal and local level for ensuring implementation of the Convention, for coordinating policies relevant to children and for monitoring progress achieved**

21. In 1994, the United Nations Committee on the Rights of the Child recommended establishing a system for monitoring the implementation of the Convention. In response, through the National System for the Full Development of the Family (DIF), the Department of External Affairs (SRE) and the representation of the United Nations Children's Fund in Mexico (UNICEF), a proposal was put forward to set up a System for Monitoring and Supervising the Implementation of the Convention on the Rights of the Child. For the elaboration of this system, the authorities of the three orders of government were convened as well as the social and private sectors of the country engaged in any way in pursuing the objectives of the Convention. This led to the establishment of State Committees of the National System for Monitoring and Supervising the Implementation of the Convention on the Rights of the Child in the 32 states of the Republic. To date only 21 such state committees have been set up,<sup>9</sup> coordinated by the national DIF system.

22. It is worth mentioning that the DIF is one of the federal agencies that covers all the states in the country and 2,274 municipalities. The state systems of the DIF are independent and regulatory.

**22/23. Dissemination**

23. The State of Mexico, through the National Human Rights Commission (CNDH), has undertaken a number of measures to promote children's rights, by making those rights known and by implementing inter-institutional public policies.

24. The Government of Mexico has thus prepared inter-institutional public policies to promote children's rights. These inter-institutional efforts to promote children's rights have concentrated in particular on areas such as civic education, health, sexual and reproductive rights, commercial sexual exploitation and domestic violence.

25. New opportunities have been found to initiate public debate on the problems of children, such as the National Human Rights Commission's participation in the Joint Action Programme in Favour of Children's Rights and the Values of Democracy in 1998, and against violence and ill-treatment. Another occasion worth mentioning was the National Forum on the Children of Detained Women, which was held on 24 and 25 July 2001 and was attended by various federal organizations and agencies such as the National Institute for Women (INMUJERES), the Department of Public Security (SSP), UNICEF and the Equity and Gender Committee of the fifty-eighth legislature of the Chamber of Deputies. After two days of intensive work, almost 200 participants from government departments, both at State and at federal level, working in the areas of women's and children's affairs and the country's prison system, put forward proposals for improving the living conditions of detained women and those of their children.

26. Several workshops have been held, which have provided excellent opportunities for disseminating children's rights. Some of the main topics have included juvenile delinquents and domestic violence. A further contribution was made by the Regional Workshops on Legislation for Children, organized with UNICEF, the Metropolitan Autonomous University (UAM) and the DIF. Workshops on childhood legislation were also held in the states of Sinaloa and Colima.

27. In 1996 a diploma course on domestic violence was organized jointly with the UAM. Training courses are constantly being held on the rights of the child. Such courses are usually requested by government institutions and by individual states of the Republic, in order to train staff dealing with this particularly vulnerable group.

28. One of the most dynamic ways for society to participate in the promotion of children's rights is through the meetings organized by the CNDH, which deal amongst others with topics on the human rights of children, ill-treatment of children and HIV/AIDS.

29. Since 1955, the CNDH, through the Programme on Women's, Children's and Family Affairs has been organizing and coordinating the Network of Care for Victims whose Rights have been Violated. The main objective of this programme is to provide legal and psychological guidance, as well as directions for persons looking for the right authorities to apply to. The measures taken so far under this programme include the updating of the directory, with new entries of institutions interested in cooperating with the work, a regular telephone answering service, either personalized or electronic, for callers, who in some cases are put through to the appropriate authorities. Specific cases are dealt with on an individual basis. As a result of previous measures, in 2003 such services were extended to 281 people, with 32 specific cases being followed up.

30. In addition the CNDH conducts a number of activities devoted to the dissemination and promotion of children's rights, including in particular: the distribution of 30,204 items of promotional material, such as three-page and two-page leaflets, memory games and posters dealing with the human rights of women and children, as well as the open public invitation to attend a number of events through the preparation of dissemination material such as the three-page leaflet "Let us give them a better future", and the card to celebrate the day of the child "Mummy, don't shout at me, humiliate me, ignore me or hit me, just love me".

31. Through the above programme, further attention is given to the National Programme for the Promotion and Dissemination of Human Rights and the Transmission of Values from Older Persons to Juvenile Delinquents receiving treatment in detention "From me to you". The main objective of this programme is to disseminate the rights of children among minors in conflict with the law receiving treatment in detention within the country.

32. There is also a programme of Legislative Proposals aimed at protecting and extending the fulfilment of human rights. Under this programme, activities are generated and coordinated in order to produce and promote draft legislation with the aim of harmonizing existing laws on respect for and the fulfilment of the human rights of women, children, the elderly and the family.



In order to achieve this objective, a study was made of national prison legislation and of the regulations of detention centres, on the basis of which a document was prepared on the guidelines to be included in regulations for women's detention centres and a proposal for appropriate regulations.

33. The CNDH also runs other related programmes:

- Cine debate

In 2003 the Programme for the Dissemination of Human Rights among Young People was initiated as a series of discussions on the cinema focused on disseminating and creating an awareness of human rights through reading and free film shows.

- Parents' workshop

Programme for Strengthening the Family: Human Rights Workshop for Parents. The purpose of this programme is to make parents aware of the human rights of different members of the family, through feedback sessions between parents, with contributions in the form of accounts about how those parents handled situations involving human rights.

34. It is worth mentioning that since 1998 a particular effort has been made in Mexico to create awareness among and to train judicial staff concerning the need to apply international conventions protecting the rights of women and children in civil and criminal proceedings, in the course of which such rights are often violated. In 2003 the organization INMUJERES convened a National Meeting of Judges in order to initiate an extended period of training and dialogue with the judicial authorities of federal entities. Examples included 18 judgements in which international conventions were applied in favour of children and women. Those examples will be included in a handbook on ways of conducting proceedings subject to a gender perspective and the principles derived from the Convention on the Rights of the Child.

35. While this report was being prepared, the association Christel House of Mexico commented that the public school teachers, parents and guardians of the Children's Homes with whom they work are not properly aware of the rights of children and young people, on account of insufficient dissemination of the Act on the Protection of the Rights of Children. The consequence is that when adults are not aware of their duties of care, it is often the case that children's rights are violated in the institutions. The association is therefore in favour of disseminating existing legislation concerning children and especially creating more awareness among parents and teachers in order to avoid abuses of authority under the pretext of "educating".

## **II. DEFINITION OF THE CHILD**

### **24. Relevant information with respect to article 1 of the Convention**

36. In Mexican law, the definition of the child is clearly set out in the Act on the Protection of the Rights of Children in article 2: "For the effects of this law, children are deemed to be persons up to 12 years of age and adolescents those aged between 12 and 18."

37. For the Mexican Government the concept of children is based on the following principles:

- They are persons below the age of 18;
- With respect to children, adults have obligations arising from their greater authority and from the situation of dependence in which the children find themselves;
- They are individuals in their own right, and therefore entitled to dignity;
- They are capable of holding and expressing views which adults must learn to heed;
- They require special support during their period of growth, in order gradually to start exercising their rights independently.

38. According to article 3 of the Mexican Constitution, every individual is entitled to receive preschool, primary and secondary education, which together constitute compulsory basic education.

39. According to the Federal Civil Code, Title 5 “On Matrimony”, chapter I “Betrothal”, only men over the age of 16 and women over the age of 14 can become engaged (art. 140)<sup>10</sup> (promise of marriage). If the engaged couple are below the legal age, the engagement has no legal effect unless it has been approved by their legal representatives.

40. Also according to the Federal Civil Code, while a man must be at least 16 years of age to marry and a woman 14 (art. 148), a dispensation may be allowed for serious and justified reasons. According to article 149, minors under the age of 18 cannot enter into a marriage contract without the consent of their father or mother.

41. There is no law governing a minimum age for sexual consent. Nevertheless, from the Federal Penal Code, articles 261 and 262,<sup>11</sup> it may be inferred that the age at which a minor is considered to be able to understand the significance of the sexual act and therefore to give consent is 12 years.

42. With regard to the permissible age for work, the Federal Labour Act establishes that it is forbidden to employ children under the age of 14 who have not completed their compulsory schooling, save in exceptional cases approved by the relevant authority.<sup>12</sup>

43. Although Mexico has legislation that covers juvenile offenders (minors in conflict with the law), further progress needs to be made with the culture of penal justice for minors and measures must be adopted to prevent delinquency in this population group, as confirmed in the reform of the penal justice system tabled by the Government in April 2004.

44. The judicial reform initiative tabled by the Government before the Congress of the Union reflects the recommendations made with respect to children’s justice by international bodies, as well as those issued in the Diagnosis of the Human Rights Situation in Mexico, prepared in 2003 by the Office of the United Nations High Commissioner for Human Rights in Mexico.

### III. GENERAL PRINCIPLES

#### A. Non-discrimination

**25/26. Indicate whether the principle of non-discrimination is binding in the constitution or in domestic legislation, specifically for children. Measures adopted to ensure their rights without discrimination of any kind**

45. In 2002, taking account of the Committee's recommendations concerning non-discrimination (articles 2 and 3 of the Convention), the Government of Mexico amended article 1 of Mexico's Political Constitution, where it is established that: "All forms of discrimination are prohibited, whether on grounds of ethnic or national origin, gender, age, different capacities, social condition, health conditions, religion, opinions, preferences, civil status or any other which impairs human dignity and is aimed at eliminating or detracting from personal rights and liberties."

46. In addition to this constitutional amendment, in 2003 a subsidiary rule was established to endorse this principle, with the promulgation of the Federal Act on Preventing and Eliminating Discrimination.<sup>13</sup> Article 4 of the Act states that "... discrimination will be understood to mean any distinction, exclusion or restriction which, on the basis of ethnic or national origin, sex, age, disability, social or economic status, health conditions, pregnancy, language, religion, opinions, sexual preferences, civil status or any other, has the effect of impeding or nullifying the recognition or enjoyment of persons' rights and equal opportunities".

47. Similarly, article 4 of the Constitution and its regulatory legislation (Act on the Protection of the Rights of Children and Young Persons) establish and recognize the rights of children to satisfy their needs in terms of food, education, healthy recreation and full development, as well as the obligation on the part of parents, guardians and custodians to preserve these rights. It also lays an obligation on the State to take whatever steps are necessary to ensure respect for the dignity of children and the full exercise of their rights and to allow facilities to individuals prepared to assist in the fulfilment of children's rights.

48. The Act on the Protection of the Rights of Children and Young Persons enshrines the basic principles recognized by the United Nations Committee on the Rights of the Child and sets forth the duties of adults towards children, which must be implemented in full respect for their rights. It also provides the basis for subsequent state legislation.

#### B. Best interests of the child

**34. Information on the consideration given to this principle by courts of law, administrative authorities or legislative bodies, as well as by public or private social welfare agencies**

49. Since the year 2000, the High Courts of Justice of 29 federative entities have been trained in the application of family and criminal law in the courts, particularly in cases of divorce, recognition of paternal authority, domestic violence and the prosecution of offences against the integrity and sexual freedom of persons, or for injuries and homicides perpetrated within the

family. For this training 18 model judgements were explained where international conventions in favour of children and women had been applied and which the federal judicial authorities intend to use to prepare a handbook on how to conduct cases from a gender perspective and protecting the best interests of the child, as established in the principles derived from the Convention on the Rights of the Child.

**36. Measures taken to ensure children such protection and care as is necessary for their well-being**

50. As mentioned earlier, with the amendment of article 4 of the Constitution and the promulgation of the Act on the Protection of the Rights of Children, the basic principles of the best interests of the child were established in both laws ensuring respect for the rights of children by parents, relatives and the State.

**C. The right to life, survival and development**

**40. Measures taken to guarantee the child's right to life, survival and development**

51. The Act on the Protection of the Rights of Children includes measures to guarantee the right to life, which is established as a basic principle in the text of the Constitution. The provisions of the Act are also intended to ensure the survival and development of the child to the fullest extent possible.<sup>14</sup>

52. The Act also establishes that children have the right to live in conditions propitious to their healthy and harmonious growth, whether physical and mental, material, spiritual, moral or social (art. 19).

**D. Respect for the views of the child**

**42/43. Incorporation in legislation of the right of the child to express views freely. Measures taken to ensure this right in the child's development environment**

53. The Act on the Protection of the Rights of Children, in article 38, establishes that "... children and young persons are entitled to freedom of expression, which includes expressing views and being informed. Such liberties are restricted only by the provisions of the Constitution".

54. In addition, article 39 stipulates that: "... children and young persons have the right to freedom of opinion, analysis and criticism and to submit suggestions in all the environments in which they live, including the family, school, society or any other, subject only to the restrictions established in the Constitution or arising from respect for the rights of third parties".

55. It should be emphasized that the Government of Mexico, which is conscious of the important role played by civil society with respect to children's rights, attaches great importance to their views. In this respect, the Network for Children's Rights has expressed the opinion that, despite the progress achieved by the Government, a deliberate effort must be made to encourage the participation of children in their different living environments, creating spaces and

methodologies which enable adults to use the participation of children as an educational tool. The Network also mentions the need to give them the opportunity, in a light-hearted manner appropriate for their age, to influence the environment around them. It believes the Government should create sufficient spaces where they can express themselves and influence the decisions that affect them in an orderly manner.<sup>15</sup>

56. In response to these concerns, the Government of Mexico set up an important forum of participation known as “The Children’s Parliament”, which will be explained in more detail further on in this report.

#### **44. Opportunities provided for the child to be heard in judicial and administrative proceedings affecting him or her**

57. The Federal Code of Penal Procedure in its article 1 establishes that in any of the penal proceedings in which a minor or incapacitated person may be involved, either as a perpetrator or participant, victim or injured party or in any other capacity, the Public Prosecutor’s Office or the relevant court must offset any lack or deficiency of reasons or grounds required to protect the rights to which they may legitimately aspire.

58. In article 115, the Code stipulates that in cases where the injured parties are minors, but over 16 years of age, they may act in their own defence or through an appointed representative. In the case of children below that age or incapacitated, legal action must be taken by whoever exercises paternal authority or guardianship.

### **IV. CIVIL RIGHTS AND FREEDOMS**

#### **A. Right to name and nationality**

#### **49. Measures taken to ensure that every child is registered immediately after birth**

59. In article 55, the Federal Civil Code establishes that: “The birth of a child must be registered by the father or mother of the child or, failing these, by the paternal grandparents, or failing these, the maternal grandparents, within six months following the date on which the birth occurred.” It should be pointed out that this clause is flawed from the point of view of Mexican law insofar as no sanction has been specified in the event that it is breached, since in practice it has been observed that a child may be registered in the local or federal Civil Registry at any time of its life, even after the six months stipulated in that article.

60. The physicians or midwives assisting the delivery must report the birth to the Civil Registry Judge within 24 hours of the birth. The same obligation arises for the head of family in whose home the delivery has taken place, if it is outside the parental home.

61. If the birth occurs in a private or State clinic, the obligation referred to in the foregoing paragraph shall fall on the director or the person responsible for administering the clinic. Once it has been notified, the Civil Registry Judge shall take whatever legal measures are necessary to ensure that the birth certificate is drawn up in accordance with the law.

62. With regard to the case of rural or similar communities, an administrative problem arises initially insofar as the Civil Registry does not have the necessary infrastructure to reach all communities. Moreover, this type of community does not attach sufficient importance to the Civil Registry since they tend to give priority to meeting the requirements established by their religious or cultural beliefs. This presents a difficulty for registration, which must be completed in accordance with the rules laid down by the National Institute of Statistics, Geography and Data Processing (INEGI).

### **53. Right to acquire a nationality**

63. As far as nationality is concerned, this is acquired at birth or by naturalization in accordance with article 30, sections A and B of the Mexican Constitution. According to section A, paragraph I: "Mexicans by birth shall be those born in the territory of the Republic, regardless of the nationality of their parents; II. Those born abroad, of Mexican parents born in the national territory, of a Mexican father born in the national territory or a Mexican mother born in the national territory; III. Those born abroad, of Mexican parents by naturalization, or of a Mexican mother by naturalization; IV. Those born aboard Mexican vessels or airships, whether naval or merchant." Section B establishes those entitled to Mexican nationality by naturalization: Paragraph I. Foreigners who are granted naturalization by the Department of Foreign Affairs; II. A foreign woman or man who marries a Mexican man or woman, who has established his or her domicile within the national territory and fulfils all other legal requirements.

64. With regard to children born out of wedlock, the Mexican Constitution makes no distinction in that respect, so that the conditions for obtaining Mexican nationality will always be those stipulated in the article of the Constitution described earlier.

## **B. Preservation of identity**

### **54. Measures adopted to preserve the child's identity and to prevent any unlawful interference**

65. In article 22, the Act on the Protection of the Rights of Children establishes that: "The right to identity consists of:

- A. Having a first name and the family name of the parents from the time of birth and being entered in the Civil Registry.
- B. Having a nationality, in accordance with the terms laid down by the Constitution.
- C. Knowing one's descent and origin, except in cases prohibited by law.
- D. Belonging to a cultural group and sharing with its members customs, religion, language or tongue, without this being interpreted as a reason for denying any of one's rights."

66. In order to ensure that children and young persons may fully exercise their right to identity, the necessary rules must be introduced by each federative entity so that all children are registered by the mother and father, without any distinction arising from the circumstances of their birth.

67. In addition, according to the amended Nationality Act of 23 January 1998: "... unless it is proven to the contrary, it shall be assumed that an abandoned child found on the national territory was born there and is the child of Mexican parents, and that the child's adoption shall not entail, either for the adopted child or for the adoptive parents, either the acquisition or the loss of nationality".<sup>16</sup>

### **C. Freedom of expression**

#### **55. Measures adopted to ensure the child's right to freedom of expression, including to seek, receive and impart information and ideas regardless of frontiers**

68. According to article 6 of the Constitution: "The expression of ideas shall not be subject to any judicial or administrative investigation, unless it offends good morals, infringes the rights of others, incites to crime or disturbs the public order; the right to information shall be guaranteed by the State."

69. The right of children to freedom of expression is also established in article 39 of the Act on the Protection of the Rights of Children, referred to in section II, paragraph 43 of this report. Article 41 of that law specifies that children's views regarding the matters which affect them must be taken into account, both by the State and by the family, that the children must be listened to and that their opinions and suggestions regarding family and community affairs must be taken into account.

70. In the 2002-2010 Programme of Action, it is recognized that, despite the fact that our country has pioneered new mechanisms for ensuring the participation of children and young persons, the results of these experiments have not yet been fully incorporated in decisions. It is therefore proposed that the experiments which have proved their value and are well considered by society should be taken further, while new activities should be initiated in order to encourage debate and generate new forms of participation for children and young persons which are dignified, appropriate for their ages, genuine, efficient, representative and permanent.

71. Among the measures introduced to strengthen the participation of children, it is worth mentioning the Children's and Young People's Survey 2003, organized by the Federal Electoral Institute (IFE) in collaboration with the Department of Public Education (SEP) and UNICEF. The Survey was conducted on Sunday, 6 July 2003, the same day as the federal elections for federal deputies and senators in 20,000 polling stations situated throughout the country. On previous occasions surveys had been held simultaneously with federal elections in 1997 and 2000. In the 2003 Survey, over 3 million children and young persons expressed their opinions on three topics which affect them: the 6 to 9 age group on violence; the 10 to 13 age group on the right to information; and the 14 to 17 age group on discrimination. The outcome

was a clear statement against violence and in favour of equity, non-discrimination, greater respect and broader participation. One of the most outstanding results, for all three age groups, was the demand for better education:

- Education for adults to know and respect the rights of children;
- Education for adults to overcome their prejudices and to be prepared to meet the information needs of children;
- Education regarding and observance of the law in order to eliminate discrimination.

72. Other departments made a decided effort to launch programmes and initiatives to encourage the participation of children.

73. The SEP's Programme for Civic Training and the Culture of Lawfulness is aimed at generating attitudes and consideration among primary and secondary school pupils in favour of the rule of law, and at promoting their active participation in building up a culture of lawfulness.

74. In the 2002/03 school year, this programme was given in the schools of the states of Baja California, Chihuahua, Sinaloa, Morelos and in the Regional Office of Iztapalapa of Mexico City, achieving a participation of 78,666 students in 355 schools. In the 2003/04 school year, the programme was extended to the states of Coahuila, Estado de México, Puebla and Tamaulipas and the Regional Office Gustavo A. Madero of Mexico City, and it is expected that around 90,000 students in 510 schools will take part.

75. In April 2002 the DIF Programme for the Promotion of Children's Rights was launched through the "*DIFusores Infantiles*" (DIF Children's Networks), in order to undertake activities related to setting up and operating Monitoring and Observation Committees to supervise the implementation of the Convention on the Rights of the Child. By the end of 2002, 12 state networks and 582 municipal DIF networks had been registered.

76. Thanks to appropriate promotion efforts, it was possible to set up equivalent committees in Aguascalientes, Jalisco, Puebla and Sinaloa. A further six municipal committees were reinstated in San Luis Potosí. In 2003, DIF Children's Networks were set up in the states of Nayarit and Querétaro, increasing the number of operating networks to 16, made up of 983 registered municipal DIF networks.

77. Lastly, in order to disseminate the rights of children and to shape a non-violent, sensitive society respectful of the best interests of children, the CNDH launched the Promoter Children's Programme. This programme is being implemented in 10 states with the cooperation of the SEP, state human rights committees and state parents' associations.

78. In support of the programme 334,216 copies of support material were distributed in the states of Aguascalientes, Baja California Sur, Campeche, Coahuila, Chihuahua, Durango, Hidalgo, Jalisco, Morelos, Nayarit, Nuevo León, Quintano Roo, Tabasco, Tamaulipas, Tlaxcala and Zacatecas.



79. In 2002 the programme was extended to the states of Morelos, Tabasco, Tamaulipas and Zacateca and in 2003 to Durango, Campeche and Coahuila, in addition to continuing in Tabasco and Tamaulipas. Lastly, in the 2003/04 school year the programme was initiated in Campeche, Hidalgo, Nayarit and Yucatán.

80. Also in 2003 the Internet microsite operation known as ChiquiDIF was launched in order to provide a web space intended for children, with a view to stimulating their participation, guiding them and informing them about exercising their rights.

81. One of the most significant innovations in Mexico with regard to children's participation was the holding of the First Children's Parliament of Mexico, which was held in April 2003 and convened by the Social Development and Human Rights Committees of the Chamber of Senators, the Vulnerable Groups and Citizen Participation Committees of the Chamber of Deputies, the SEP, the IFE (Federal Electoral Institute), CNDH and UNICEF. This First Parliament was the outcome of a parliamentary agreement between the Chambers of Deputies and Senators of the Congress of the Union, in which it was established that the Children's Parliament would be held annually, alternatively in each of the Chambers. It provided a felicitous opportunity for children in the fifth grade of primary education throughout the country to gain awareness as full subjects of law and representatives of political diversity in Mexico. The Declaration produced at the end of the Parliament gathered statements from children concerning areas such as human rights, education, health, protection for vulnerable groups, work, security and justice, the environment and housing. These statements reflected the responsible efforts of the child legislators, whose main wish was to generate solutions which would include everyone within the national endeavour.

82. The Second Children's Parliament of Mexico was held from 28 to 30 April 2004. It was attended by 300 children from the 32 states and the Federal District. The main objective of the Parliament was to disseminate the principles and values of democracy and children's rights, as well as to help build citizenship. The IFE convened students in the fifth grade of primary school to take part. The outcome included a proposal for the construction of recreational centres in indigenous areas, more libraries where there are none, free recreational centres, life imprisonment for persons leading children into child prostitution or causing child abuse, more police presence in schools, a ban on radio broadcasts using coarse language, increased salaries for teachers, larger education budgets, social service doctors in schools, and the launch of a National Fund Against Poverty. The children also called for life imprisonment for anyone ill-treating a child or encouraging a child to take drugs, and for a change of headquarters for the United Nations Organizations (UNO) on the grounds that the United States of America have not signed the Declaration on the Rights of the Child. They suggested that the United Nations headquarters should be located in a county free of conflicts and at peace.

#### **D. Freedom of thought, conscience and religion**

##### **56/57. Exercise of the right to freedom of thought, conscience and religion by children**

83. As mentioned earlier, article 6 of the Constitution establishes that the expression of ideas shall not be subject to any judicial or administrative investigation, unless it offends good morals, infringes the rights of others, incites to crime or disturbs the public order.

84. Also according to article 24 of the Constitution, every person is free to embrace the religion of his choice and to practise all ceremonies, devotions or acts of worship of his faith, provided that they do not constitute an offence punishable by law.

85. The article further stipulates that Congress cannot promulgate laws either establishing or prohibiting any religion and that acts of religious worship must be performed normally in places of public worship. Any such acts celebrated elsewhere must comply with the appropriate regulations.

### **E. Freedom of association and peaceful assembly**

#### **58. Measures adopted to ensure the child's right to freedom of association and peaceful assembly**

86. According to article 9 of the Constitution, the right of association and peaceful assembly for any lawful purpose cannot be restricted; however, only citizens of the Republic may do so in order to take part in the political affairs of the country. No armed gathering has the right to deliberate.

87. It is also stipulated that no meeting or assembly shall be deemed unlawful or dissolved whose purpose is to present a petition or protest against some act or authority, provided that insults are not proffered against the said authority or violence resorted to, and that no threats are used to intimidate or compel the authority to render a favourable decision. The terms of this article, like all those of the Constitution, applies to children as well.

88. Article 42 of the Act on the Protection of the Rights of Children stipulates that: "children have the right to assemble and associate. They must be legally provided with the means to do so subject to no restrictions other than those laid down in the Constitution".

### **F. Protection of privacy**

#### **59. Measures adopted to prevent any arbitrary or unlawful interference with the child's privacy, family, home or correspondence, as well as any attack on his or her honour and reputation**

89. According to article 16 of the Constitution, no one may be molested in his person, family, domicile, papers or possessions, except by virtue of a written order by the competent authority stating the legal grounds and justification for the action taken.

90. The article also states that private communications are inviolable. The law will criminally penalize any act committed against the freedom and privacy of such communications. Only the federal judicial authority, at the request of the federal authority that enforces the law or of the head of the State Public Prosecutor's office, may authorize interference with any private communication. To do so, the competent authority must establish and justify the legal reasons for the application in writing, giving details of the type of action intended, the persons affected and its duration. The federal judicial authority may not grant such authorizations in the case of electoral, fiscal, mercantile, civil, labour or administrative matters, nor in the case of communications between a detainee and his counsel.

### **G. Access to appropriate information**

#### **60. Measures adopted to ensure that children have access from a diversity of sources to information and material aimed at the promotion of the child's well-being**

91. It is stated in the last paragraph of article 6 of the Constitution that the right to information is guaranteed by the State.

92. In accordance with article 40 of the Act on the Protection of the Rights of Children, all children have the right of access to information.

93. It is also worth mentioning that the Federal Act on Transparency and Access to Public Government Information, published on 11 June 2002, is intended to guarantee everyone's access to information held by the Powers of the Union, by independent or legally independent constitutional organs or by any other federal entity.

### **H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment**

#### **61. Indicate whether torture or other cruel, inhuman or degrading treatment or punishment of children is punished by the criminal law and whether complaint procedures have been established and remedies made available to the child**

94. Torture is prohibited by the Political Constitution<sup>17</sup> (art. 20) and since 1991 has been deemed to constitute an offence under the Federal Act on Preventing and Punishing Torture,<sup>18</sup> which must be applied throughout the national territory in matters of federal jurisdiction and in the Federal District in matters of ordinary jurisdiction.<sup>19</sup> It must be remembered that the Constitution is a general law which applies to all persons, including children, with no distinction.

95. The Federal Code of Penal Procedure was amended in 1994 to recognize torture as a serious offence;<sup>20</sup> it is also established that: "... in no event and for no reason may the authority use incommunicado detention, intimidation or torture to obtain a statement from the accused or for any other purpose whatever" (art. 289).

96. The offence of torture is deemed to be perpetrated by one or more public officials. In Mexican law the offence is described in the Federal Penal Code and in the Code of Penal Procedure. It is also specified in the criminal law of individual states. It may be added that no legislation makes any distinction on grounds of age, which means that it applies universally.

97. The Federal Public Defender Act of 28 May 1998 refers to complaints for acts of torture perpetrated by public officials in detention centres:

*"Article 13. Any complaints made by defence counsel, detainees or inmates of detention centres or prisons on the grounds of lack of medical care, torture, cruel, inhuman or degrading treatment, beatings or any other violation of human rights perpetrated by a public official shall be brought before the Public Prosecutor's Office, the authority in*

*charge of the detention centres or social rehabilitation centres or organizations defending human rights, as appropriate. The purpose shall be to ensure that the authorities take steps to put an end to such violations, prevent their repetition and, if necessary, punish whoever has perpetrated them, in accordance with the applicable law.”*

98. Workshop courses have been given on “Combating Torture, Cruel, Inhuman or Degrading Treatment” for the benefit of federal officials of the Public Prosecutor’s Office, forensic experts and federal investigation officials of the Office of the Attorney General of the Republic (PGR).

99. As part of the Institutional Programme for Human Rights Training and Educational Services, run by the PGR, a number of activities, courses and workshops have been organized in order to improve the training received by public officials with respect to combating torture and cruel, inhuman or degrading treatment. Between 2001 and 2003 a total of 21 courses were held, attended by 730 officials. In 2003 eight courses on Legal and Expert Aspects of the Application of Specialized Psychological Medical Opinion in cases of Suspected Torture and/or Ill-treatment were given to 377 public officials.

100. In addition, the PGR signed a Cooperation Agreement with the CNDH, for the purpose of coordinating activities and using the material and human infrastructure of both institutions in order to apply measures to prevent and eradicate torture. Under this agreement, the PGR undertakes to supply information to the CNDH on cases in which public officials or former officials are suspected of perpetrating the offence of torture.

101. Other departments of the federal Government have also organized workshops and training activities for officials of the police force, the security forces and the armed forces. The Department of Public Security (SSP), for instance, has included a subject on the prevention and eradication of torture in the curriculum of the Police Training Institute and in several courses and workshops including: the workshop course on “The Protection of Human Rights in Police Activities”; “Human Rights in the Department of Public Security and its Detached Units”; the inter-institutional programme “Protection and Dissemination of Human Rights for Public Officials of the Detached Administrative Offices of Social Prevention and Rehabilitation”; as well as courses on prison staff and human rights and the training of instructors in human rights and international humanitarian law.

## **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **A. Parental guidance**

#### **63. Existing family structures. Measures adopted to ensure respect for the responsibilities, rights and duties of parents**

102. Workshops for parents are organized jointly by several government institutions. These workshops include the Programme for Strengthening the Family: Human Rights Workshop for Parents, which is aimed at creating awareness among parents with respect to the different

members of a family group. The programme provides a feedback opportunity for parents, based on their own contributions concerning the way they have handled human rights situations, and an occasion for familiarizing themselves with the human rights of the various members of the family with a view to achieving a spirit of tolerance.

103. This programme was applied in the states of Aguascalientes, Baja California, Campeche, Hidalgo, Coahuila, Colima, Chiapas, Durango, Estado de México, Jalisco, Michoacán, Morelos, Nayarit, Nuevo León, Oaxaca, Puebla, Quintana Roo, Sinaloa, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Yucatán and Zacatecas.

## **B. Parental responsibilities**

### **65. Consideration given to parental responsibility. Recognition of the common responsibilities of both parents**

104. As mentioned earlier in the section headed General Measures of Implementation, the Mexican Constitution, in article 4, establishes the duty of parents, guardians and custodians to meet children's needs in terms of food, health, education and healthy recreation to ensure their full development.

105. The Act on the Protection of the Rights of Children obliges parents to respect the rights of children and obliges the State to facilitate the fulfilment of these rights.

106. The Federal Civil Code, in its chapter on "Rights and obligations arising from matrimony", article 164, establishes that both spouses must contribute towards meeting the cost of the maintenance of the home, their food and that of their children, as well as the latter's education as ordained by law, leaving them free to assume whichever part or proportion of that cost they agree upon, according to their means. The rights and obligations arising from their marriage shall always be the same for both spouses, regardless of each one's financial contribution to the maintenance of the home.

107. Article 168 of the same Act states that: "Husband and wife shall enjoy equal authority and consideration within the home; they shall therefore settle by common accord all matters concerning the management of the home and the education and upbringing of their children."

### **66. Measures adopted to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities, and institutions developed for the care of children**

108. Through the programme "Children's Matters", the DIF aims to take advantage of legal and social assistance in family law, as a form of legal support, guidance and sponsorship, to change and improve the legal and social circumstances which impede the full development of children and of the family, while promoting the physical, mental and social protection of vulnerable persons and groups until they are resettled in a full and productive life, meeting their subsistence and development requirements and assisting their access to justice on equal terms.

109. The DIF also runs Child Development Assistance Centres, which provide an alternative form of care and protection for children between the ages of 45 days and 5 years and 11 months, dealing with different risk situations such as may arise owing to the temporary but daily abandonment of the child by mothers who are obliged to go to work in order to obtain income to support their child or children and who do not receive social security benefits. In these centres the children are offered a range of education, nutrition and health services, as well as the opportunity to take part in various activities favouring the development of skills. An effort is also made to provide guidance and to disseminate the culture of children's rights, in the course of activities intended not only for children but also and perhaps primarily for the family.

### **C. Separation from parents**

#### **68. Measures adopted to ensure that the child is not separated from his or her parents except where such separation is necessary for the best interests of the child**

110. According to article 283 of the Federal Civil Code, "... the terms of the divorce decree shall determine the situation of children, for which the judge must settle all matters relating to the rights and obligations inherent in parental authority, the loss, suspension or limitation thereof, according to the circumstances, and especially the custody and care of the children. Either on his own initiative or on request during the proceedings, the judge must gather together all the necessary elements to this effect, listening to both parents and to the children, in order to avoid any form of family violence or any other circumstance giving rise to the measure, considering the best interests of the children. In any case the right to live together with the parents shall be protected and respected, unless this places the child at risk. Protection for children shall include measures of security, supervision and whatever treatment is necessary to avoid and remedy acts of family violence".

111. The obligation to provide maintenance is a joint responsibility, for both the mother and the father or in the event the person having custody of the child. In the case of divorce the judge shall decide what monthly sum should be paid for maintenance and shall order the necessary measures to ensure that it is paid.

### **E. Illicit transfer and non-return**

#### **78. Information on illicit transfer and non-return**

112. With regard to the illicit transfer and/or non-return of children, the 19th US-Mexico Binational Commission, held on 26 November 2002, through its Working Group on Migration and Consular Affairs, recognized the importance of preventing the abduction of children by their parents and obtaining the prompt return of abducted children. They agreed that there was a need to coordinate their efforts to promote the approval of regulations and judicial training aimed at improving compliance with the Convention on the Civil Aspects of International Child Abduction of the Hague.

113. The PGR moreover runs a Mexican Site on Disappeared Children, which is aimed at facilitating the search for children disappeared in the United States or Mexico. The site has an

extensive database with which to search for disappeared children through photographs or by name. The site was produced by the PGR with the support of Computer Associates and the National Centre for Missing and Exploited Children.

## **F. Adoption**

### **83. Measures adopted to ensure that, when the State recognizes adoption, the best interests of the child shall be the paramount consideration**

114. The competent authority in matters of adoption is the DIF (Full Family Development). This body derives its legitimacy from its founding statute, which allows it to assess and in the event authorize adoption. The DIF also bases its legal action on the relevant international treaties of which Mexico is a signatory, such as the Inter-American Convention on Conflict of Laws concerning the Adoption of Minors, ratified on 11 February 1987<sup>21</sup> and the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, ratified on 14 September 1994 and effective since 1 May 1995.<sup>22</sup>

115. Acts of adoption must be authorized by Civil Registry Judges.<sup>23</sup>

116. Articles 390 to 401 of the Civil Code for the Federal District in matters of ordinary jurisdiction and for the Republic in federal matters lay down requirements for adoption, giving priority to the well-being of the child.<sup>24</sup>

## **G. Abuse and neglect, including physical and psychological recovery and social reintegration**

### **88/89. Measures taken to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse**

117. The Mexican Constitution, in section B of article 20 referring to the victim or injured party, paragraph III, stipulates that the victim must "... receive urgent medical and psychological attention as soon as the offence has been perpetrated". Article 22 of the Constitution prohibits penalties of mutilation, dishonour, branding, whipping, beating, torture of any kind, excessive fines, the confiscation of property or any other unusual or excessive penalties.

118. The Federal Penal Code, in Title 19 on "Offences against life and physical integrity", chapter I "Injuries",<sup>25</sup> specifies the offence and establishes penalties for offenders. Title 21<sup>26</sup> prohibits illegal deprivation of liberty and imposes the corresponding penalties, which are increased by up to half in the case of victims aged under 16.

119. The Federal Act on the Prevention and Punishment of Torture, in article 3, specifies the offence of torture and the penalties incurred by any public official perpetrating or intending to perpetrate such an offence.

120. The Act on the Protection of the Rights of Children, in chapter V, article 21, recognizes the right of children and young persons to be protected against any acts or omissions affecting their physical or mental health, their normal development or their right to education, including neglect, negligent treatment, abandonment, emotional, physical or sexual abuse, exploitation, the use of drugs and narcotics, abduction and trafficking.

121. There are various places available to provide support and assistance to deal with any type of domestic violence, set up by national departments and/or institutions. These include the Centre of Care for Domestic Violence (CAVI) of the General Procurator's Office of the Federal District; the Coordination of the Programme on Women's, Children's and Family Affairs of the National Human Rights Commission, which receives complaints and transmits them to the appropriate authorities; Units of Care for Domestic Violence (UAVF) of the Government of the Federal District; agencies of the Public Prosecutor's Office specializing in dealing with domestic and sexual violence and the Juvenile Magistrate's Office, which is also part of the General Procurator's Office of the Federal District.

122. In cases of acts of violence committed in educational centres, it is possible to lodge complaints with the Internal Control Body<sup>27</sup> of the SEP if it is suspected that an official of that department has been guilty of misconduct in the performance of his duties, thereby harming the interests of a person needing his services. The Internal Control Body is responsible for receiving complaints of the failure on the part of officials to fulfil their obligations and for following up such complaints; for investigating, attributing responsibilities and imposing appropriate sanctions; deciding the temporary suspension of the suspect from his employment, office or commission, and taking whatever steps are necessary to ensure the collection of such economic penalties as may be imposed on the officials on account of their misconduct.

123. Anonymous complaints may be lodged on the free number "*niñotel*" or on number 060, services which provide legal advice and guidance for both victims and complainants.

124. The DIF's Programme of Care for Family Violence promotes educational activities and training for staff in charge of the care of children in schools, nurseries, hospital centres and other institutions, in order to make them aware of aspects of domestic violence, as well as for groups of parents in communities, in order to improve the quality of care, education and training for children.

125. The Programme promotes activities aimed at altering patterns of behaviour which lead to the ill-treatment of children by adults.

126. Complaints against the ill-treatment of children are dealt with through the Programme and cases of ill-treatment are recorded and investigated at the place of residence of the family involved in the acts of violence, in order to verify or dismiss the charges of ill-treatment. At the same time the conditions of hygiene and set-up of the home are checked with a view to determining any possible causes or evidence of ill-treatment.

127. Indirect inquiries are conducted with teachers and neighbours of the child, or concerning other reported cases of violence and a psychosocial study of the family is made, leading to a diagnosis to serve as a basis for a welfare workplan.



128. The workplan is implemented through home visits to provide assistance and guidance to the family, with a view to advising the family regarding ways of making up the deficiencies affecting the child and other direct members of the family, through a change of attitudes and by referral to other support areas.

129. Legal advice is also provided, where necessary, through a request to the Specialized Technical Coordination of the Institution or the Office of the General Procurator of the Federal District, who act through their Agencies Specializing in Children's Affairs.

130. Cases are also referred to the appropriate institutions, either the ISSSTE (Social Security Services for State Workers), the IMSS (the Mexican Social Security Institute) or any of the Children's Hospitals of the Health Department, and even for medical care where necessary.

131. The Programme serves to provide immediate therapeutic support and, where necessary and appropriate, families involved in problems of violence are linked up with family groups experiencing similar problems.

## **VI. BASIC HEALTH AND WELFARE**

### **A. Health and health services**

#### **93. Measures adopted to recognize and ensure the right of the child to the enjoyment of the highest attainable standard of health and to facilities for treatment and rehabilitation**

132. With regard to the Committee's recommendation concerning the implementation of effective measures to guarantee access to health care and basic health services for all children, the Government of Mexico recognizes that a more determined effort needs to be made to ensure equal access to health care and to combat malnutrition, with special emphasis on children belonging to indigenous groups and those living in rural or remote areas. In this respect the Government implemented the National Development Plan for 2001-2006 and the National Health Programme for 2001-2006, which insist on the priority which must be given to the health of Mexicans, with special emphasis on care for children.

#### **94. Progress achieved in terms of guaranteeing the child's right to health**

133. In Mexico official data concerning child mortality are produced 10 months after the close of the statistical year, which means that the latest information available concerns 2001.

134. According to final data for 2000 and 2001, the mortality rate for children aged less than 1 year fell from 18.2 per cent to 17.2 per cent for every 1,000 live births, or by 0.9 per cent using the adjusted rates of 23.3 per cent and 22.4 per cent per 1,000 live births. Proportionately this means a reduction of 5.5 per cent or 3.9 per cent respectively. The mortality rate for children under the age of 5 fell from 4.2 for every 1,000 children under 5 in 2000 to 4 in 2001, which means a drop of 4.8 per cent.

**95. Measures undertaken to diminish infant and child mortality. Medical assistance and health care, primary health care, measures to combat malnutrition, most common diseases, environmental pollution, health education and training**

135. With regard to full basic vaccination coverage for one-year-old children, the rate in the country has been maintained above 90 per cent since 1998. In 2000 coverage was 94.4 per cent and for 2002 it was 94.3 per cent of all children in that age group.

136. In order to achieve the objective of avoiding deaths by measles, an effort was made to strengthen the System of Epidemiological Monitoring of Febrile Exanthematic Diseases, as well as continuous vaccination in health-care units. Following the advice on the elimination of measles issued by the Committee of Vaccination Experts of the Pan American Health Organization (PAHO), a follow-up phase was undertaken between October 2002 and May 2003, for children between the ages of 1 and 4, with the distribution of an extra dose of the anti-measles vaccine to more than 95 per cent of the children regardless of any previous vaccinations.

137. Thanks to the measures taken to eradicate maternal and infant tetanus, Mexico managed to eradicate that disease in 1995, in accordance with the guidelines of the World Health Organization (WHO). In 2000 there were 9 cases of the disease and 11 in 2002, which is equivalent to 0.01 cases for every 1,000 live births.

138. In addition, two basic strategies were implemented to prevent transmission of the disease:

- The vaccination of women of fertile age or pregnant, for them to transmit passive immunity to their newborn children;
- A policy of clean deliveries and care for the umbilical cord stump, including activities organized as part of the programme “An equal start in life” for the training and further training of midwives, with the operational participation of health teams, who themselves received training and support materials such as flipcharts and a training handbook.

139. Lastly, in order to improve awareness of the risk and prevention of maternal and infant tetanus, from 2002 during the National Health Weeks one of the topics covered was neonatal tetanus for women of fertile age, with an emphasis on expectant mothers. In that year information was given to almost 5 million women.

140. With the regard to the objective of maintaining the number of cases of meningial tuberculosis in children under the age of 5 below the number of cases occurring in the year 2000, when 18 children were affected, in 2002 the number was reduced by one third, with only 12 cases reported in the country.

141. Mortality by acute respiratory diseases also diminished, from 38.8 for every 100,000 children under the age of 5 in 2000 to 34.4 in 2001, which means a decline of 11.3 per cent.

142. During the National Health Week in 2002, a little over 10 million mothers responsible for children under the age of 5 were informed concerning the prevention, care and warning signs of these diseases. With regard to action taken in relation to full care, in 2002 training was given to 2.7 million mothers or childminders, a quarter more than in 2000.

143. On the other hand, Mexico achieved a drop of more than 80 per cent in the mortality rate caused by diarrhoeal diseases in the last decade. Between 2000 and 2001 alone, this indicator fell from 22.9 to 20.8 deaths for every 100,000 children under the age of 5, which means an improvement of 9.2 per cent.

144. The strategies that have led to this improvement include:

- Integrated care for any child under 5 coming into contact with the health services;
- Training of health-care personnel;
- Distribution of packets of oral rehydration salts, known as *Vida Suero Oral* (or VSO), in all health units, permanently and during National Health Weeks. Over the last two years the distribution of VSO has increased by 10.01 per cent during intensive phases and 6.8 per cent on a permanent basis;
- Information on Oral Hydration Therapy for mothers and childminders of children under the age of 5 as part of integrated care in all units of the health sector and during National Health Weeks. In 2002 during integrated care campaigns 2.2 million mothers or childminders were trained, 19.1 per cent more than was achieved in 2000, while 10.7 million mothers or childminders were informed during the National Health Weeks.

Unwanted pregnancy is a problem which must be dealt with effectively. As a means of prevention, women of fertile age and especially adolescents receive information and advice in health units which they visit for any reason. These units also offer whatever contraceptive methods are available.

145. The components of the Action Programme "An equal start in life" include promoting healthy pregnancies, safe deliveries and afterbirth and healthy newborn children, for which full high quality care is given to pregnant women, so as to detect any risk factors which may be referred to a more advanced level of medical care.

146. Among the strategies for reducing maternal mortality, Maternal Mortality Committees have been set up in hospital health units of the health sector, which periodically report on maternal disorders occurring in their units, with a view to issuing recommendations and if necessary following them up.

147. The programme also has a strategic component in the form of its Social Network and Community Participation, which encourages coordination between governments and with other sectors of society to ensure the success of the various components of the programme.

148. Out of a minimum of five consultations required by the Official Mexican Standard of Care During Pregnancy, Delivery and Post-natal Care, pregnant women on average received 6.9 consultations (7.3 in urban areas and 5.8 in rural areas).

149. The Friend of the Child and Mother Hospital has extended its coverage since it began operations. By the year 2000, 95.4 per cent of all hospitals of the public sector had received the appropriate certification.

150. With regard to malnutrition, the latest National Nutrition Survey was held in 1999. Since 2002 it has been possible to increase access to health services and the grant of family and community benefits by providing health and nutritional care for all members of the family.

151. Since 1995, the Public Health Information System (SISPA) reports that the rate of underweight children at birth registered in public hospitals has been below 10 per cent. The Action Programme "An equal start in life" encourages prenatal care with qualified personnel who ensure satisfactory feeding of mothers and newborn infants, as well as the distribution of micronutrients, especially in regions with a high risk of malnutrition.

152. In order to assist pregnant women and mothers to be familiar with and to learn to detect the symptoms of malnutrition in children, in 2002 the Health Department units provided 1.5 million training courses on nutrition, prevention and treatment of infant malnutrition, 14.1 per cent more than in 2000.

153. Nevertheless, the proportion of pregnant women in rural areas receiving care from medical staff is much less than for women in urban areas, at 66.6 per cent compared with 90.6 per cent.

154. On the other hand in Mexico iodine deficiency disorders were virtually eliminated in 1997 and those due to vitamin A deficiencies in 1999. The Health Department since 1993 has been administering large doses of vitamin A to children between the ages of 6 and 59 months living in marginal areas during National Health Weeks, achieving a coverage of more than 95 per cent in this age group.

155. One major activity of the Programme of Action "An equal start in life" is the "Healthy Newborn Child" component, which aims to put all newborn children cared for in health units through a neonatal filter, as well as newborn infants who have not yet been tested. In 2002 the Health Department filtered 732,902 newborn infants, which is 29 per cent more than in 2000.

156. One of the priorities in the comprehensive care provided by the health sector has been to detect the possibility of nutritional deficiencies in women of fertile age and especially among pregnant women. If necessary the women are given assistance such as a distribution of micronutrients and supplies.

157. In 2003, the Opportunities Programme achieved the following objectives in terms of health and nutrition:

- An increase of 20 per cent compared with 2002 in the number of consultations given in the health services, reaching a figure of 33 million;
- Consultations for children under the age of 5 have increased by 25.5 per cent and consultations for pregnant and nursing women by 23.7 per cent, reaching the figures of 11.8 and 1.4 million consultations respectively;
- Health education sessions given to mothers rose from 2.27 million in 2002 to 2.6 million by the end of 2003, which means an increase of 14.9 per cent compared with 2002;
- An increase in the delivery of food supplies of 6.1 per cent compared to a year earlier. Supplements for children under the age of 5 came to 436.6 million doses, and those for pregnant and nursing women totalled 164.8 million, which represents increases of 6.3 and 5.8 per cent respectively compared with 2002.

158. Another activity of the Programme of Action “An equal start in life”, as part of the basic Safe Delivery and Afterbirth component, is the promotion of maternal breastfeeding for children during the first six months of life.

159. From 2002 early stimulation actions developed by the health sector have been included in the Health Department’s information system. The system registered the number of training courses given to mothers and children initiating stimulation activities to improve their growth and development. So far 259,561 mothers have received information of this kind and have begun the early stimulation of their children. The latter include 136,769 boys and girls between the ages of 2 and 4.

160. The DIF State and Municipal Systems undertook direct care and the implementation of the three strategies established in the health sector which make up the Child Health-Care Programme:

- National Health Weeks. Three National Health Weeks in 2002 jointly organized with the DIF State and Municipal Systems achieved a coverage of 2,005,295 persons. As part of these activities, apart from the biological application, consultations were offered on respiratory and diarrhoeal diseases and mothers were given talks on health care. In 2003 altogether 1,197,703 children under the age of 6 were attended in 509 municipalities in the country;
- Permanent Programme. As during the National Weeks, the actions organized included biological application, the distribution of Oral Rehydration Salts, the administration of large doses of vitamin A, consultations in cases of acute respiratory diseases and acute diarrhoeal diseases, the distribution of albendazol, talks on promoting family health, and training for community health promoters. In 2002 this programme covered 2,512,239 children, and in the first half of 2003, 1,252,865 children in 623 municipalities throughout the country;

- Children's Health Club. This strategy is aimed at inculcating a culture of health and the environmental care in children. In the first stage, the campaign has been started in the Community Centres for Assistance to Children (CAIC) and in Assistance Centres for Children's Development (CADI). In 2002, 7,014 children were registered with 130 CAICs, 17 CADIs and 62 community clubs in 91 municipalities. In 2003 the Children's Health Club had a membership of 11,765 spread among 3,462 clubs in 130 municipalities.

161. At present, with the active participation of 17 government institutions, a project is being run on standards of Full Health for Adolescents, which is aimed at establishing a consensus regarding essential actions needed for the health of young persons.

162. In order to ensure that health-care personnel provide full, adequate care for adolescents, a model of full health-care training was developed and distributed remotely in coordination with the PAHO, WHO and the University of Nuevo León, in order to train operational staff in health units throughout the country (450 basic core service suppliers). A further 145 health-care professionals received training in gender and sexuality aspects in 8 federative entities and in 75 health districts in the country. So far this educational model has served to train district staff in 17 states of the Republic.

163. In order to improve health attitudes among young persons, various aspects were included in the National Health Weeks, while activities specifically intended for young persons were included in the Lifeline and the National Vaccination Card strategy.

164. In order to improve the response of organized society, a project was launched known as Social and Community Participation, with a view to strengthening the interaction between adolescents, their families, the community and the health services.

165. The Health Department, through the National Anti-Addiction Council (CONADIC), is coordinating a broad front with the assistance of many public, social and private organizations in the three branches of Government, in order to implement campaigns aimed at reducing abuse in the consumption of alcohol, tobacco and drugs among the population.

166. The Federal Government has made a deliberate effort to launch campaigns for the prevention of drug addiction supported by preventive programmes, aimed at developing an attitude of rejection among adolescents of the use of psychoactive substances and the search for healthy lifestyles.

167. The more noteworthy activities of the programme include the following:

- In 2001 more than 300,000 preventive actions involving more than 4.2 million persons and in 2002 more than 430,000 actions affecting 5.6 million persons;
- The insertion in free textbooks in fifth and sixth grades of primary school of educational content aimed at preventing the consumption of tobacco and alcohol among schoolchildren;

- The celebration since 1998 of World No Tobacco Day with the participation of many groups who organize a broad range of community activities;
- The celebration in 2002 of the seventh National “Sharing Efforts” Information Week, in conjunction with the Mexican Alcoholics Anonymous General Services Centre and the participation of health centres and regional hospitals of the Health Department, the Mexican Social Security Institute (IMSS) and the Security and Social Services Institute for State Workers (ISSSTE), among other public institutions;
- The implementation in 2001 of 165,448 information and guidance activities and referrals of persons and 313,590 activities in 2002, for which 1,380 information modules were set up in hospitals, transport terminals and public offices, where more than 260,000 information leaflets were distributed and more than 15,000 informative talks were given;
- The holding every Saturday in June 2002 of “Anti-Addiction Marches” with the participation of more than 140,000 conscripts and more than 3,500 naval cadets on military service;
- The intensification of permanent social communication campaigns to discourage the consumption of alcohol and tobacco among the public. Where tobacco is concerned, it was possible from 10 January 2003 to ban advertising altogether on radio and television, while the alcoholic drinks industry has accepted self-control measures to avoid the contents of alcoholic beverage advertising being aimed at young people;
- The approval in December 2001 of the Special Tax on Products and Services (IEPS) affecting tobacco products and imposing taxes on filter cigarettes at the rate of 107 per cent in 2003 and 110 per cent from 2004. A tax of 80 per cent was imposed on cigarettes without filters in 2003, 100 per cent in 2004 and 110 per cent from 2005.

168. In 2003 the DIF Programme for the Prevention of Psychosocial Risks in Minors and Adolescents and their Families (PREVERP), through the Chimalli-DIF model and local anti-addiction programmes, operated in 412 communities in 25 states (210 communities more than in 2002), providing training for 298 community networks. The results achieved by the programme are as follows:

- The programme reached 68,184 children and young persons belonging to 2,554 groups and 15,366 parents and adults in 775 groups;
- Five training courses were given for 63 community child promoters of state DIF systems in Nayarit, Tamaulipas, Quintana Roo and Oaxaca;
- At the Community Development Centre (CDC) of Tlazocihualpilli, 6,879 talks were given on alcohol, tobacco and drugs to 289,669 children, young persons and parents;

- The dispatch and distribution of the book “How to protect your children against drugs”, published by the Youth Integration Centres, were continued, with the dispatch of 13,800 copies to eight State systems of the DIF. In connection with that programme, 377 reading circles were organized in 404 municipalities with the participation of 8,287 parents.

169. According to the National Population Council (CONAPO), in the year 2000 there were 315,900 births to mothers aged between 15 and 19 and the specific fertility rate for that age group was estimated at 60.5 per 1,000 women. For 2002 the estimates were of 285,500 births and a rate of 54.1, a decline of 9.6 per cent and 10.6 per cent in the earlier figures respectively. Despite this decline, the prevention of unplanned pregnancies among young girls continues to be a priority concern in reproductive health.

170. In 2002 the DIF’s Programme for the Prevention and Full Care of Pregnancy among Adolescents (PAIDEA) looked after 14,142 expectant mothers in 356 municipalities and on the preventive side 94,942 adolescents in 436 municipalities. In 2003 the programme offered a total of 7,610 information sessions to 25,357 young mothers and fathers or pregnant adolescents in 331 municipalities of 26 federative entities. On the prevention side, 27,503 sessions were organized which were attended by 268,496 young women in 403 municipalities in all federative entities.

171. In order to find out about the expectations and aspirations of young mothers and fathers and their concerns regarding the services and care they receive, the PAIDEA organized National Forums for the Prevention of Risks in Young Persons within the framework of the First National Meeting of Adolescent Fathers and Mothers and the National Days of Full Training for Young Men and Women.

172. In order to support the PAIDEA, in 2003 a national survey was conducted on the impact produced by the programme, in which those responsible for its implementation gave their opinion and made suggestions for ways of adapting and improving the programme.

173. Lastly as part of the updating of the PAIDEA’s methodological materials, the contents of the Group Techniques Handbook were finalized. Didactic and audio-visual contents were also prepared for the delivery of a workshop course on “Managing Groups and Working with Adolescents” and work continued on the contents of the “Workshop on Sexual and Reproductive Health for Young Mothers and Fathers and Pregnant Adolescents”.

174. The Diagnosis recognizes that the National Health System and other sectoral programmes promote children’s health. There are level-three children’s hospitals in practically all the federative entities, and the present administration has initiated many vaccination, nutrition and medical care campaigns. Deficiencies, however, still persist. For example, the programme “An equal start in life” wants to extend the coverage of health services to children up to the age of two and their mothers in order to reduce maternal and infant mortality.

175. Nevertheless in practice irregularities, incongruities and problems have arisen particularly in the management of the budget, which in 2002 came to 67,194,151 pesos.



Practically the whole of the amount went on current expenditure and only 138,200 pesos were reserved for capital expenditure, i.e. infrastructure. This is particularly serious for a programme requiring inputs such as medical teams and ambulances in order to ensure universal coverage of the health services. Another problem is that the budgets do not specify criteria for distribution among states, which explains why states like Chiapas received only 0.16 per cent of all resources of the Health Service Contributions Fund (FASSA, section 33 of the Federation's Expenditure Budget) for their programme.

**96. The prevalence of HIV/AIDS and the measures adopted to promote health information and education on HIV/AIDS. Programmes and strategies developed to prevent HIV, treatment and management of cases. Campaigns to prevent discriminatory attitudes against infected children**

176. Taking into account the Committee's recommendation to continue preventing the spread of HIV/AIDS and for consideration of the recommendations adopted by the Committee in the course of its general discussion on "Children living in a world with HIV/AIDS" (CRC/C/80) and the recommendation for the launch of new activities to create advisory services easily accessible to children and assistance and rehabilitation services for young persons, the Mexican Government launched its 2001-2006 Programme of Action for the Prevention and Control of HIV/AIDS and STDs, which responds to the objectives set out in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at a special session held from 25 to 27 June 2001, and which includes specific objectives for a "Mexico Suitable for Children".

177. The latest preliminary figures show that the prevalence of HIV/AIDS in Mexico in the 15-24 age group of the population has been declining. In 2001 the incidence was 12.2 per cent per 100,000 inhabitants in that age group and by 2002 the rate had fallen to 11.1 per cent.

178. With regard to educational campaigns in the mass media, between 1 September 2002 and 31 August 2003 an institutional campaign was launched on the prevention of HIV/AIDS under the title "Result", whose message was targeted at adolescents and at their parents. The campaign recorded a total of 58,608 viewings on television and 557,280 radio spots throughout the country, carried on 98 television channels and 860 radio stations. "Result" was supported with the distribution of posters and 60,000 pamphlets, as well as 168 messages on television and radio by the State authorities. In Mexico City, the campaign was intensified through 910 outside advertisements on the sides of minibuses or placed in national magazines. The web page of the National Centre for the Prevention of HIV/AIDS (CENSIDA) and the telephone line TELSIDA have continued to operate and the communication model has been adopted by 13 State programmes on HIV/AIDS.

179. As part of the Permanent Programme on Promoting the Correct Use of the Condom among sectors of the population believed to be at risk and more exposed to the epidemic and to other sexually transmitted diseases (STDs), 16.5 million condoms were distributed to civil organizations, educational centres and public bodies, which in turn ensured further distribution through workshops, fairs, visits to meetings and educational activities. It was possible to

increase the distribution of condoms with public resources thanks to the participation of 16 State programmes on HIV/AIDS, with the backing of the United Nations Population Fund (UNFPA), and a mass purchase of male condoms for a reduced cost.

180. With regard to training efforts in this area, from September 2002 to August 2003, 117 workshop courses were held on Awareness and Training on a Comprehensive Approach (including information, prevention and care) to HIV/AIDS and Sexually Transmitted Diseases (STDs) for staff in several sectors working in government and non-governmental institutions in the country.

181. As part of the coordination with reproductive health programmes, through the Programme of Action “An equal start in life” further efforts were made in favour of preventing perinatal transmission, through early detection of syphilis and HIV, with the offer of screening tests for pregnant women coming for prenatal care.

182. In Mexico there are around 300 civil society organizations conducting activities related to the HIV/AIDS problem, with people specializing in sexual work, women, persons affected by or living with HIV/AIDS, and professionals in the areas of sexuality, psychology, health and human rights.

183. A number of initiatives have been taken to deal with the social stigma related to HIV/AIDS. In addition to other activities, the National Centre for the Prevention and Control of HIV/AIDS (CENSIDA) developed the Project on Stigma and Discrimination, designed to generate a working model and to produce specific indicators for the assessment of the activities undertaken.

184. In the area of legislation, the Federal Act on the Prevention and Elimination of Discrimination (including that related to sexual preference and health conditions),<sup>28</sup> was issued, constituting a great step forward towards eliminating discrimination and human rights violations affecting persons with HIV/AIDS and vulnerable groups.

## **B. Social security and child-care services and facilities**

### **99/100/101. Measures adopted to recognize for every child the right to benefit from social security, including social insurance**

185. The Mexican Social Security Institute (IMSS) offers social security to working parents insured for children’s services and care benefits. This entitlement is acquired at the time of a child’s birth. The Social Insurance Act, in article 2, establishes that: “The purpose of social security is to guarantee the right to health, medical assistance, protection of the means of subsistence and whatever social services are required for individual and collective well-being”.<sup>29</sup> Nursery services include sanitation, food, healthcare, education and recreation for children.

186. Persons not automatically qualified for this service may subscribe voluntarily and all children attending public schools are entitled to medical care in the event of any accident occurring within the establishment.

187. With regard to child-care insurance, the Social Insurance Act in article 2 establishes that: “Child-care services are provided for working women and widowed or divorced male workers who have custody of their children and are unable to provide care during their working day for very young children.”

188. Apart from providing care and attention, the service looks after the child’s health and future, with a policy of training the development of feelings of family and social belonging, and the acquisition of knowledge favouring understanding, the use of reason and imagination, using simple methods suited to the children’s age level.<sup>30</sup>

189. The child-care service is provided only for children between the ages of 43 days and 4 years.

190. After 2000 the policy was to set up neighbourhood community-type child-care services in rural areas. Both schemes complement what are known as “participative” child-care facilities. The schemes are related to the “Agricultural Day Labourer” programme to encourage the inhabitants of rural areas to join the social security system and to improve the protection of children in those areas.

191. The DIF runs programmes focused on care for very young children, such as the Assistance Centres for Children’s Development (CADI) and the Community Centres for Assistance to Children (CAIC).

192. The purpose of the CADIs is to offer full assistance to ensure the bio/psychosocial development of children, born to working mothers on low incomes, lacking in social benefits, and families at risk with a view to improving the quality of life of children and their families, by fostering a culture of respect for individual differences within the framework of their rights.

193. The CAICs are a very flexible model, since both their timetables and their equipment can be adjusted to the requirements and characteristics of local communities. Like the CADI programmes, they help to meet the social need to provide full care for the children of working mothers, who are unable to look after their children properly owing to the length of their working day and the lack of available resources.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education, including vocational training and guidance**

#### **105/106. Measures adopted to recognize and ensure the right of the child to education**

194. Mexico’s political Constitution in article 3 establishes that: “Every individual has the right to receive education. The State, including the Federation, the states, the Federal District and the municipalities, shall provide preschool, primary and secondary education. Primary and secondary education shall together constitute compulsory basic education”.

195. Education plays a central role in the public policies of the Mexican Government. It is the fundamental priority objective of the Government of the Republic as asserted in the National

Development Plan 2001-2006. This priority is reflected in the allocation of growing resources and a series of actions, initiatives and programmes aimed at achieving a qualitative difference which can transform the educational system.

196. Where equity is concerned, a considerable effort is made to develop initial, intercultural, bilingual and community education, and to improve conditions of access and retention of children and young persons in primary education; a further effort is made to improve compensatory programmes aimed at overcoming educational inequalities between social groups and regions of the country.

197. Education coverage was thus given a new emphasis, giving priority to isolated regions, to quality, with more support for teaching practice, and to relevance, with the establishment of a system of educational assessment.

198. As far as relevance is concerned, more emphasis was placed on social participation in education and on projects designed to improve the management of schools, where the contribution of the school communities themselves was essential for identifying and resolving difficulties which affected the quality of education and the low standard of learning of pupils.

199. According to the National Education Programme 2001-2006, the national education system needs to meet three major challenges: equitable coverage; high standards of educational methods and learning; and the integration and operation of the educational system.

200. According to the Diagnosis, the guarantees and social standards offered by the General Education Act and its regulations exceed the standards of the Convention on the Rights of the Child. The policy of compulsory, free attendance at primary and secondary schools fulfil and exceed the standards stipulated in general comments Nos. 11 and 13 of the United Nations Committee on Economic, Social and Cultural Rights (Plans of action for primary education and The right to education, both issued in 1999).

### **National Education System**

201. The National Education System includes institutions of the Government and society responsible for providing educational services and for preserving, transmitting and adding to the culture of the Mexican people.

202. In 2002 the federal budget authorized for the educational sector was 277,038.4 million pesos, which in real terms amounts to an increase of 4.6 per cent compared with the budget for 2001. This expenditure represents 4.5 per cent of Gross Domestic Product (GDP) at the end of 2002, an increase of 0.4 points compared with 2000.

203. National expenditure on education, which is the sum of federal, state, municipal and private sector budgets, amounted to 6.8 per cent of GDP by the end of 2002. It is hoped that by 2006 national expenditure on education will reach 8 per cent of GDP.

204. For the school year 2001-2002 the Specialized Education System enrolled 30.1 million pupils, who were looked after by 1,503,980 teachers in 221,719 schools.

205. Out of the whole school population, 78.8 per cent completed basic education, 10.4 per cent secondary education and 7.1 per cent higher education. Some 3.7 per cent of students followed vocational training programmes, while 87 per cent of students were taught in public educational establishments and 13 per cent in private schools.

206. For the school year 2002-2003 the enrolment was 30.8 million children and young people, which represents an increase of almost 1.2 million pupils compared to the 2000-2001 school year. The average school attendance of the population has been increasing in recent years.

207. The latest data for 2003 show that the illiteracy rate was 8.5 per cent, a figure which is better than in previous years.

208. In 2002 out of all boys aged 12 and 13 employed in the formal labour market, 65 per cent were studying while only 59 per cent of girls did so. In 1991 these figures were lower since only 56 per cent of boys and 58 per cent of girls working in the formal sector attended school at the same time.

209. As in the case of girls and boys aged 12 and 13, the rate of employment of adolescents aged between 14 and 17 showed a decline over the last decade. Nevertheless, in 2002 out of all adolescents aged between 14 and 17 who were working, only 31 per cent of the girls and 29 per cent of boys were attending school.

**107. Measures adopted to make primary education compulsory and available free for all, measures to introduce free secondary education and offer financial assistance in case of need and to make higher education accessible to all**

210. As mentioned earlier, the Political Constitution of Mexico in article 3 establishes that: "Every individual has the right to receive education. The State, including the Federation, the states, the federal district and municipalities, shall provide preschool, primary and secondary education. Primary and secondary education shall constitute compulsory basic education."

211. In order to alleviate the problem of school dropouts, the Programme of Action 2002-2010 raises the need to encourage school attendance among young people, through programmes such as "Opportunities". This programme offers incentives to families to ensure that their children complete secondary education. From 2002 scholarships have been offered to young people to continue their studies in upper secondary education.

212. The Opportunities programme achieved a great deal in terms of reducing child labour. An assessment carried out in 2000 shows that before the programme was launched in the mid-1990s, the likelihood of working for children and young persons between the ages of 8 and 17 was 22.4 per cent. By 1999 this indicator had been substantially reduced, down to a level of 3.1 per cent. In the case of girls, the proportion fell from 8.6 per cent to 1.2 per cent.

**Basic education**

213. Basic education accounts for 78.8 per cent of all pupils in the school system. The Government's target for good quality basic education is for all children and young people in the

country to learn in school what they need for their personal development and in order to prepare themselves for harmonious coexistence with others, on the basis of values such as tolerance, respect for differences and freedom, so that they may contribute to the development of democracy and the growth of the nation.

214. In the school year 2001/02, a total of 23.8 million pupils were enrolled in basic education, 190,000 students more than were recorded at the beginning of the previous school year. Within that total, the enrolment rates in preschool, primary and secondary education were 14.4 per cent, 62.5 per cent and 23.1 per cent respectively.

215. Public schools for those levels accounted for 92.1 per cent of enrolment, while the remaining 7.9 per cent attended private establishments. Enrolment for the school year 2002-2003 exceeded the 24-million student mark, almost 2 per cent more than for 2000-2001, or the equivalent of an additional 461,500 students.

216. For the school year 2002/03, primary education services achieved a net coverage of 89.4 per cent and in that same year 76.7 per cent of 6-year-old children attended the first grade of primary school.

217. It is worth noting that in recent years drop-out and failure rates have fallen significantly in primary and secondary education. For 2002/03 the two figures were 1.6 per cent and 5.2 per cent for primary education and 6.8 per cent and 19.1 per cent in secondary education.

218. Owing to demographic distribution shifts in recent years, attendance in basic education as a proportion of total enrolment has started to decline, while the proportion of other sectors of the educational services has correspondingly increased. Despite the fall in the drop-out and failure rates in the last decade, however, there is still a problem in primary education, considering that not all children who enrol stay on and complete the cycle, especially indigenous children.

219. During the school year 1999/2000, the terminal success rate in indigenous bilingual primary education was 68.4 per cent, compared with a national average of 84.7 per cent. According to the 2000 population census, almost 688,000 children between the ages of 6 and 11 do not attend school, which represents 5.2 per cent of the population of that age group. For secondary education the rates are even higher, with only 77.1 per cent of students who enrol actually finishing their studies.

### **Preschool education**

220. In December 2001 the Congress of the Union approved the reform of article 3 of the Constitution, making preschool education compulsory for everyone. This rule will be applied in stages as follows: the third year from the school year 2004/05, the second from the school year 2005/06 and the first from the school year 2008/09. By then the Mexican State will have extended the offer of this high standard educational service to the whole country.

221. In the school year 2001/02, preschool education benefited 3.4 million children in the appropriate age group, which represents an increase of 0.3 per cent compared with enrolment for the school year 2000/01.

### **Primary education**

222. In the school year 2001/02, enrolment at this level came to 14.8 million students, with 552,409 teachers in 99,230 schools. For the school year 2002/03, a total of 14.9 million students were enrolled, with 552,966 teachers in 99,570 establishments.

### **Secondary education**

223. At the beginning of the school year 2001/02, almost 5.5 million students were enrolled, distributed as follows:

- There were almost 2 million new entrants in the first grade of secondary, which covered 93.4 per cent of those leaving primary school and 36.4 per cent of all students registered at that level;
- Out of this secondary school enrolment, 51 per cent went into general secondary, 28.1 per cent into technical, 9 per cent were workers and 20 per cent were in remote learning.

224. For the school year 2002/03, around 5.7 million students were enrolled in all sectors of secondary education, which was 6 per cent more than the similar figure for the school year 2000/01.

### **Upper secondary school**

225. Although the system of upper secondary education in Mexico has made substantial progress in recent decades, especially in terms of the growth of enrolment, it is far from the proportions needed to achieve its full potential. There are two difficulties which need to be overcome:

- The lack of identity which would differentiate this level of education from others. In general terms and for different reasons, most of the aspects of this educational level have been subordinated to higher education, to the detriment of the development of its own potential;
- The discrepancy between the high standard of those leaving lower secondary school and the relatively low terminal success rate in upper secondary education.

226. Nevertheless, in the school year 2001/02, 3.1 million students were enrolled with 219,468 teachers in 10,587 schools; 59.8 per cent of students sat the general baccalaureate, 28.8 per cent the technical baccalaureate, while 11.4 per cent followed technical vocational courses. For the school year 2002/03, almost 3.3 million youngsters enrolled in upper secondary education, with the support of 227,510 teachers in 10,998 schools.

227. At present 5 out of every 10 youngsters between the ages of 16 and 18 are enrolled in an upper secondary school. In the school year 2002/03, 95.6 per cent of those completing lower secondary education went on to the higher level.

228. Despite the progress achieved in recent years, upper secondary education has some difficulty retaining enrolled students; many abandon their studies too early for academic or economic reasons, in order to join the labour market without having acquired the necessary qualifications. The coverage achieved at this level, at 48.8 per cent, reflects a major challenge which needs to be faced in order to ensure that as many youngsters as possible in this age group attend higher studies.

#### **108. Measures adopted to deal with the exclusion of vulnerable groups from education**

229. The worst problems as far as education is concerned arise in rural areas. Material shortages in primary and secondary education tend to be worse in rural and indigenous environments. In order to fulfil the target established by the Mexican Government in this respect, the Education Department is currently running the following programmes:

230. *Initial out-of-school education.* This is based on community participation involving parents. Educators are trained in the community itself to provide support for groups of fathers and mothers in the form of knowledge and skills to help improve the upbringing of their children under the age of 4, in accordance with timetables and conditions suited to each locality.

231. *Community preschool education.* One characteristic of community education is that the children possess different knowledge, interests and learning speeds and, in the case of indigenous and migrant groups, different languages and cultures. This service comes in four forms:

- Community preschool (PC), specializing in the population of mixed descent;
- Community Children's Centre (CIC), which attends to the population of mixed origin and operates in localities already running community courses. The difference with community preschool is that the community in this case helps to organize and administer the service;
- Education Services for the Indigenous Population (MAEPI), intended for people speaking indigenous languages. In the classroom, teaching is done mainly in the mother tongue of children, with an effort to encourage a bilingual atmosphere;
- Intercultural Educational Service for Migrant Children (MEIPIM), which is intended for children in original communities and in farming settlements situated in areas of attraction.

232. *Bilingual intercultural education.* These programmes propose new educational methods that offer indigenous children and young persons bilingual intercultural education which is equitable and of good standard. The Programme for the Improvement of Bilingual Intercultural Education is aimed at improving the standard of education offered to indigenous peoples and to extend initial preschool and primary education, in order to enrol more children and young people in bilingual intercultural education.

233. In addition, further training courses and seminars have been offered to teachers involved in teaching work with an intercultural approach in 29 states of the country and in the Federal



District. More than 4,000 teachers, technical teaching advisors and education officials have taken part in such seminars. As further support for bilingual intercultural education, 48 information programmes were broadcast on radio and television concerning indigenous cultures in our country, prepared with the assistance of members of indigenous peoples.

234. *Social Benefits Programme (IMSS)*. The Mexican Social Security Institute (IMSS) runs specific programmes in support of the development and security of Mexican children, especially the children of beneficiaries and persons covered by the social security system. It also runs a system of child-care facilities and social services to support working mothers and divorced or widowed fathers having custody of children of less than 4 years old.

235. As mentioned earlier, an effort was made from 2000 onwards to introduce neighbourhood/community child-care facilities in rural areas. The two schemes complement what are known as the “participative” child-care facilities. Their establishment is related to the programme “Agricultural day labourers” in order to encourage the inhabitants of rural areas to join the social security system and to improve the protection of their children.

236. Notwithstanding the above comments, one of the problems facing the Mexican education system at present is the unequal participation of boys and girls in education, especially in rural areas, and even more so in indigenous communities, where girls are at a particular disadvantage with respect to boys. There is still a 3 per cent discrepancy in the proportion of boys completing primary education and starting secondary compared with girls.

237. Other factors such as absenteeism among teachers, inadequate infrastructure and inputs and inadequate or insufficient care also contribute to the high failure and drop-out rates which are found among people living in marginal circumstances or in extreme poverty, so that the Government of Mexico firmly intends to maximize efforts in order to find a solution to this problem.

### **Coverage and quality of primary education**

238. *Programme for Reducing Arrears in Initial and Basic Education*. The aim of this programme is to supply packages of school equipment for children enrolled in grades one to six of primary education, in schools located in places which, owing to their marginal situation, are exposed to potentially high drop-out rates. The programme covers the whole subsystem of indigenous primary education, selected schools of general primary education and primary schools for migrant children.

239. Alongside that, general and indigenous primary schools and some remote secondary schools, selected according to priority criteria established by the Education Department, are sent packages of teaching aids throughout the school year in accordance with the requirements of each educational level.

240. Other support is provided in the form of construction works, which are aimed at improving the physical state of educational facilities, such as classrooms, bathrooms, latrines, laboratories, workshops and annexes (management and library), outside works (perimeter

fencing, multiple-use yards), stores and Teacher and Resource Centres. This programme assists schools with inadequate buildings or requiring preventive or remedial maintenance and aims to rehabilitate educational buildings which have deteriorated through wear or over time.

241. In addition, the SEP's Support Fund for School Management provides resources to parents' associations in order to encourage community participation in school activities.

242. *Community Primary Education.* The Community Primary Education Programme achieved the following coverage in each of its components:

- Community Courses (CC), assisting 121,919 students in 12,627 communities of 31 states;
- Intercultural Educational Service for Migrant Children (MEIPIM): this currently has a coverage of 3,297 pupils in 203 agricultural settlements in 12 federative entities;
- Education Services for the Indigenous Populations (MAEPI): the coverage in this case extends to 16,129 pupils belonging to 1,501 communities in 20 states.

### **Quality education for life**

243. One tool that is used to assess the educational performance of children and young persons is the National Standards Test, which measures the percentage of students with satisfactory skill levels, in the areas of communication and mathematics. Despite the use of such methods, however, objective results show that the standards achieved in primary and secondary education continue to lag behind the learning expected of students at these levels.

244. In order to alleviate the problem, the Education Department introduced the following programmes:

245. *Quality Schools Programme (PEC).* The aim of this programme is to change the way schools are organized and operate, by supporting action which the community of each school centre decides to take in order to improve the service and by institutionalizing the culture and exercise of planning and evaluation.

246. *Educational Evaluation.* The National Educational Evaluation Institute (INEE) has currently been carrying out a large number of evaluations in order to measure the performance of students in communication and mathematical skills, in order to identify the best ways of raising the quality of education.

247. In August 2002, the National Institute of Education was created by presidential decree as a specialized, chiefly academic and independent body with the intention of building its own theoretical references, developing methods and creating systems and technical tools to propose alternative ways of evaluating the quality of education.

248. The Government of Mexico recognizes that in terms of quality education much still remains to be done. The Christel House association of Mexico has reported that children and young persons attending public establishments are clearly behind in their education and that

these children, despite completing the school timetable and attending school regularly, do not have the necessary educational skills to compete later in the working environment. After spending five years offering supplementary education, the association has found that youngsters can improve their skills if they are provided with a constructive, high standard educational model which allows them to make significant progress.

249. In 2004, Christel House compared its population with that of the Colegio Olinca (a private school known as one of the best academically in Mexico). For the purposes of comparison a cognitive test designed for the solution of CICE problems was used and it was found that the children enrolled at Christel House, despite their initially low educational standard, held their own with children from a private college. This better performance was due not to any improvement in the curricula of public schools but to the fact that the children in the comparative study were provided with additional tools during the hours when they were not attending public school. They consider that true high quality education requires:

- Better infrastructure;
- Qualified teachers who constantly receive further training;
- More time spent with the children;
- Use of proper teaching methods in the classroom;
- Strategic planning.

250. Christel House of Mexico reports that it has worked with as many as 700 young children, who were taught in two shifts, and that at present the SEP allows them to receive only 200 pupils when in fact they have the capacity to take in 300, so that they consider that the SEP's policies are bureaucratic.

251. They also report that there is now greater coverage in education and that it is equitable; nevertheless, it is difficult to speak of "quality" in education since the Education Department does not admit failure indicators, which is why they have observed that children lack proper preparation, since their education is mechanical and does not enable them to achieve significant learning. Christel House of Mexico found that new entrants, despite the fact that their enrolment application had been approved, did not possess the skills required for the grade they wished to attend. This was confirmed when the children failed to pass the admission test. They point out that children admitted to the fifth year did not know basic arithmetic or how to read. It is clear from this that it is important not only to measure the numbers of children attending school, but also to know under what academic conditions they pass their tests.

252. The association also expressed the view that teacher-training schools did not have a suitable admission profile and that most teachers entering did so because they had no alternative. This situation is also very serious, especially since these will be the future teachers but those who are least motivated for the task.

**109. Appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity**

253. The Act on the Protection of the Rights of Children, in article 13, section C, states that in schools or institutions, educators and teachers must avoid any form of ill-treatment, harm, injury, aggression, abuse or exploitation, whether committed against girls or boys.

254. Nevertheless, it is worth noting that in the Diagnosis, participants from civil organizations reported that the Education Department did little to sanction teachers responsible for physical (beatings and ill-treatment), sexual or emotional abuse against their pupils. The only sanctions ever enforced are administrative.

**B. Aims of education**

**113. Training provided to teachers**

255. With the National Programme to provide Further Training Practicing to Basic Education Teachers (PRONAP), an effort is being made to raise the quality of education by providing continuous support for teaching work, by refreshing teachers' knowledge and improving their teaching skills through further training courses and Teacher Centres.

256. At General Further Training Workshops (TGA), ways are sought of helping basic education teachers to improve their knowledge of educational materials, to develop teaching strategies and course plans and to become better acquainted with educational contents and pedagogic approaches.

257. The National Further Training Courses are given on a self-taught basis with the free distribution of a teaching package. Participation is voluntary but is conditional on undergoing a formal entry and accreditation procedure.

258. The Teacher Centres, on the other hand, offer basic education teachers a space where they can develop projects that help improve educational conditions in schools and especially where they can broaden their cultural horizons.

**Revision of school curricula and the satisfaction of educational requirements**

259. In order to ensure that the curricula in preschool, primary and secondary education are constantly revised, so that they are adjusted to the changing educational requirements of children, an effort was made to review plans, study programmes and school textbooks, as well as to produce and distribute on a large scale the new and varied materials needed for the curricula and for the acquisition of basic intellectual skills and basic knowledge. The Education Department is seeking to achieve this through the following programmes:

260. *Revision of Curricula and Teaching Methods in Preschool Education*, aimed at ensuring continuity of curricula from preschool education to secondary education, and ensuring teaching and organizational consistency throughout that educational period.

261. *Programme for a Full Review of Secondary Education*, which includes a proposal for a review of curricula, teaching and educational methods in secondary education, including a review and improvement of the distance secondary school model.
262. *Programme for Civic Training and the Culture of Lawfulness*, which teaches students about the use of rules, laws and the culture of lawfulness, while illustrating the operating methods of delinquency, organized crime and corruption, as well as techniques for resisting that type of behaviour.
263. *Project for the Development of an Educational Model for Multigrade Schools in Basic Education*, which puts forward a design for an experimental educational model for multigrade schools, including an improvement of the teaching skills of instructors and teachers.
264. *Basic Education Project for Immigrant Children*, the main aim of which is to suggest an educational approach at primary level which would enable states to offer high standard educational services, based on recovering information on children's experiences and their living and working conditions. It also proposes ways of consolidating efforts to ensure educational continuity for this group of children.
265. *Programme for the Strengthening of Special Education and Educational Integration*. This determines the conditions needed for the successful integration of students with special education requirements, with or without disabilities, following an approach whereby they study in regular schools and classes but with the support of special educators.
266. *Programme for the Educational Development of Street Children*. This was established and launched in accordance with a pedagogic model designed to meet the educational needs of children living and working in the street in order to provide them with appropriate care of a satisfactory standard, facilitating their access to educational services and the continuation of their studies, as well as their learning success in basic education.
267. *Equipment for Distance Secondary Schools in the Programme for Reducing Arrears in Initial and Basic Education*. Throughout the school year these schools receive packages of teaching aids designed according to their needs.
268. The package of teaching material includes: a school library of 80 books, 2 computers with accessories, educational software, computer handbooks for teachers, video recorders, videos and sports equipment.
269. *Programme for the Vocational Training and Development of Teachers and Principals for Bilingual Intercultural Education in Basic Education*. The objective of this programme is to ensure that all teachers in this sector of education speak the language of the community where they are working, and to develop initial training systems for bilingual teachers and improve further training for bilingual teachers and principals in order to prepare them better for their type of work.
270. *Curriculum Development Programme for Intercultural Education in Basic Education*. This aims to adapt primary education plans and programmes in order to incorporate indigenous tongues as a subject.

271. *Programme for the Encouragement of Educational Research.* The aim in this case is to promote the development of research in basic education. One of its components is the financing of research designed to ascertain the current state of basic education, as well as the results of existing public policies and national programmes, including the training and further training of teachers in these services.

272. *Programme for the Encouragement of Innovation in Basic Education.* The main aim of this programme is to provide technical and financial support for initiatives designed to resolve specific educational problems arising from the social and cultural diversity of the states and the regions within them and improve quality and equity in basic education. It also aims to contribute to the training and further training of the academic staff of state education departments and related organizations.

273. *Programme for a review of the Management of Basic Education.* This is intended to bring about thorough, long-lasting changes in the organization and daily operation of basic education schools in order to ensure that teaching staff and principals collectively assume responsibility for educational performance and are committed to the continuous improvement of quality and equity in education.

### **C. Leisure, recreation and cultural activities (art. 31)**

#### **117. Measures adopted to recognize the right of the child to rest, leisure and cultural activities**

274. The Act on the Protection of the Rights of Children establishes in chapter XI “On the right to rest and play” that children are entitled to these, which must be given consideration as essential factors in their development and growth, just as they are entitled to enjoy cultural and artistic events and activities in their community.

### **VIII. SPECIAL PROTECTION MEASURES**

275. With the National Programme of Action in Favour of Children 1990-2000, special activities were undertaken to improve the conditions of children, with an emphasis on the needs of vulnerable children identified in 11 categories.<sup>31</sup> All these activities have been included in the Programme of Action for 2002-2010, adding new target groups, continuing existing activities and programmes and incorporating new categories arising from emerging problems or problems which have become more acute in recent years.

276. The 2002-2010 Programme of Action offers full prevention and care schemes, such as the Human Development Programme “Opportunities”, which proposes strategies related to prevention, or the programmes focusing on developing the capacities of children and their families.

277. The ministries and departments involved in defining the strategies include Social Development, Health, Education, Home Affairs, Labour and Social Welfare and Public Security, as well as the General Procurator’s Office, DIF (family development), the CNDH (Human Rights Commission) and the National Commission for the Development of Indigenous Peoples.

## **A. Children in situations of emergency**

### **1. Refugee children (art. 22)**

#### **120. Measures adopted to protect and guarantee the rights of refugee children**

278. According to the terms of the General Population Act, in chapter III on "Immigration", section VI, a refugee is a person who, to protect his life, security or liberty, when these have been threatened by generalized violence, foreign aggression, internal conflicts, large-scale human rights violations or other circumstances which have seriously disturbed the public order in his country of origin, has been obliged to flee to another country.

279. The Mexican Commission on Aid for Refugees (COMAR) has made a considerable effort to look after Guatemalan refugees who arrived in Mexico in 1982, fleeing from the generalized violence brought about by confrontations between guerrilla forces and the Guatemalan Army and currently living in the states of Campeche, Chiapas and Quintana Roo. One important group which the COMAR is dealing with consists of children up to the age of 14 who are the children of refugees, born on Mexican territory during the years of exile, and who make up approximately 50 per cent of the total group looked after by the Commission.

280. One of the main objectives of humanitarian assistance to the children of refugees is to achieve their full development, with due attention being given to their health and education needs and with full respect for their rights on an equal footing with the rest of the Mexican population. COMAR's activities have been aimed at diminishing children's morbidity and mortality, improving hygienic practices, conducting family planning campaigns, looking after educational needs in the formal system (preschool, primary and secondary), and the informal system (open education and initial education), as well as facilitating training in human rights issues, the rights of children and the rights of women.

281. In 1995, 47.4 per cent of the Guatemalan refugees who were being looked after were children up to the age of 14, while in 1999 these represented almost 53 per cent. At the beginning of the period, 96.8 per cent of the children had birth certificates and by the end of the period practically all the children had some type of migration document securing their legal status in the country in one form or another, as Mexican citizens either by naturalization or in the course of naturalization.

282. In 2001 COMAR attended 14,995 refugees in settlements, slightly less than the 16,014 who received attention in 1995. Out of the total, most of them, 8,100 children, were living in Chiapas, 4,773 in Campeche and 2,122 in Quintana Roo.

283. In August 1996 the Mexican Government launched the Migration Stabilization Programme, which gave refugees intending to take up permanent residence in the country the equivalent status of an immigrant (FM2) or a naturalization certificate for those deciding to adopt Mexican nationality. This decision assisted not only the Guatemalan refugees, but also their children born in Mexico, by allowing them better development facilities thanks to recognition of the legal status of their parents.

284. Mexico has begun to address the phenomenon of asylum-seeking unaccompanied children. The protection of and assistance for this group has therefore become one of the new challenges taken up by COMAR, which from March 2002 has assumed the responsibilities previously exercised by the Office of the United Nations High Commissioner for Refugees (UNHCR).

285. This led to the introduction of the Programme for the Protection of and Assistance to Asylum-Seeking Unaccompanied Children (COMAR-SEGOB). In November 2002, moreover, the COMAR, UNHCR and DIF set up panels to draft an inter-institutional convention on unaccompanied children seeking asylum.

## **B. Children involved with the system of justice**

### **1. The administration of juvenile justice (art. 40).**

#### **132. Measures taken to recognize the right of every child involved with the system of justice**

286. Children involved with the system of juvenile justice are considered to be persons between the ages of 11 and 18 who have committed an offence under the Act for the Treatment of Young Offenders in matters of Ordinary Jurisdiction for the Federal District and in federal matters for the Republic as a whole.

287. The Public Security Department (SSP), through its General Directorate on Prevention and the Treatment of Minors (DGPTM), undertakes prevention activities related to the diagnosis, treatment and supervision required for children and juveniles who have committed an offence. The DGPTM is responsible for the Diagnosis Centres for Boys (CDV), Treatment for Boys (CTV), Diagnosis and Treatment for Girls (CDRM), Full Development for Minors (CDIM), Dr. Alfonso Quiroz Cuarón Special Care (CAEQC) and Interdisciplinary External Treatment (CITE).

288. In 2001, 1,188 children and young persons were admitted to the treatment centres of the DGPTM, of which 1,106 were boys (93 per cent) and 82 girls (7 per cent). Out of these juvenile offenders, 84 per cent had committed various forms of robbery and the remaining 16 per cent were taken in for offences such as sexual abuse, impairment of health, homicide, damage to property, carrying illegal weapons, rape, injuries, house searches, complicity, breach of the Population Act and illegal deprivation of freedom.

289. In 2001 the population registered in these centres included 545 boys and 31 girls, with 1,170 girls and boys under external supervision. In October 2002, by comparison, the registered population of children and young persons in conflict with the law amounted to 1,746, of which 576 were receiving internal treatment and 1,170 external. In August 2003, the population of the centres included 3,362 children, including 297 girls and 3,065 boys. Out of the total, internal treatment was provided for 938 children and external supervision for 1,714.

290. The Programme for Children in Conflict with the Law: Prevention and Treatment for Young Offenders, run by the DGPTM, focuses the action of the Federal Government in favour of children in conflict with the law on the following areas: general prevention, judicial representation and special prevention and individualized treatment.



291. The main activities of the treatment centres include:

- Biopsychosocial studies for the diagnosis of suspected child and juvenile offenders;
- Offer of full treatment plans, including internal followed by external treatment of young offenders;
- Promotion and connection with public and private institutions for the training and further training of technical staff and the provision of services to child and juvenile offenders and their families;
- Exchange on a national and international level of documentary information and publications with governmental and non-governmental organizations, as well as research and updating activities;
- Connection with the National Institute for Adult Education (INEA) for the processing of examinations and school certificates;
- Certification with the Directorate of Training Centres for Industrial Work (CECATI) of examinations and reports of workshops given in the treatment centres.

**2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings**

**138. Measures adopted to ensure that no child is deprived of his or her liberty arbitrarily**

292. Article 44 of the Act on the Protection of the Rights of Children stipulates that children shall be protected against any interference which is arbitrary or contrary to their constitutional guarantees or to the rights recognized by law or by international treaties subscribed to by Mexico.

293. Article 45 of the same Act adds that deprivation of liberty is not admissible in the case of children.

294. With respect to children who are asylum-seekers or refugees, the National Migration Institute (INAMI) ensures that children are repatriated in accordance with the rules of international agreements. It makes every effort to ensure that its timetables are compatible with those of social aid institutions where children are directed so that it can deal with their cases, in accordance with bilateral agreements regarding legal repatriation. This means that the activities of the INAMI offices are suitably coordinated with those of the DIF and civil society organizations, and with the different public agencies responsible for the return of minors. INAMI centres take charge of children handed over by United States migration authorities and transfers them to other bodies in accordance with their individual circumstances.

295. With regard to the supervision of minors in detention, the Act on the Treatment of Young Offenders contains provisions concerning internal and external forms of treatment (arts. 110-119), as well as the follow-up which should be given to such treatment (arts. 120 and 121).<sup>32</sup>

**141. Statistics concerning children deprived of liberty**

296. Regarding the number of children legally deprived of liberty, the National Institute of Statistics, Geography and Data Processing has provided the following data.

**Percentage of young offenders under diagnosis or undergoing internal or external treatment according to federative entity and sex, 2002**

Federative entity	Under diagnosis			Internal treatment			External treatment		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
United Mexican States	15.6	15.6	10.3	23.3	26.3	15.9	61.1	58.1	73.8
Aguascalientes	0.3	0.3	0.0	12.5	14.5	0.0	87.2	85.2	100.0
Baja California	18.6	18.1	25.8	20.4	21.7	11.4	61.0	60.2	62.8
Baja California Sur	40.6	36.5	27.3	59.4	63.5	72.7	0.0	0.0	0.0
Campeche	69.9	68.1	52.4	16.1	17.9	47.6	14.0	14.0	0.0
Coahuila de Zaragoza	27.9	26.5	21.4	52.6	54.4	78.6	19.5	19.1	0.0
Colima	7.7	7.9	5.4	14.5	21.6	10.8	77.9	70.5	83.8
Chiapas	73.0	70.7	75.4	27.0	29.3	24.6	0.0	0.0	0.0
Chihuahua	49.3	45.2	43.3	46.5	51.4	47.7	4.3	3.4	9.1
Distrito Federal	10.9	10.2	13.3	42.2	44.8	48.3	46.9	45.0	38.4
Durango	17.0	13.9	16.4	83.0	86.1	83.6	0.0	0.0	0.0
Guanajuato	25.6	23.7	41.7	74.4	76.3	58.3	0.0	0.0	0.0
Guerrero	1.0	1.0	0.0	46.7	48.6	60.6	52.3	50.4	39.4
Hidalgo	17.6	16.4	18.2	36.0	39.8	37.2	46.5	43.7	44.5
Jalisco	45.8	43.9	70.3	54.2	56.1	29.7	0.0	0.0	0.0
México	12.9	13.9	4.2	15.2	18.4	8.9	71.9	67.7	86.9
Michoacán de Ocampo	7.2	7.3	4.7	18.0	20.6	14.0	74.8	72.2	81.3
Morelos	73.5	72.6	41.9	4.5	6.1	34.9	22.1	21.3	23.3
Nayarit	4.6	4.5	5.8	9.0	9.7	2.6	86.5	85.9	91.6
Nuevo León	35.5	35.2	33.8	38.1	40.9	8.1	26.4	23.9	58.1
Oaxaca	9.9	9.6	9.7	23.1	26.2	14.8	67.0	64.2	75.5
Puebla	7.3	6.5	7.2	34.4	40.1	43.8	58.4	53.4	49.0
Querétaro de Arteaga	8.7	8.7	6.8	18.9	21.2	12.2	72.4	70.2	81.1
Quintana Roo	8.7	7.0	4.3	91.3	93.0	95.7	0.0	0.0	0.0
San Luis Potosí	6.4	6.0	8.9	21.7	24.1	15.7	71.9	69.9	75.4
Sinaloa	59.7	59.1	36.8	40.3	40.9	63.2	0.0	0.0	0.0
Sonora	5.7	6.0	2.3	8.2	9.4	3.6	86.2	84.7	94.1
Tabasco	7.3	6.9	0.0	90.4	91.0	100.0	2.3	2.2	0.0
Tamaulipas	14.8	14.7	11.3	20.8	23.3	17.0	64.4	62.0	71.7
Tlaxcala	10.7	8.9	5.5	62.9	68.3	87.3	26.4	22.8	7.3
Veracruz de Ignacio de la Llave	1.5	1.4	1.4	10.4	11.8	6.3	88.1	86.7	92.3
Yucatán	40.2	41.0	19.7	18.9	20.9	13.1	40.9	38.1	67.2
Zacatecas	9.9	10.4	4.4	11.0	13.4	7.5	79.2	76.2	88.1

*Source:* SSP. National Register of Juvenile Delinquents, Council of Children's Affairs.

**142. Measures adopted to ensure that any child deprived of liberty is treated with respect for human dignity and in accordance with the child's needs**

297. The Act on the Protection of the Rights of Children, in Title Four, single chapter on “The right to due process in the event of an infringement of the penal law”, establishes the minimum rules which must apply to protect the rights of children involved in judicial proceedings.

298. Furthermore, the Act on the Treatment of Young Offenders, article 3, stipulates that any child alleged to have committed an offence must be treated fairly and humanely, so that any ill-treatment, incommunicado detention, psychological coercion or any other action impairing the child's dignity or physical or mental integrity are strictly prohibited. In article 36 the Act reiterates this obligation when it stipulates that during proceedings all children must be treated humanely and with respect, in accordance with the requirements of their age and their personal circumstances.

299. It may be pointed out, finally, that the Constitution protects the right to due process of all persons in the national territory, which obviously includes all children.

**143. Separation of a child deprived of liberty from adults**

300. The rules ensuring that children deprived of liberty are kept separate from adults, unless it is considered contrary to the best interests of the children and their right to maintain contacts with their families, save in exceptional circumstances, are contained in several pieces of legislation:

- Political Constitution of Mexico, article 18, paragraph 4: “The Federation and the state governments shall establish special institutions for the treatment of juvenile delinquents”;
- Act on the Protection of the Rights of Children, article 45: “That in the case of young persons infringing the penal law, their treatment or detention shall be separate from that of adults and they must therefore be interned in premises separate from the latter. To this effect specialized institutions shall be established for their treatment and internment.” The Act also states that: “Children deprived of their liberty shall have the right to maintain constant, permanent contact with their families, with whom they may cohabit, except where this is considered to be against the best interests of the children”;
- As mentioned earlier, the Act on the Treatment of Young Offenders lays down guidelines for internal and external treatment.

301. With regard to ensuring that the conditions in institutions in which children are placed are regularly monitored, the Administrative Unit of the Child Protection Council is responsible for supervision, in addition to performing a diagnosis for the detention of minors, which includes information on sex, age, state of physical and mental health, repeated offences, personality traits, seriousness of the offence and other relevant characteristics.

302. The Act on the Protection of the Rights of Children, in article 45, section G, stipulates that: “The treatment applied to those infringing the penal law includes: care, guidance, supervision, advice, liberty under supervision, placement in custodial homes, educational and vocational training programmes, and other possible alternatives to internment in institutions, in order to ensure that they are suitably treated with a view to their social resettlement and readaptation, taking full account of their well-being and ensuring that the measure applied maintains a due proportion between the circumstances of the offence and the corresponding sanction.”

303. The legislation ensuring that children have access to complaint procedures and that the general principles of the Convention are respected is as follows:

- Juvenile Delinquents Act, chapter III, “Guidance and Protection Measures”, articles 96 and 97, paragraphs 4 and 5, articles 101 and 102, article 36, sections III, IV, V, IX, X, article 71;
- Act on the Protection of the Rights of Children, article 3, paragraphs (a), (b) and (c); articles 15, 16 and 17, articles 38 and 39; article 45, section H;
- Federal Act on Preventing and Eliminating Discrimination, article 4.<sup>33</sup>

### **3. The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment**

#### **147. Measures adopted to ensure that neither capital punishment nor life imprisonment without possibility of release is imposed on children**

304. Despite the fact that capital punishment is admitted in the text of the Mexican Constitution, the penalty is not applied in Mexico. With regard to life imprisonment, the Federal Penal Code stipulates in article 25 that prison sentences shall last between 3 days and 60 years. In the case of minors, the Act on the Treatment of Young Offenders establishes in article 119 that external treatment may not exceed 1 year and internal treatment 5 years.

### **4. Physical and psychological recovery and social reintegration of the child**

#### **149. Measures taken to promote the physical and psychological recovery and social reintegration of the child involved with juvenile justice**

305. The Young Offenders Act, in Title two “On the unit in charge of prevention and the treatment of children”, single chapter, article 33, establishes that the Ministry of the Interior must have an administrative unit responsible for the conduct of general and special prevention measures and for the task of ensuring the social readaptation of young offenders.

306. As a measure of protection for young offenders, the Act advocates the transfer of children to the place where their families live, that is to say, the reintegration of the children in their

homes or wherever they have received personal assistance for a long period to meet their basic, cultural and social needs, provided that the environment has not encouraged their delinquent conduct (art. 105).

307. Chapter III “On guidance and protection measures” of the same Act as a measure of guidance for young offenders advocates occupational therapy. This consists in the child performing certain activities for the benefit of the community, which also serves educational and social readaptation purposes (art. 100).

308. Also children and young persons in conflict with the law are offered psychological treatment in order to achieve full reintegration in society.

### **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration**

#### **1. Economic exploitation of children, including child labour**

##### **151/152. Measures taken to recognize and ensure the right of the child to be protected from economic exploitation and the performance of hazardous work**

309. The National Institute of Statistics, Geography and Data Processing (INEGI) and the Department of Labour and Social Welfare (STPS) carried out a national employment survey, which yielded data on the employment of children aged 12 and 13 and young persons between the ages of 14 and 17.

310. According to the survey, in the last decade the proportion of working children aged 12 and 13 has tended to decline. In 1995, the overall rate was 17.1 per cent, but that fell to 8.2 per cent by 2003. For girls, the rate fell from 9.9 per cent to 0.3 per cent and for boys from 24.4 per cent to 11.1 per cent.

311. During the preparation and documentary research of the Diagnosis, a number of complaints were made regarding child labour performed both in the informal sector and in the private sector, especially in assembly plants and textile factories.

312. Theresa Kilbane, an official of the UNICEF Office in Mexico, states that according to INEGI figures there are 3.3 million working children between the ages of 6 and 14. Child labour is a manifestation of the poverty, vulnerability and social exclusion of a great many families in Mexico. These child workers do not decide to enter the labour market of their own accord. For them and their families child labour is a form of survival. Caught in a vicious circle of poverty and excluded from education, child workers are condemned to remain on the fringes of society for their whole lives.

313. Since 1990, Mexico has made significant progress in terms of preventing and gradually eradicating child labour. Institutional studies and research have been carried out, including the *Study on child and young workers in 100 towns*, published in 1997, and the *Executive report on the second study in 100 towns on child and young workers 2002-2003*, both of which were prepared by the DIF and UNICEF. In addition national employment surveys have been conducted by the STPS (Labour and Social Welfare Department) in conjunction with the INEGI

(National Institute of Statistics, Geography and Data Processing), as well as a National Survey on Migrant Day Labourers, conducted in 1998 and 1999 by the National Programme for Agricultural Day Labourers under the authority of the Social Development Department.

314. In 1999, with UNICEF's support, the DIF launched a Model of Non-Formal Education for Working Minors as a pilot scheme in 9 Mexican towns, with the aim ultimately of applying an improved model in a further 31 towns.

315. In terms of the regulation and implementation of legal protection measures, the STPS launched several programmes aimed at preventing and combating child labour among children under the age of 14 and eliminating the worst forms of child labour for children under 18. These programmes were also aimed at monitoring, supervising and protecting workers between the ages of 14 and 16, who are legally permitted to perform some paid activity subject to certain conditions and restrictions.<sup>34</sup>

316. In order to monitor the working conditions of child workers, the STPS, between December 2000 and August 2003, carried out 20,940 inspections, offered guidance to 3,344 minors and issued 2,506 work permits to minors between the ages of 14 and 16.

317. At international level, Mexico signed Convention 182 of the International Labour Organization (ILO) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which it ratified on 30 June 2000 (the Convention entered into effect on 30 June 2001).

318. According to the Federal Labour Act, unhealthy or hazardous occupations are those which, by the nature of the work, by the physical, chemical or biological conditions of the environment in which it is conducted, or by the composition of the raw material used, may be detrimental to the life, development and physical and mental health of children (art. 176).

319. The same Act, in articles 175 and 176,<sup>35</sup> prohibits any such work for children.

320. With regard to the preventive measures taken to deal with the problem of child labour, in 2001 the STPS organized and held six *Regional Seminars on Child Labour in Mexico and Convention 182 of the ILO concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, in coordination with the DIF, UNICEF, the ILO and the Mexican Institute for Youth, in the towns of Jalapa (Veracruz), Guanajuato (Guanajuato), Oaxaca (Oaxaca), Aguascalientes (Aguascalientes), Tijuana (Baja California) and Saltillo (Coahuila).

321. In 2003, in addition to campaigns to prevent and combat child labour, the STPS held the "First Forum on Child Labour in Mexico: Results of the Follow-up to ILO Convention 182", at which reports were given on the situation regarding child labour in Mexico, the action taken by the Government and the experience acquired. Proposals were also put forward for the prevention, monitoring and elimination of child labour. The Forum was assisted by representatives of governmental organizations and various STPS districts and offices, as well as business and trade union organizations, universities, the Congress of the Union, international organizations and civil society agencies.

**157. Measures taken to prevent the use by children of alcohol, tobacco and other substances prejudicial to their health**

322. With regard to efforts made to prevent children from consuming alcohol, tobacco and other substances, the General Health Act, chapter II on the “Programme against alcoholism and the abuse of alcoholic beverages”, article 185, lists the measures which need to be taken under the Programme, including instruction on the effects of alcohol on health and social relations, specially intended for children, young persons, workers and peasants, based on individual, social or mass communication methods.<sup>36</sup>

323. In Title 11 “Programmes against Addictions” of the Act, a list is given of measures required to combat smoking, drug dependence and addiction to psychotropic substances.<sup>37</sup>

324. The campaigns run by the Health Department, the CONADIC (State Councils against Addictions) and the PREVERP (Programme for the Prevention of Psychosocial Risks) were described under guideline 95.

325. In this respect the Diagnosis reports that a growing number of children and young persons are addicted to drugs. It states that the consumption of drugs has increased in the country in general, including the under-age market. It may be noted that the campaign against addiction is not waged as intensively as the campaigns against drug production and trafficking.

**3. Sexual exploitation and sexual abuse (article 34)**

**158/159. Measures adopted to protect the child from all forms of sexual exploitation and sexual abuse**

326. The Federal Penal Code, in chapter II on “Corruption of minors and disabled persons, child pornography and sexual prostitution of minors”, recognizes the corruption of minors as an offence (art. 201).<sup>38</sup> In article 201 bis 3 of the Act,<sup>39</sup> penalties are imposed on whoever promotes, publicizes, invites, facilitates or organizes by any means a person or persons travelling within or without the national territory for the purpose of entertaining sexual relations with minors under the age of 18.

327. Penalties for the offences of corruption of minors and child pornography are increased if they are perpetrated by public officials (art. 201 bis 1). Penalties vary also according to the age of the victim.<sup>40</sup>

328. Among the measures intended to eradicate the commercial sexual exploitation of children, in 1999 an Inter-Institutional Commission for the Prevention, Monitoring and Eradication of the Commercial Sexual Exploitation of Children was set up under the DIF, with the participation of the CNDH, as part of a National Plan of Action to deal with the problem. The Commission in turn supervises a Sub-Commission on the Follow-up and Evaluation of Activities, whose main aim is to develop expeditious mechanisms of complaint and protection for victims of illegal networks of exploiters and paedophiles, and to design educational material for children, parents and teachers.

329. The DIF also runs the Programme for the Prevention, Monitoring and Eradication of the Commercial Sexual Exploitation of Children (PROPAEESCI), which operates in 23 towns and 11 states of the Republic<sup>41</sup> which are particularly at risk. The DIF also produces quarterly and half-yearly reports on the activities carried out in areas where the programme operates. It also conducts visits to assess and follow up the activities organized in each of the 11 states.

330. In a combined effort with the DIF, INMUJERES (National Institute for Women) and the PGR (General Procurator's Office), a large-scale nationwide campaign was launched in January 2002 known as "Open your eyes" (*Abre los Ojos*) calling the practice unacceptable and attracting attention to the problem of children being seen as sex objects.

331. In a second phase of the campaign, in 2004, a further campaign was launched under the title "Open your eyes but don't keep quiet", for the distribution of material referring to the problem in tollbooths and in shoeboxes manufactured in León, Guanajuato. In Acapulco 100,000 leaflets were sent out for the second phase of the campaign. During the holy week holiday period, in April 2004, 800,000 leaflets were distributed in ticket offices of the bus terminals of Mexico City. As a follow-up, an information leaflet is currently being prepared for foreign tourists, informing them that the commercial sexual exploitation of children is an offence in Mexico. These will be distributed in the country's main airports. Yet another document, similar to this one, is also being prepared for distribution to students and the employees of tourist agencies.

332. On 25 March 2004, a study was submitted to the Senate of the Republic concerning the prevention and elimination of the commercial sexual exploitation of children and the protection of children who are victims or at risk of commercial sexual exploitation, together with an Initiative for the revision of and additions to the Federal Penal Code, the Code of Penal Procedure, the Federal Act against Organized Crime and the Act on the Protection of the Rights of Children.

333. The aim of the Initiative is to establish an obligation for the media to publish information concerning laws and programmes aimed at the prevention of offences violating the rights of children, and at creating awareness in society concerning preventive measures and the effects of the offences of child prostitution and pornography.

334. The Initiative also proposes introducing a new type of offence to qualify pornography, sexual tourism and child trafficking as serious offences related to organized crime, the children themselves being considered as passive victims of the offence. It would also introduce in penal legislation the offence of forced child labour and establishes higher penalties for any perpetrator of this offence who uses violence or deceit.

335. It also stipulates that face-to-face confrontation with the accused will be the exception, if the victim or injured party is under age, regardless of the offences concerned.

336. In the case of sexual tourism, the aim of the Initiative is to extend the scope of the offence to include whosoever promotes, publicizes, invites, facilitates or organizes a person to travel for the purpose of entertaining sexual relations with a minor, while at the same time increasing the seriousness of the offence.



337. The programmes of government agencies designed to combat the commercial sexual exploitation of children include:

- *Programme for the Prevention, Monitoring and Eradication of the Commercial Sexual Exploitation of Children (DIF)*. The aim of this programme is to promote systemic policies and actions for the prevention, monitoring and protection of children either victims or at risk of commercial sexual exploitation, with the participation of the three levels of government, public and private institutions and civil society organizations at national and international level. The actions considered include combined efforts to ensure prevention, monitoring, legal protection, defence of children's rights and investigation,<sup>42</sup>
- *Programme of Support for the Prevention and Elimination of the Commercial Sexual Exploitation of Children and the Protection of Victims Thereof (STPS)*. The aim of this programme is to help eliminate the practice in Mexico through prevention, awareness creation and the spread of knowledge, the revision of legislation, direct care for children who are victims of commercial sexual exploitation and/or at risk thereof, and the improvement of coordination between institutions;
- *Programme for the Prevention and Eradication of Child Labour and Protection of Children's Rights (DIF)*. This programme joins with national and international, public and private organizations to promote and develop programmes to prevent and combat child labour that contravenes accepted international standards, through awareness, sensitization, training, guidance and investigation with regard to child labour and the worst forms thereof, as well as dissemination, in conjunction with programmes of support for training, employment and self-employment, and other institutions, with the aim of strengthening attitudes of respect and protection for children and young persons with respect to labour matters;
- *Programme for the Prevention, Protection and Supervision of the Work of Minors of Permissible Age (DIF)*. This protects young workers, through awareness, consciousness and guidance concerning child labour, inspection of the work of minors of permissible age and cooperation and coordination with state authorities;
- *Central Office of Anonymous Complaints and Confidential Reports of Offences concerning the Commercial Sexual Exploitation of Children (PGR)*. On 22 October 2002 the General Procurator's Office set up a National Office for the reception of anonymous complaints concerning the commercial sexual exploitation of children. Complaints are received by officials of the Public Prosecutor's Office of the Federation and referred to state Attorney-General's Offices for ordinary jurisdiction or to the Federal Public Prosecutor's Office as appropriate. Similarly the matter is brought to the notice of the Procurator's Office for the Defence of Children of the states where the complaint is filed, and of state DIF systems. The use of toll-free telephone numbers, apart from encouraging anonymous or confidential complaints of

offences involving the commercial sexual exploitation of children, has attracted calls related to other types of children's problems, such as: queries and information apart from this type of offence, concerning domestic violence, sexual abuse, psychological support, help with school work, etc. Since it started, on average 522 calls have been received each day. The problems reported are referred to the appropriate authorities for follow-up;

- *National Office for Combating the Commercial Sexual Exploitation of Children (PGR)*. The establishment of this Office was approved by the Fourteenth National Conference of the Justice Department held on 3 and 4 December 2003, with the following aims: setting up a strategic planning and analysis group for the eradication of the commercial sexual exploitation of children; developing information exchange mechanisms; setting up a common database to gather information on criminal organizations and their methods of operation and statistical data; establishing coordination mechanisms for the investigation and prosecution of offences; providing training and further training to public officials of the Procurators' Offices dealing with the matter; and promoting attitudes favouring prevention and denunciation in society, through permanently disseminated programmes.

338. With regard to bilateral or multilateral regional agreements concluded in Mexico to encourage the prevention of all forms of sexual abuse and exploitation and to ensure the protection of children exposed to exploitation, Mexico has acceded to the following instruments:

- Convention on the Rights of the Child, ratified on 21 September 1990;
- Optional Protocol to the Convention on the Rights of the Child on the Sale of children, child prostitution and child pornography, ratified on 15 March 2002;
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, ratified on 21 February 1956; and
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, ratified on 4 March 2003.

339. It is worth pointing out that it is recognized in the Diagnosis that the Mexican Government has made major efforts in this area, thus meeting its international obligations and responding to the recommendations of the special rapporteurs of multilateral organizations. There is a need, nevertheless, to ensure that prevention and campaigns aimed at changing cultural patterns are backed up with an efficient system of investigation and effective access to justice. The recent dismantling of child prostitution and pornography networks in Acapulco constitutes a significant step forward, but it must be followed up with measures to reduce the backlog of child abuse cases still outstanding with the judicial authorities. Lastly, it is important that sexual exploitation should be treated not as a labour problem, but as a form of abuse. The relations of authority and subordination which are established in exploitation networks are based on power differences exacerbated by gender and age differences.

#### **4. Sale, trafficking and abduction (art. 35)**

##### **160/161. Measures adopted to prevent the abduction of, the sale of or traffic in children for any purpose or in any form**

340. Article 11 of the Act on the Protection of the Rights of Children obliges mothers, fathers and anyone having custody of children to protect them against any form of ill-treatment, prejudice, harm, aggression, abuse, trafficking and exploitation. Article 21 stipulates that minors have the right to be protected against any acts or omissions which may be detrimental to their physical or mental health, such as exploitation, the use of drugs or narcotics, abduction and trafficking.

341. With regard to the sale of children, the Federal Penal Code prohibits the unlawful handover of a child to a third party in return for financial gain (art. 366 ter), while laying down penalties for anyone having parental authority or custody of the child who consents to such a practice.

342. With regard to the trafficking of children, in article 208 the Code imposes a higher penalty on whoever promotes, abets, arranges or allows sexual intercourse with a minor under the age of 18 (from 8 to 12 years' imprisonment and 100 - 1,000 days of fine).

#### **D. Children belonging to a minority or an indigenous group**

##### **165/166. Measures adopted to ensure that a child belonging to a minority is not denied his rights arising in relation to other members of his group**

343. The right of persons belonging to indigenous minorities to have their own cultural life, to profess and practise their own religion and to use their own language is guaranteed by the Political Constitution of Mexico, article 1 of which prohibits all discrimination on grounds of ethnic or national origin, gender, age, differing abilities, social conditions, health conditions, religion, opinions, preferences, marital status or any other detracting from human dignity or aimed at restricting or impairing the rights and liberties of persons.<sup>43</sup>

344. With regard to the freedom to profess and practise their own religion, according to article 24 of the Constitution any person is free to hold the religious beliefs that he prefers and to practise all related ceremonies, devotions and acts of worship, provided that these do not constitute an offence or misdemeanour penalized by the law. The Congress may not enact any laws either establishing or prohibiting a religion.

345. The Act on the Protection of the Rights of Children, in article 37, establishes that minors belonging to an indigenous group have the right freely to enjoy their language, culture, habits, customs, religion, resources and specific forms of social organization.

346. The Federal Act on the Prevention and Elimination of Discrimination makes it illegal to discriminate against anyone on grounds of ethnic or national origin, sex, age, disability, social or economic condition, health conditions, pregnancy, language, religion, opinions, sexual preferences, marriage status or any other (art. 4).

347. The indigenous population represents 7.3 per cent of the country's total population; it is located mainly in Yucatán (37.8 per cent), Oaxaca (37.4 per cent), Chiapas (26.8 per cent) and Quintana Roo (22.9 per cent). It is estimated that there are just over 3 million indigenous children under the age of 15 in Mexico, which represents 11 per cent of the total national population in that age group.

348. The results of the National Employment Survey (ENEZI, 1997) show that 16 per cent of indigenous boys between the ages of 6 and 11 and half those between the ages of 12 and 14 work. A proportion of 65 per cent of indigenous boys work all year, 22 per cent for 6 to 11 months and the remainder for less than 6 months. Some 67 per cent are permanently employed and 31 per cent on a temporary basis. In the 12-14 age group, it is known that 84 per cent work all year, while 14 per cent do so seasonally and 2 per cent exceptionally.

349. With regard to the working habits of girls, 9.6 per cent of indigenous girls between the ages of 6 and 11 pursue some kind of paid activity. In the 12-14 age group, the proportion is 21.6 per cent. With regard to the amount of time worked, 73 per cent of working girls in the 6-11 age group work all year, 14 per cent between 6 and 11 months and the remaining 13 per cent work less than 6 months. In the 12-14 age group of girl workers, 82 per cent work all year and only 18 per cent seasonally. Among indigenous women over the age of 15, 13 per cent are on temporary work, while in all localities of under 100,000 inhabitants the figure is 8 per cent and for occasional work only 1 per cent.

350. Progress has been made in recent years in meeting the specific needs of this large population group through the Indigenous School Shelters Programme, the aim of which is to promote the full development of indigenous children living in scattered localities. The programme offers the possibility of lodgings, food and out of school support to help children enter, continue or complete basic education. There are 1,081 such shelters altogether, where 60,455 indigenous children are following basic education courses in 21 states of the Republic.

351. The National Commission for the Development of Indigenous Peoples is active in promoting better living conditions among indigenous peoples and communities in the country in coordination with other agencies. For instance, with regard to health monitoring and education from the early stages, there are several measures and programmes run especially for children, such as those specializing in primary health care (with talks and courses on health, weight and height control, use of fluorine, deparasitization and immunization control).

352. The Opportunities Programme for Human Development provides nutrition and health support for 2.4 million indigenous children under the age of 12 living in conditions of extreme poverty. With the distribution of nearly 900,000 educational scholarships for indigenous children and young persons engaged in studies between the third year of primary education and upper secondary, this group has been offered a better chance of continuing their studies and the proportion of working children between the ages of 12 and 14 has been cut by 16 per cent.

### **Conclusions**

353. The preparation of this report has provided a useful opportunity for the Mexican Government to gather together in a single document all the efforts and measures implemented in favour of Mexican children pursuant to the Convention on the Rights of the Child.

354. The Mexican Government recognizes the significant contribution to this report made by civil society, which has added a measure of self-criticism, and considers that the concerns and comments made by civil society constitute an essential component of the work of achieving the full realization of children's rights.

355. Despite the fact that significant resources have been invested and public policy activities undertaken to build up a culture in favour of children, much remains to be done. As pointed out in the Diagnosis on the Human Rights Situation in Mexico, Mexican children tend to differ from other groups exposed to discrimination because they make up almost half the total population of the country; at the same time their situation is not permanent, since they are passing through a stage in their lives, so that what is needed is the sort of culture that demands that the rights of children and young persons should no longer be considered as privileges and that the necessary legislative and political measures be taken to ensure that those rights are respected.

356. The Mexican Government recognizes that this represents a major challenge and reaffirms its commitment, before Mexican youth and before the Committee on the Rights of the Child, to implement the Convention on the Rights of the Child in order to ensure that the human rights of children are guaranteed and respected in Mexico.

### **Notes**

<sup>1</sup> Albania, Argentina, Bangladesh, Barbados, Belgium, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Central African Republic, Chile, Colombia, Costa Rica, Czechoslovakia, Denmark, Djibouti, Dominica, El Salvador, Federal Republic of Namibia, Finland, France, Gambia, Germany, Guinea-Bissau, Holy See, Honduras, Iceland, Ireland, Italy, Japan, Kuwait, Lebanon, Liechtenstein, Luxembourg, Maldives, Mali, Mexico, Monaco, Mozambique, Nicaragua, Nigeria, Norway, Panama, Papua New Guinea, Peru, Poland, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, Senegal, Sierra Leone, Spain, Sudan, Surinam, Swaziland, Sweden, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela, Yugoslavia, Zaire, Zimbabwe.

<sup>2</sup> Diagnosis of the Human Rights Situation in Mexico, Office of the United Nations High Commissioner for Human Rights in Mexico, Grupo Mundi-Prensa, Mexico, 2003.

<sup>3</sup> Information supplied by the UNICEF Office in Mexico for the purpose of preparing the Diagnosis.

<sup>4</sup> Aguascalientes, Baja California, Durango, Guerrero, Jalisco, Michoacán, Morelos, San Luis Potosí, Sinaloa, Sonora and the Federal District.

<sup>5</sup> Baja California, Campeche, Coahuila, Colima, Durango, Estado de México, Guanajuato, Quintana Roo, Morelos, Nayarit, Puebla, Querétaro, San Luis Potosí, Sinaloa, Sonora, Tabasco, Zacatecas and the Federal District.

<sup>6</sup> Baja California, Coahuila, Durango, Estado de México, Guanajuato, Morelos, Nayarit, Puebla, Querétaro, San Luis Potosí, Sinaloa, Sonora, Tabasco, Zacatecas and the Federal District.

<sup>7</sup> Article 201 bis 1

If the offence of corruption of minors or of whoever does not have the capacity to understand the significance of the act or if the offence of child pornography is committed by anyone in public office, the penalties inflicted on the perpetrator will be increased by up to a third more than those referred to in articles 201 and 201 bis, and shall include the forfeiture of public employment, office or commission and the incapacity to assume them or any similar function for a period equal to that of the penalty.

Article 201 bis 2

If the offence is perpetrated with a person under the age of 16, the penalties shall be increased by up to a third more than those referred to in articles 201 and 201 bis. If the offence is perpetrated with a person under the age of 12, the penalties shall be increased by up to half those referred to in articles 201 and 201 bis of this Act.

Article 201 bis 3

Whoever incites, induces, invites, facilitates or arranges by any means for a person or persons to travel inside or outside the national territory for the purpose of having sexual relations with minors under the age of 18 shall be sentenced to between 5 and 14 years of imprisonment and to between 100 and 2,000 days' fine.

The same penalties shall be imposed on anyone perpetrating the acts referred to in the foregoing paragraph for the purpose of enabling a person or persons to have sexual relations with minors under the age of 18.

Article 207

The offence of procurement shall be deemed to have been committed by:

- (i) Anyone who habitually or accidentally exploits the body of another by means of sexual trade, lives off this trade or obtains from it any profit whatever;
- (ii) Anyone who induces or solicits a person to conduct sexual trade with that person's body or provides the means for the person to engage in prostitution;
- (iii) Anyone who manages, administers or directly or indirectly supports brothels, meeting houses or places expressly dedicated to the exploitation of prostitution, or obtains any benefit from those activities.

<sup>8</sup> Article 2: When three or more persons agree to organize or arrange among themselves to carry out, either constantly or repeatedly, acts which in themselves or combined with others have as a purpose or consequence the perpetration of any of the following offences, they shall be punished on this count alone as belonging to organized crime:

- (v) Assault, as referred to in articles 286 and 287; abduction, as referred to in article 366; trafficking of minors, as referred to in article 366 ter, and the theft of vehicles, as referred to in article 381 bis of the Penal Code for the Federal District in matters of ordinary jurisdiction, and for the Republic as a whole in matters of federal jurisdiction, or in the corresponding provisions of state penal legislations.

<sup>9</sup> Aguascalientes (29 October 2002), Baja California (February 2003), Baja California Sur (16 November 1999), Campeche (3 May 2000), Coahuila (10 June 2000), Colima (29 April 1999), Chiapas (28 April 2004), Durango (5 October 1999), Guerrero (30 April 2000), Hidalgo (25 April 2000), Estado de México (2001), Jalisco (17 September 2002), Nayarit (19 August 1998), Oaxaca (7 October 1998), Puebla (2002), San Luis Potosí (5 March 2004), Sinaloa (16 October 2002), Tamaulipas (14 November 1998), Tlaxcala (10 July 2001), Querétaro (20 November 1998) and Zacatecas (22 May 2000).

<sup>10</sup> Chapter V “On Matrimony”, articles 139-141. Annex 1.

<sup>11</sup> Article 261

Whoever commits, even without the intention of copulating, a sexual act with a person under 12 years of age or who does not have the capacity to understand the significance of the act or for whatever reason is not able to resist, or is obliged to perform the act, shall be subject to a penalty of between two and five years of imprisonment.

If physical or moral violence has been used, the minimum and maximum sentence shall be increased by up to half.

Article 262

Whoever fornicates with a person over 12 but under 18 years of age, and has obtained that person’s consent by means of deception, shall be liable to a prison sentence of between three months and four years.

<sup>12</sup> Federal Labour Act. General Provisions. Article 22. It is forbidden to employ the labour of children under the age of 14 and those over that age but under 16 who have not completed their compulsory schooling, save in exceptional cases approved by the relevant authority who decides that the studies and work are compatible.

<sup>13</sup> Article 4. Annex 2.

<sup>14</sup> Article 15. Annex 3.

<sup>15</sup> “Mexican children, commitments to be fulfilled”. Document of public reflections and proposals for the development of public policies in favour of children. December 2002.

<sup>16</sup> Articles 7 and 30 of the Nationality Act. Annex 4.

<sup>17</sup> Article 20 of the Political Constitution. Annex 5.

<sup>18</sup> Federal Act on Preventing and Punishing Torture (published in the Official Journal of 27 December 2001), article 3: “The offence of torture shall be deemed to have been committed by any public servant who, acting in an official capacity, inflicts severe pain or suffering, whether physical or mental, on a person for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or coercing the person to perform or to refrain from performing a particular act.”

<sup>19</sup> The Diagnosis on the Human Rights Situation in Mexico, prepared by the Office of the United Nations High Commissioner for Human Rights, has pointed out that the definition of torture contained in that Act “... omits to refer to cruel, inhuman or degrading treatment, which, while it does not constitute torture, seriously violates human dignity”.

<sup>20</sup> Article 194. The offences referred to in the following legislation shall be considered serious offences, for all legal effects, because they gravely affect fundamental values of society: (13) Corruption of minors and incapacitated persons, provided for in article 201; and child pornography, provided for in article 201 bis; (15) Exploitation of the body of a minor for sexual relations, provided for in article 208; (19) Rape, provided for in articles 265, 266 and 266 bis; (23) Abduction, provided for in article 366, excluding the last two paragraphs, and trafficking in minors, provided for in article 366 ter.

<sup>21</sup> Published in the Official Journal of the Federation on 21 August 1987.

<sup>22</sup> Published in the Official Journal of the Federation on 24 October 1994.

<sup>23</sup> Article 35 of the Civil Code for the Federal District in matters of ordinary jurisdiction and for the Republic in federal matters. In the Federal District, Civil Registry Judges shall be responsible for authorizing civil status acts and issuing certificates for births, recognition of children, adoption, marriage, administrative divorce and the death of Mexicans and foreigners residing on the premises of offices of representations of the Federal District, as well as for recording final judgements giving effect to absence, presumption of death, judicial divorce, guardianship or whether the legal capacity to administer property has been lost or restricted.

<sup>24</sup> Annex 6.

<sup>25</sup> Article 288. The term injury is understood to mean not only wounds, grazing, bruising, fractures, dislocations or burns, but any impairment of health or any other damage leaving a physical mark on the human body, where such effects are produced by an external cause.

<sup>26</sup> Federal Penal Code, articles 264-366 *quater*. Annex 7.



<sup>27</sup> According to the Rules of Procedure of the Civil Service Department, of 11 December 2003, in chapter IX “Concerning delegates, public commissioners, heads of internal control bodies, their respective areas of responsibility, auditing and complaints and regional supervisors”. Annex 8.

<sup>28</sup> Federal Act on the Prevention and Elimination of Discrimination, article 4. See Annex II.

<sup>29</sup> Social Security Act (Official Journal of the Federation, 21 December 1995).

<sup>30</sup> Article 202. Annex IX.

<sup>31</sup> The special groups identified as targets of these strategies are: street children; working children; migrants and returnees; victims of violence, ill-treatment and abuse; children of migrant workers; disabled children; indigenous children; homeless children; victims of natural disasters and/or emergencies; children in conflict with the law; victims of commercial sexual exploitation; refugees or children displaced by conflicts in other countries; children of detained mothers; children in a situation of poverty, and children who are lost, abducted or missing.

<sup>32</sup> Articles 110-121 of the Act on the Treatment of Young Offenders. Annex 10.

<sup>33</sup> On the right to non-discrimination. Article 4. See annex 2.

<sup>34</sup> The Federal Labour Act prohibits the employment of children under the age of 14 and children over that age but less than 16 who have not completed their compulsory education, save in exceptional cases approved by the competent authority (art. 22).

<sup>35</sup> Article 175

Children may not be employed:

I. At the age of 16:

- (a) In premises supplying intoxicating drinks for immediate consumption;
- (b) On work likely to affect their morals or good habits;
- (c) On itinerant work, except with special authorization from the Labour Inspectorate;
- (d) On underground or undersea work;
- (e) On hazardous or unhealthy work;
- (f) On work which is beyond their strength or may impede or retard their normal physical development;
- (g) On work in non-industrial establishments after 10 p.m.;

(h) On any other type of work prohibited by law.

II. At the age of 18:

On industrial night work.

#### Article 176

Hazardous or unhealthy work referred to in the foregoing article is that which, by the nature of the work, by the physical, chemical and biological conditions of the environment in which it is conducted, or by the composition of the raw material used, may be detrimental to the life, development and physical and mental health of the children.

<sup>36</sup> Article 185 of the General Health Act.

The Health Department, the governments of the federative entities and the General Health Council, within their respective terms of reference, shall coordinate their efforts to implement the programme against alcoholism and the abuse of alcoholic beverages, which shall include the following actions amongst others:

- I. The prevention and treatment of alcoholism and where appropriate the rehabilitation of alcoholics;
- II. Education on the effects of alcohol on health and social relations, intended in particular for children, young persons, workers and peasants, based on individual, social or mass communication methods; and
- III. The encouragement of civic, sporting and cultural activities which help to combat alcoholism, especially in rural areas and among what are considered high-risk population groups.

<sup>37</sup> Title 11 “Programme against Addictions”, General Health Act. Annex 11.

<sup>38</sup> Article 201: “The offence of corruption of minors shall be deemed to have been perpetrated by whoever induces, procures, facilitates or obliges a person under the age of 18 or one who is unable to understand the significance of the act, to perform acts of physical, lascivious or sexual exhibitionism, prostitution, drunkenness, drug consumption, sexual practices or to commit unlawful acts. The perpetrator of such an offence shall receive a sentence of between 5 and 10 years’ imprisonment and day fines between 500 and 2,000 ....”

<sup>39</sup> Article 201 bis 3: “Whoever shall promote, publicize, invite, facilitate or organize by any means a person or persons travelling within or without the national territory for the purpose of entertaining sexual relations with minors under the age of 18 shall receive a sentence of between 5 and 14 years’ imprisonment and day fines between 100 and 2,000.”

<sup>40</sup> Article 201 bis 2: If the offence is committed with a minor under the age of 16, penalties shall be increased by up to one third more than those referred to in articles 201 and 201 bis; if the offence is committed with a minor under the age of 12, penalties shall be increased by up to one half of those referred to in articles 201 and 201 bis of this Act.

<sup>41</sup> Tijuana, BC; Tapachula, Chis; Ciudad Juárez, Chih; Acuña, Frontera, Monclova, Piedras Negras, Coa; Valle del Bravo, Edomex; Acapulco, Gro; Guadalajara, Puerto Vallarta, Zapopan, Tonalá, Tlaquepaque, Degollado, Jal; Oaxaca, Oax; Cancún, Playa del Carmen, Cozumel, Chetumal, Qroo; Tlaxcala, Tlax; and Jalapa, Veracruz, Nautla and Cosoleacaque, Ver.

<sup>42</sup> These actions are supported by other programmes such as: Prevention of Risk at an Early Age; Prevention, Monitoring, Discouragement and Eradication of Marginal Urban Child Labour; Care of Children in Frontier Areas; Care and Prevention for Street Children; Prevention of Psychosocial Risks; and Prevention and Full Care for Pregnancies among Minors.

<sup>43</sup> According to article 2 of the Constitution, the Mexican Nation has a multicultural composition, originating in its indigenous people, who are descended from people who were living within the present territory of the country when colonization began and who have kept their own social, economic, cultural and political institutions or parts thereof.

Awareness of their indigenous identity shall be the fundamental criterion for deciding to whom the rules governing indigenous peoples apply.

(...) This Constitution recognizes and guarantees the right of indigenous peoples and communities to self-determination and in consequence autonomy to:

- I. Decide their internal forms of living and social, economic, political and cultural organization;
- IV. Preserve and enrich their languages, knowledge and all the elements that constitute their culture and identity.

-----