

UNIVERSAL PERIODIC REVIEW OF MEXICO

WRITTEN REPLY TO QUESTIONS SUBMITTED IN ADVANCE

1. PREPARATION OF THE NATIONAL REPORT

1.1 Dialogue with civil society organizations

Please outline the role civil society has played in the preparation of your national report for the Universal Periodic Review process (United Kingdom)

The strengthening of spaces for dialogue with civil society is one of the central aspects of the Mexican Government's human rights policy. In this sense, civil society organizations, human rights experts, and academics were involved in the consultation process for the drafting of Mexico's national report in order to reflect a plural and inclusive perspective on the human rights situation in the country. Such process consisted of the celebration of two consultation forums, on justice and human rights and on the elimination of discrimination and violence against women, as well as a working meeting on economic, social and cultural rights. The subjects were chosen taking into account the issues primarily dealt with in the recommendations received by Mexico during its first review by the UPR Mechanism.

The objective of this process was to identify, jointly with relevant stakeholders, the main human rights challenges acknowledged in the national report. Further comments and observations were received by means of an e-mail account specifically intended to gather the contributions of the general public.

2. REGULATORY FRAMEWORK

2.1 Implementing regulations derived from the constitutional reform on human rights

What steps is the government of Mexico taking to prioritise its commitments on human rights within the legislative Pact for Mexico: reforming articles 29 and 33 of the Constitution; properly defining the crime of enforced disappearance; creating a legal framework for the use of force; reforming military justice; and reducing impunity within the military? (United Kingdom)

In the last couple of days, the President of Mexico presented a package of legislative initiatives in order to follow up on the commitments established in the "Pact for Mexico", and to advance in the harmonization of the national legal framework with the State's human rights obligations. The package includes the implementation of regulatory legislation foreseen in the 2011 constitutional human rights reform for articles 29 and 33 of the Constitution, with regard to the suspension of a human rights catalogue in states of emergency, and the right to a hearing to ensure the respect of human rights of foreigners under an expulsion procedure.

decree to reform the Federal Criminal Code in order to ensure that the definition of the crime of enforced disappearance is in line with international standards. Such initiative is currently discussed by Senate.

2.3 Reform of the Military Justice Code

When will Mexico reform the Code of Military Justice in accordance with the clear requirements set forth by both the Mexican Supreme Court and the Inter-American Court of Human Rights, in order to ensure that all allegations of human rights violations by members of the armed forces are investigated, prosecuted, and tried by civilian courts instead of military tribunals? (Norway)

Germany notes that the Supreme Court has ruled that Article 57 of the Code of Military Justice is unconstitutional and that a number of proposals for amending this article are before Congress. What strategy is the Government of Mexico employing to ensure that any such bill would effectively exclude all human rights violations conducted by members of the armed forces against civilians from the military justice system? Furthermore, considering the unconstitutionality of Article 57, in what ways is the Government of Mexico already now guaranteeing that the measure of the so-called 'Amparo' is an effective judicial instrument in objecting to the jurisdiction of a military court? (Germany)

On August 6, 2012, the Plenary of the Supreme Court of Justice of the Nation began consideration of 30 cases related to the jurisdiction of military courts. As a consequence, the Supreme Court resolved that human rights violations are unrelated to military discipline, and must therefore be considered by civil courts. During this analysis, the unconstitutionality of article 57 II a) of the Military Justice Code was also reiterated, as well as its incompatibility with the American Convention on Human Rights (articles 2 and 8.1).

As mentioned, pursuant to the judgments of the Inter-American Court of Human Rights, and to the analysis that the Nation's Supreme Court of Justice carried out regarding the said cases, Congress is currently considering proposed amendments to the Military Justice Code, including one submitted by the Executive Branch, in order to ensure its compatibility with the Federal Constitution and with the highest international standards on this subject. To this effect, during the current month, the Senate hold public hearings with academic experts and representatives of several civil society organizations and is foreseen that soon will also undertake hearings with the Armed Forces to hear different points of view and proposals on this topic.

Therefore, the *amparo* trial is a judicial protection mechanism that, after the 2011 constitutional reforms on human rights and *amparos*, and the adoption of the new law on *amparos* of April 2013, should be construed both as a human rights protection mechanism, as well as an expression of the right to an effective judicial remedy.

Act on the Execution of Criminal Sanctions that includes several principles and operative aspects in order to promote and protect human rights in the penitentiary system:

1. Principle of penitentiary due process, to guarantee the rights of persons who have been sentenced, an aspect that had not been regulated previously in a law executed in Mexico.
2. Catalogue of rights and obligations of persons deprived of liberty, regulated for the first time in secondary legislation.
3. Rights of women in reclusion.
4. Procedure to repair an injury to the victim, through repossession before the executing judge.
5. Improvement of safety and security conditions for the custody of the Penitentiary Centers or Establishments, for Procedural Police in charge of the surrounding security, safety in the transfer of persons subject to a criminal process and in trial chambers, as well as a follow-up of those processed in liberty.
6. Officials in charge of monitoring and surveillance of persons released on parole, and persons on conditional release subject to vigilance.
7. Offices to ensure a transition to community, and penitentiary institutions for the surveillance and follow-up of persons released on parole.
8. Release on parole or early release benefits, partial sentence reduction, reduction of sentence due to the reparation of injury, and early release on account of home confinement.
9. Penitentiary work, regulated under article 18 of the Constitution. Paid work, pursuant to agreements established with business chambers.

Furthermore, the Coordinating Council for the Implementation of the Criminal Justice System approved, since 2012, a capacity-building program for the different actors involved in the operation of the adversarial criminal justice system that also includes activities for the penitentiary system.

3.2 Efforts to combat specific offenses

3.2.1 Torture

The conclusions adopted by the Committee against Torture during its forty-ninth session in October 2012 expressed concern at reports of an alarming increase in the use of torture during the interrogation of persons who have been arbitrarily detained by members of the armed forces or State security agencies in the course of joint operations to combat organized crime. The Committee further expressed concern at the alleged use of torture during interrogations in order to force confessions and self-incriminating statements. What actions is the government taking in order to eliminate the use of torture during interrogations? (Sweden)

attention to those searching for missing persons, as well as to victims of homicide, kidnapping, extortion and human trafficking. It further serves to aid victims of crimes that have been neglected by the competent authorities, in observance of the principles of gratuity, sensibility, empathy and equal treatment, and loyalty, protecting their rights and legal interests as well as seeking to contribute to their physical, psychological and emotional well-being.

In November 2012, PROVICTIMA presented the Protocol for the immediate search of missing persons that strives to prevent the recurrent victimization of the families of those who have been reported as missing or unaccounted for. Such Protocol compiles good practices of prosecutorial authorities, particularly regarding the search, geographic pinpointing, and recovery of missing persons. Until January 31, 2013, the Protocol has contributed to finding 169 persons, in coordination with federal and state authorities.

On January 9, 2013, the decree for the issuance of the General Victim's Act was published. It recognizes and guarantees the rights of victims of crime, establishing the obligation for all three branches and levels of government to be diligent in the protection of victims, in providing them with assistance and ensuring adequate and comprehensive reparation. The Act likewise establishes the obligation to prevent, investigate, and punish the offense; and recognizes the right to assistance, protection, attention, truth, justice, comprehensive reparation, restitution of the infringed rights, due diligence, and non-repetition.

3.3 Journalists and human rights defenders

We are pleased to note the efforts to create a number of institutional and legal measures aimed at protecting journalists and human rights defenders mentioned in Mexico's national report. We would like to hear more on what concrete steps have been taken in order to investigate and prosecute crimes committed against journalists and human rights defenders. What concrete results have been delivered by the early warning system launched by the Special Prosecutor's Office for crimes against Freedom of Expression? (Slovenia)

In November 2012, the Special Prosecutor's Office for Crimes against Freedom of Expression (FEADLE) set in motion the first stage of the Early Warning System, with the purpose of guaranteeing a swift and adequate response in attention to journalists who have been victims of crimes against freedom of expression. This system is implemented through the application of immediate preventive and protection measures, in order that the possible consummation of a threat or that the loss of traces and evidence that could lead to the identification of eventual perpetrators may be dully avoided.

The following achievements can be high-lightened among those resulting from the implementation of the Early Warning System:

- 60 requests for precautionary measures issued by prosecutorial agents of FEADLE have been followed up on in a manner consistent with preventive administrative manuals.
- As far as protection measures and urgent protection measures go, the installation of panic buttons in cellular phones, house patrolling, and full protection of the media

What steps is the government taking to ensure that (1) states and institutions implement the Mechanism to Protect Human Rights Defenders and Journalists; (2) the mechanism is granted sufficient financial resources; and (3) personnel are properly trained in the human rights issues they are dealing with? (United Kingdom)

Currently, the Ministry of the Interior maintains collaboration agreements with 25 federal entities to assist in the coordination, follow-up and control of information between the Mechanism and such entities, in the context of the implementation of applicable protection measures.

With the publication, in 2012, of the Human Rights Defenders and Journalists Protection Act, a Fund for their Protection was established to secure the necessary resources to ensure their life, liberty and personal security. Currently, close to 170 million pesos (approximately 13 million USD) have been allocated to this Fund.

On September 30, 2013, a memorandum of understanding between the Ministry of the Interior and the Mexican Office of the international organization *Freedom House* was signed in order to establish specific collaboration regarding the technical strengthening of the Mechanism. The memorandum includes provisions for the constant training of the Mechanism's personnel.

4. NON-DISCRIMINATION AND HUMAN RIGHTS OF SPECIFIC GROUPS

4.1 Rights of indigenous peoples

What steps is the government taking to improve the situation of communities that were not granted the right to free, prior, and informed consent before the development of wind farms in the Tehuantepec Isthmus? In particular, which procedures and tools are being implemented to ensure that land transactions are transparent and respect the property rights of local communities? (United Kingdom)

In order to address the situation in the region, in 2012 the State of Oaxaca approved the integration of an Intermediation Commission. Furthermore, the program "Wind Energy Training Center" was established in order for the inhabitants of Zapotec communities to be the ones who operate and provide maintenance to the wind turbines. These measures, seek to provide opportunities for development and professionalization in the region. Moreover, the Federal Electricity Commission negotiated contracts for the right to use land in usufruct (or right of enjoyment). These contracts contemplate annual payments for each land owner of a lot which fall within the project, including a fixed amount per hectare, and an additional amount for those land owners in whose lots a wind turbine is installed.

In like fashion, a *Registration model for intentional homicide of women for gender reasons (and/or feminicides) and for the processing of information regarding missing girls and women* was developed with the purpose of having all local Attorney Generals in the country adopt it, and of ensuring availability of comparable data on these crimes.

In 2012, the “*Report on Femicide in Mexico. An approximation, tendencies and changes, 1985-2009*” was published by the Special Commission, the National Institute of Women, UN Women, and the academic institution *Colegio de México*. Through this investigation, a systematization of the registry of female deaths by presumed homicide was carried out. The data used for this systematized registry was taken from two main sources, namely the Vital Statistics on Mortality registered by the Health Ministry, and the data bank of the National Institute of Statistics and Geography.

An additional tool known as the National Data Bank of Information concerning Cases of Violence Against Women (BANAVIM) was created and began operating on April 24th, 2008. This Data Bank provides useful information for all institutions involved in the management, prevention, punishment, and eradication of gender violence, generating unique electronic files for every female victim of violence while safeguarding all personal information gathered by relevant institutions. It also registers data on protection and restraining orders issued, along with persons subject to them, in order to undertake the necessary actions in the interest of women subjected to violence. The BANAVIM generates reports and statistics for municipal, local, and federal authorities throughout the country.

In accordance with article 44 (VII) of the General Act on Women’s Access to a Life Free of Violence, the BANAVIM was incorporated into the Single System of Criminal Information, to ensure that the design of public policy for the prevention, attention, punishment and eradication of violent crimes against women fully complied with a gender perspective. The Single System of Criminal Information is part of the Mexico Platform, which, in turn, is comprised of more than 40 different databases that help the investigation of criminal conduct and the imprisonment of those responsible.

Finally, it must be highlighted that in June 2012, the Federal Criminal Code was amended to include the crime of femicide. This in turn entailed corresponding amendments to the Federal Code of Criminal Procedures and the General Act on Women’s Access to a Life Free of Violence, among others, and established the obligation of creating and applying femicide investigation protocols. By October 2013, 28^[1] of the 32 federal states had amended their State Criminal Codes to include femicide as a crime.

In your national report we noted the signature of an agreement in 2012 for launching a protocol for the coordination of actions to be taken by the federal, state, and municipal authorities to search for and assist women or girls reported missing in the Municipality of Ciudad Juarez. We would be interested to hear more about the progress on the ground

[1] Aguascalientes, Baja California, Campeche, Chiapas, Coahuila, Colima, Distrito Federal, Durango, Guanajuato, Guerrero, Hidalgo, Jalisco, Estado de México, Morelos, Nayarit, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Yucatán y Zacatecas.

women with pregnancy on account of rape, in order for public institutions that provide medical attention services, to provide medical abortion services upon request of the interested victim, pending previous authorization of the competent authority and in the terms of the applicable legislation. Furthermore, the *NOM* establishes that, in all cases, the medical intervention must be preceded by an assessment of the possible risks and consequences of the abortion, thus seeking to guarantee an informed decision on the victim's part, and in full observance of the right to informed consent and decision.

5. RELATIONSHIP WITH THE INTERNATIONAL SYSTEM

Is Mexico planning to fully align its national legislation with all obligations under the Rome Statute, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court (ICC) and to investigate and prosecute genocide, crimes against humanity, and war crimes effectively before its national courts? (Netherlands)

Mexico, as a State Party to the Rome Statute of the International Criminal Court (ICC), fully supports the work of the ICC.

Consistent with such a position, Mexico presents a biennial resolution in the Organization of American States on the "Promotion of the ICC" which, among other measures, encourages the universal ratification of the Rome Statute and urges the American States to cooperate with the ICC and to adopt measures to adjust their national legislation with the provisions therein contained. Mexico, as many other States Parties, is in the process of aligning its national legislation with its obligations under the Rome Statute. In 2005, article 21 of Mexico's Constitution was amended to recognize the ICC, an amendment which allowed Mexico's ratification of the Rome Statute (which consequently entered into force as of January 1, 2006).

Following this amendment, the Mexican Federal Executive Branch prepared and presented to Congress, in November 2006, the draft regulations for such a constitutional article, known as the draft "Law on Cooperation with the ICC". This draft Law proposes to regulate the procedures according to which the national authorities are to comply with the requests for cooperation issued by the Court. The draft was approved with minor amendments by the Senate, and is currently in process of being reviewed by the Chamber of Deputies' Committee on Justice. It is worth mentioning that, while such regulations are still pending, Mexico's national authorities fully comply and respond timely to the requests for cooperation received from the ICC.

The incorporation of international crimes in the national criminal legislation was the subject of one of Mexico's pledges before the Kampala Review Conference of the Rome Statute in 2010. The preparation of a draft initiative for such purpose was carried out between 2010 and 2012 by Mexico's Inter-ministerial Committee on International Humanitarian Law, composed of the Ministries of the Interior, National Defense, Navy, and Foreign Affairs, and with the participation of the Attorney General's Office and the Ministry of Public Security. Mexico's current Administration is in the process of reviewing specific progress made by the past Administration on this issue, in order to then promote the full