



**International Convention  
on the Protection of the  
Rights of All Migrant  
Workers and Members  
of Their Families**

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**WRITTEN REPLIES BY THE GOVERNMENT OF MEXICO TO THE  
LIST OF ISSUES (CMW/C/MEX/Q/1) RAISED BY THE COMMITTEE  
ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT  
WORKERS AND MEMBERS OF THEIR FAMILIES IN CONNECTION  
WITH THE CONSIDERATION OF THE INITIAL REPORT OF MEXICO  
(CMW/C/MEX/1)\***

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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*Information supplementing the initial report of Mexico on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

## I. INFORMATION OF A GENERAL NATURE

**Please indicate any progress made in the process of reviewing the State party's reservation to article 22, paragraph 4, of the Convention, and whether an amendment to article 33 of the Constitution is being considered in this context.**

*Paragraphs in the report: 161, 183*

1. As explained in Mexico's report, the Mexican Government is reviewing the reservations entered by Mexico to international human rights instruments with a view to withdrawing them if deemed appropriate.

2. However, no amendment to article 33 of the Constitution has been envisaged, in view of the sovereign power of every nation to regulate the entry and residence of foreigners in its territory. This article states that "the executive branch shall have exclusive powers to make any foreigner whose stay is deemed inappropriate leave the national territory immediately and without the need for a prior judgement". To this end, the procedure established by the Ministry the Interior shall be followed.

3. Moreover, article 126 of the General Population Act establishes that: "In cases where there is a threat to national sovereignty or security, expulsion shall be definitive. In all other cases, the Ministry of the Interior shall specify the period during which the foreigner may not re-enter the country. During that period, the foreigner may be readmitted only with the express agreement of the Minister of the Interior or the Minister's deputy."

**Please explain what measures have been taken to harmonize federal and state legislation in migration matters and to bring both federal and State legislation into line with the Convention.**

*Paragraphs in the report: 179, 180, 182, 183*

4. Migration is a federal matter: article 73, section XVI, of the Mexican Constitution establishes that the National Congress has the power to pass laws on nationality, the legal status of foreigners, citizenship, naturalization, land settlement, emigration and immigration and the general well-being of the Republic, so that state-level legislation does not cover migration issues.

**Please provide the Committee with additional information on the volume and nature of migratory flows on Mexico's southern border.**

*Paragraphs in the report: 16-22, 24, 27, 29-31, 33*

5. It is estimated that about 1,830,000 people crossed into Mexico from Guatemala and Belize in 2004, including documented local visitors, farm workers, tourists and

others (78 per cent of the total) and undocumented persons (22 per cent), but excluding migrants in an irregular situation who crossed Mexico to enter the United States.<sup>1</sup>

6. It is estimated that over 400,000 undocumented Central Americans crossed the southern border of Mexico in 2004, including 204,113 who were held by the Mexican migration authorities and 54,626 detained by the United States border patrol.<sup>2</sup> The remaining crossings were defined as crossings by undocumented locals on the basis of the survey of migration on the Mexican-Guatemalan border and other sources provided by the National Institute for Migration (INM).<sup>3</sup>

7. The available statistics confirm that the number of undocumented Central Americans placed in holding centres by the Mexican authorities rose by 41 per cent between 2001 and 2004, in contrast to the 33 per cent fall in the number of crossings by documented individuals in the same period.<sup>4</sup> There is evidence of a downward trend in circular flows along the Mexican-Guatemalan border, at least according to existing migration records on Guatemalan emigration to the United States, as revealed by several sources.<sup>5</sup>

8. Temporary migrant workers along the southern border constitute a labour force that cannot be ignored, which meets demand not only from the agricultural sector but also from other sectors such as construction, trade, services, ranching and manufacturing. They are present to some extent, depending on the economic sector and region, in the states of Chiapas, Quintana Roo, Tabasco and Campeche, even though many of them do not have the requisite migration papers. There is therefore a need to document and legalize these migrant or cross-border workers who contribute to economic development in the region.

9. For more information on the size and nature of migration flows along the southern border in 2005, a number of documents prepared by the INM Centre for Migration Studies are annexed hereto: annex I contains a file on entry flows of foreigners along Mexico's southern land border, as recorded by INM in 2005; annex II contains a file on Guatemalan workers with "visiting agricultural worker migration forms" in Chiapas between 1999 and 2005; and annex III contains a general survey of flows of temporary workers along Mexico's southern border, giving the main findings and future trends.

10. To sum up, the following figures are available on migration flows along Mexico's southern border, in the states of Chiapas, Tabasco, Campeche and Quintana Roo:<sup>6</sup>

(a) Legal crossings:<sup>7</sup> 9,595,730 foreigners from 1 January to 31 December 2005, and 3,567,656 from 1 January to 30 April 2006; and

(b) Illegal entries, based on the numbers in holding centres: 128,028 foreigners from 1 January to 31 December 2005, and 69,058 from 1 January to 31 May 2006.

**According to paragraph 181 of the State party's report (CMW/C/MEX/1), migration offences or infractions may be subject to criminal proceedings under articles 118 to 125 of the General Population Act, although in practice this does not happen. In this connection, please state what stage has been reached in the review of migration legislation mentioned in paragraphs 182 and 278 of the State party's initial report.**

*Paragraphs in the report: 181, 182, 278*

11. In 2004, INM carried out a study of the General Population Act and concluded that there was a need for far-reaching amendments if it was to be brought into line with the international legal system, and suggested that a specific law on migration was needed. In the course of the study, a review of the international human rights instruments was carried out and proposals by academics and members of civil society for changes to migration policy and law in Mexico were collated.

12. INM prepared a final document entitled "Synthesis of proposals for a new migration law for Mexico", which was handed to the technical secretariat for the reform of the General Population Act on 22 July 2004.

13. The proposal, like others submitted by various lawmakers, is being studied by the legislature.

14. With a view to the harmonization of migration legislation, one of the basic points made in the INM proposal is that international migration should not be subordinate to demographics.

15. International migration:

(a) Has reached such a level that it has become a social phenomenon with its own objectives, proprieties, conflicts and policies;

(b) At the moment, it is not just a demographic phenomenon but an economic, social and political one, with an impact on employment, finance, health, education, human rights, the family, politics, culture and so on. A distinction should be made between long-term, more general, rules (regarding population) and specific regulations on such matters as international migration flows in the country.

16. International migration:

(a) Has very specific requirements in terms of regulations, procedures and national and international solutions;

(b) Unlike population growth, migration changes over a much shorter time period (1-5 years, as compared with 35-50 years), and some changes cannot be foreseen, such as those that arise as a result of wars, natural disasters or economic collapse. Migrants have rights in their own right.

17. There is a need for a legal instrument that will enable the State to have a comprehensive policy on international migration in order to:

(a) Deal with the phenomenon in all its complexity in Mexico, a country of origin, transit and destination. Concordance between what is required of Mexican migrants abroad and legislation and policy on migrants in Mexico;

(b) Ensure consistency in dealing with the phenomenon itself and related areas such as human rights, employment, health and education in Mexico (e.g. in the case of temporary workers).

18. Be in line with international practice to facilitate political action in Mexico, with regard to:

(a) Institutional arrangements (International Organization for Migration (IOM), Regional Conference on Migration, etc.);

(b) Bilateral or regional action by the Mexican Government and its counterparts in Guatemala, the United States, Canada and others;

(c) Standardized arrangements with other countries, as set out in agreements, conventions or treaties at the cross-border, regional intraregional and levels.

19. Although proposals have been made to amend the General Population Act and its regulations, these are still under consideration owing to the length of the internal legislative process for dealing with reform proposals. For this reason, articles 118 to 125 of the Act have not yet been amended.

**Please explain whether national legislation provides for the application of the Convention to refugees and stateless persons (article 3 (d) of the Convention).**

*Paragraphs in the report: 298*

20. Mexican legislation does not provide for the application of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to refugees or stateless persons, as special regulations apply to these groups, as is the case at the international level.

21. In accordance with article 42, section VI, of the General Population Act, articles 166 and 167 of the Act's implementing regulations state that "foreigners who are fleeing their countries of origin to protect their lives, safety or freedom when these are at risk from widespread violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances that have disturbed public order, and who enter national territory, shall request the nearest migration office to classify them for migration purposes as non-immigrant refugees".

22. Refugee status is granted in Mexico by INM, which bases its decision on the recommendation of the Refugee Eligibility Committee, a body on which a number of

ministries – including the Ministry of the Interior and the Ministry of Foreign Affairs – are represented. The Committee itself receives a recommendation from the Mexican Refugee Assistance Commission (COMAR).

23. COMAR is a decentralized organ of the Ministry of the Interior, established in 1980. Its job is to act on recommendations regarding refugees and propose solutions aimed at their voluntary repatriation, resettlement or full integration into Mexican society.

24. The recommendations acted upon by COMAR are made by a working group consisting of representatives of various government offices, members of civil society and representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR).

25. The Mexican Government has acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in 2000. Non-nationals who seek refuge in Mexican territory and whose status is recognized by the authorities enjoy the protection afforded by the 1951 Convention.

## II. INFORMATION IN RELATION TO EACH OF THE ARTICLES OF THE CONVENTION

### A. General principles

**Please inform the Committee about measures taken, if any, to combat discriminatory attitudes towards migrant workers and members of their families, particularly migrant women and indigenous migrants, and to ensure that they are not stigmatized.**

*Paragraphs of the report: 47, 50–58, 68–70, 73–77*

26. Discrimination is prohibited in Mexico. This is clearly indicated in article 1, paragraph 3, of the Constitution:

“All discrimination on grounds of ethnic or national origin, gender, age, different abilities, social status, medical condition, religion, opinions, preferences, civil status or any other discrimination that violates human dignity and is intended to nullify or restrict the rights and freedoms of persons is prohibited.”

27. The federal Government has taken a number of steps to combat discrimination, notably the adoption of the Federal Act to Prevent and Eliminate Discrimination, which was published in the Official Gazette on 12 June 2003.

28. The Act aims, inter alia, to prevent and eliminate all forms of discrimination and to promote equal opportunities and treatment. It also lists forms of discriminatory behaviour, including discrimination on grounds of race and ethnic or national origin, which are prohibited. It sets out a number of positive, compensatory measures which should be taken by public bodies and the federal authorities to promote equal opportunities for the most vulnerable groups.

29. In framing anti-discrimination legislation in Mexico, account was taken of the requirements set out in international instruments on the subject of discrimination, at both the regional level, through the Organization of American States, and the global level, through the

United Nations.<sup>8</sup> It should therefore be stressed that Mexican legislation on this subject complements the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which is aimed at protecting the fundamental rights of international migrants, including the right to be protected from discrimination.

30. As far as the relationship between the Federal Act to Prevent and Eliminate Discrimination and the Convention on Migrant Workers is concerned, the Act is in line with the preamble and all 93 articles of the Convention in general and with articles 1, 2 and 7 in particular. The third paragraph of the preamble to the Convention reaffirms the importance of the principles contained in the Convention against Discrimination in Education and the tenth paragraph considers migrant workers' need for protection in the light of their situation of vulnerability.

31. Similarly, article 4 of the Act stipulates the following:

“For the purposes of this Act, ‘discrimination’ means any distinction, exclusion or restriction that is based on ethnic or national origin, sex, age, disability, social or economic status, medical condition, pregnancy, language, religion, opinion, sexual orientation, civil status or any other ground and that has the effect of preventing or nullifying the recognition or exercise of the rights and truly equal opportunities of persons. Discrimination also covers xenophobia and anti-Semitism in all their manifestations.”

32. Mexican anti-discrimination legislation prescribes norms and policies not only in the field of government action but also in the private sphere. This is important because many discriminatory practices involve individuals in the workplace and in the fields of health care and education.

33. The National Council for the Prevention of Discrimination (CONAPRED) was set up as a result of the Federal Act to Prevent and Eliminate Discrimination, and formally took up its duties on 27 March 2004.

34. CONAPRED is the State body responsible for implementing anti-discrimination policy throughout Mexico and for enforcing the Federal Act to Prevent and Eliminate Discrimination. Its job is to coordinate the action of the federal Government and to take the lead in all government strategies for dealing with discrimination, particularly discrimination against social groups that have traditionally been in a vulnerable position, such as indigenous people, women, people with disabilities, older people, children and young persons, refugees, migrants and individuals with different sexual orientations or religious beliefs.

35. In setting up CONAPRED, the Government is attempting to confront, prevent and eliminate discrimination in Mexico. To reach its objectives, CONAPRED has adopted a comprehensive strategy to coordinate action covered by its mandate under the anti-discrimination law, with a view to accomplishing four institutional objectives which guide and unify efforts in the corresponding area.

36. These institutional objectives are:
- (a) To promote a new culture of equality;
  - (b) To coordinate inter-agency action;
  - (c) To deal with allegations of discriminatory acts; and
  - (d) To promote and produce studies and public policies.
37. On the basis of these four objectives, a number of steps have been taken at the national level in six specific areas, as a result of which:
- (a) Opinions on laws have been issued and legislative proposals promoted;
  - (b) Complaints and claims related to acts of discrimination have been dealt with;
  - (c) Specialized studies have been conducted on the subject of discrimination;
  - (d) Institutional agreements have been signed;
  - (e) Activities have been carried out to publicize and raise awareness of a culture of non-discrimination; and
  - (f) A major publishing programme has been launched.
38. CONAPRED activities to promote respect and equal treatment for migrants throughout Mexico are listed below:

**2004**

- On 28 and 29 September, the “International forum on non-discrimination: economic, fiscal and judicial challenges to the implementation of anti-discrimination laws in Latin America and the Caribbean”, organized by CONAPRED, the Inter-American Development Bank (IADB) and the Ministry of Foreign Affairs, was held.

**2005**

- In March, CONAPRED asked the Legal Research Institute of the National Autonomous University of Mexico to carry out a specialized study on worldwide and national trends in exclusion and discrimination.
- From 23 to 25 June, CONAPRED officials attended an international seminar on the human rights of migrants organized within the framework of the Mexico/European Commission Human Rights Cooperation Programme, on migration flows and discrimination in the working group on the social and cultural integration of migrants.

- A pilot test of the flash cards for education on non-discrimination published by CONAPRED was devised on 26 June. The test was carried out at the Refugee Shelter; refugee and migrant children from the Congo, Honduras, Colombia, Venezuela and Cuba took part.
- A general agreement on cooperation between the College of the Northern Border (COLEF) and CONAPRED, the aim of which is to devise awareness-raising activities and specialist studies on gender, migrants and border problems, was signed on 31 August.
- From 4 to 11 September, CONAPRED officials helped celebrate the twentieth anniversary of the foundation of the Human Rights Institute at the Jose Simeón Cañas Central American University in El Salvador and “Central American Migrant Week”, in the course of which there was a lecture and training course on the problem of discrimination in Mexico and Central America.
- From 14 to 16 September, CONAPRED officials attended the first national “AIDS among migrants” congress at Benemérita Autonomous University in Puebla.
- September saw the appearance of Derechos Humanos de los Migrantes, published by the Mexico-European Commission Human Rights Cooperation Programme and including the paper on migration flows and discrimination.
- Two lectures, one on the fundamental right not to be discriminated against and the other on displaced people in Colombia and migration problems, were given on 23 September during a panel discussion on “the right to be different” organized in Puebla City by the Asociación Líderes Participativos por México and the Puebla State Human Rights Commission.
- A general cooperation agreement was signed on 17 October between Sin Fronteras and CONAPRED, with the aim of consolidating efforts to benefit migrant and refugee groups in Mexico. At the signing ceremony, Dr Manuel Angel Castillo delivered a lecture entitled “Migrants and the right not to be discriminated against”.
- A workshop on non-discrimination and protection for migrants was held at the Council on 2 December under the cooperation agreement with Sin Fronteras.
- On 4 December, during the Fourth Human Rights Fair organized by the Ministry of Culture and the Federal District Human Rights Commission, the Council ran a stand giving out publicity and arranged a reading of the story “Cristina’s Secret”, one of the collection of Kipatla children’s stories published by CONAPRED and the National Council for Indigenous Peoples’ Development, which tells the story of a migrant indigenous girl.

**2006**

- On 12 and on 19 January, working meetings were held with civic officials from Tultitlán, Mexico State, to agree on joint action to raise awareness and promote a workshop on migrants' rights.
- Issue No. 134 of the magazine *El Cotidiano*, entitled "Discrimination and neglect", was formally launched on 7 February at the Azcapotzalco campus of the Metropolitan Autonomous University. The issue contains articles on the problems faced by migrants in Mexico and the United States.
- A lecture on discrimination against migrants was delivered to officials and the general public in the township of Tultitlán, Mexico State, on 10 February.
- Meetings with representatives of the Mexico City Assembly of Indigenous Migrants were held on 10 and 11 April to agree on joint activities for the benefit of indigenous migrants in the Federal District.
- Council officials travelled to Oaxaca State on 24 and 25 April to run a workshop on "protection of the migrant population's rights and non-discrimination" organized in conjunction with the Office of the Deputy Minister for Human Rights of Oaxaca State and Sin Fronteras. The workshop was given in Ciudad Ixtepec and in San Pedro Tapanatepec.

39. It is relevant to mention that on 17 May 2006, CONAPRED unveiled the National Programme on the Prevention and Elimination of Discrimination at a ceremony chaired by the President of the Republic. This Programme lays emphasis on the four areas in which discrimination is most prevalent in Mexico: health, education, employment and access to justice. It accordingly lays down a series of public policies to prevent discrimination and promote equal opportunities as regards access to justice which are brought together under the Access to Justice Programme, the general aim of which is that Mexico should take legislative and administrative steps to ensure the proper apportionment and administration of justice in all branches of the law, thereby giving unrestricted play to the constitutional principle of non-discrimination.

40. Some of the relevant policies are detailed below:

**Strategy 1**

*Uphold the principle of non-discrimination in access for all – in particular, for people belonging to groups discriminated against – to the constitutional rights to security and justice.*

**Policies:**

- I. Ensuring that the ban on detention incommunicado, torture and cruel, inhuman or degrading treatment is observed, in particular in the case of individuals belonging to groups suffering from discrimination. The incorporation

into criminal codes of genuine punishment for public authorities or servants engaging in such conduct will be encouraged, by adding to the articles on abuse of authority a clause making an offence of the conduct with which we are concerned, and by creating an offence of obstructing, or abetting the obstruction of, the defence or assistance of a detainee, both offences being rated as grave.

II. Upgrading crime investigation techniques and promoting the application of a mandatory protocol for the investigation of violent deaths, including killings of women and crimes motivated by homophobia and xenophobia.

III. Strengthening the capacity of the office of the Ombudsman to protect people belonging to groups suffering from discrimination.

IV. Overseeing the staff selection systems in the Office of the Public Prosecutor, the judicial police and the criminal investigation service in order to ensure that staff are selected on the strength of their technical and human rights skills and non-discriminatory criteria. The same staff also need to be offered refresher, awareness-raising and further training courses.

V. Encouraging the legal regulation of compensation for injury in discrimination cases.

VI. Encouraging moves to make it an offence under all criminal codes for public servants to become aware of, owing to or in the course of their official duties, incidents of arbitrary detention based on physical appearance, economic or social status, sexual preference or any other ground connotative of discrimination, and fail to report those incidents.

VII. Setting up ad hoc watchdog bodies to look after vulnerable groups such as indigenous peoples and communities, women, disabled persons, persons living with HIV/AIDS, and persons with unconventional sexual preferences.

VIII. Making sure that adequate arrangements are made in every township in the country to provide access for disabled persons to at least one branch of the public prosecutor's office, to the criminal, civil and labour courts, and to conciliation and civil tribunals.

IX. Encouraging the establishment of ad hoc civil or conciliation tribunals with appropriate procedural arrangements and adequate facilities for cases where minors aged between 12 and 18 years become involved in administrative disputes.

X. Establishing safe areas for women, indigenous peoples and communities, disabled persons, people with unconventional sexual preferences, and older adults, among others, where they can be protected from discrimination and violence at the hands of other detainees, whether this be at branch offices of the public prosecutor, at civil or conciliation tribunals, or in detention centres.

XI. Adding a special section to the institutional schedules and periodic reports of public procurators' offices, courts of justice, the Office of the Ombudsman and the civic or conciliation tribunals system to cover action to prevent and eliminate all forms of discrimination.

XII. Encouraging a climate in which cases of sexual harassment, abuse and gender-based violence will be reported.

#### **Strategy 4**

*In the Federal District, federal agencies and the Federation itself should take the following steps to permit access to justice for migrants and refugees.*

##### ***Policies:***

- I. Ensuring that migrants who have suffered from unlawful conduct or are suspected of a crime are treated with respect for their rights, without adopting prejudicial or discriminatory attitudes that might hinder the due administration of justice.
- II. Ensuring that the authorities provide people entering the country as refugees with information on the rights available to them.
- III. Ensuring that duty counsel provide services for migrants, male and female.

#### **Strategy 9**

*In the Federal District, federal agencies and the Federation itself must take the following steps to allow access to justice for ethnic groups and religious minorities.*

##### ***Policies:***

- I. Establishing training in human rights, non-discrimination and the rights available to ethnic groups and religious minorities, for public servants in the justice system.
- II. Guaranteeing that the Office of the Public Prosecutor affords equal protection to the rights of indigenous peoples and communities and members of religions other than Catholicism who suffer from unlawful conduct.
- III. Ensuring that duty counsel, when assigned to look after members of ethnic groups or religious minorities subject to discrimination, behave ethnically and professionally and avoid attitudes based on prejudice.
- IV. Ensuring there are experts available who can understand and speak properly the national indigenous languages of crime victims and individuals involved in the commission of crimes.

V. Taking proper steps to guarantee that penalties imposed on individuals from indigenous peoples and communities are not based on prejudicial or discriminatory attitudes.

VI. Establishing, where this appears advisable on demographic grounds, a team of duty counsel specializing in indigenous matters to take charge of cases in which indigenous peoples and communities are involved.

VII. Seeking to ensure that when, under the applicable laws, criminal penalties are imposed upon indigenous individuals, alternative penalties and substitutes for criminal punishment laid down in the regulations are applied, taking account of the habits and customs of the indigenous people or community to which the culprit belongs; ensuring also that such individuals are able to benefit from such parole arrangements as they may be entitled to.

41. Mention should also be made of the international gatherings where discrimination has been taken up specifically in accordance with commitments such as the Durban Declaration and Plan of Action, which acknowledge that “interregional and intraregional migration has increased as a result of globalization, in particular from the South to the North, and stress that policies towards migration should not be based on racism, racial discrimination, xenophobia and related intolerance”.

42. The Programme of Action also calls on all States to “combat manifestations of a generalized rejection of migrants and actively to discourage all racist demonstrations and acts that generate xenophobic behaviour and negative sentiments towards, or rejection of, migrants”.

43. The National Institute for Migration (INM) considers it essential to develop a new attitude towards migration: one that puts the migrant, as an individual, at the heart of any initiative relating to migration, supported by a comprehensive platform resting on the principles of full respect for migrants’ rights, irrespective of their migrant status, and responsibility shared among States.

44. It must be pointed out that Mexico defended the report it submitted to the Committee on the Elimination of Racial Discrimination at its sixty-eighth session, in Geneva, on 21 and 22 February 2006. There it detailed and provided updates on the action and steps taken by the Mexican Government to combat discrimination over the period 1996–2004.

45. Among the substantive topics taken up during the consideration of the Mexican report were the treatment of minorities, such as women, migrants and indigenous peoples; access by indigenous people to justice and education; and discrimination on racial grounds.

46. The National Institute for Women (INMUJERES), in conjunction with various Federal and State government bodies and members of civil society, has been acting on a variety of fronts to uphold migrant women’s rights and eliminate discriminatory practices, concentrating on four areas:

- (a) Publicizing and protecting migrant women’s rights on the northern border;
- (b) Publicizing and protecting migrant women’s rights on the southern border;

- (c) Strategies for looking after migrant women within the Republic; and
- (d) Strategies for looking after women living in areas of high migrant mobility.

47. The action taken by INMUJERES includes the following:

A forum on “Women and international migration on the southern border” held in Tuxtla Gutiérrez, Chiapas, in conjunction with the Chiapas Institute for Women, INM, COMAR, the Mexico branch office of the Office of the United Nations High Commissioner for Refugees and the Centre for Research and Higher Study in Social Anthropology (CIESAS), on 4 and 5 November. The purpose of the forum was to help design and flesh out joint, comprehensive, inter-agency policies, programmes, plans and courses of action to promote the rights of migrant women and their families on Mexico’s southern border. It was attended by some 50 people, including academics and representatives of civil and religious associations concerned with the topic besides those listed above.

48. A forum on “Women and internal migration in Mexico” was held in December 2004 in conjunction with INM and the Guanajuato Institute for Women, to formulate proposals for public policy and specific courses of action relating to the treatment, in matters of employment, health, education and violence, of migrant women and women living in areas of high migratory mobility, and to lay the foundations for an inter-agency coordination mechanism to look after migrant women and their families in a setting of human rights and gender equality. This forum was attended by experts and members of civil society.

49. These forums led to the creation, on 1 June 2005, of the Inter-Agency Gender and Migration Coordination Board at INMUJERES. The Board has so far met four times, most recently on 28 March 2006. It is attended by representatives of governmental institutions and civil society.<sup>9</sup> Its main objectives are to promote inter-agency coordination; to draw up public policy proposals and initiatives on migration from the gender perspective; to help devise strategies and programmes for migrant women; to publicize and promote the rights of migrant women; and to encourage exchanges of experience, research and information on gender and migration.

50. Another upshot of the forums has been the Gender and Migration Virtual Network linked to the INMUJERES web page, which has developed into an established platform for exchanges of information on the topic and contacts between the various bodies dealing with the migrant population. The network has been running since February 2005 and is updated every two months and/or when there is information to pass on.

51. Internationally, a two-nation forum on “Women living and working in the United States” was held in Indianapolis, Indiana, United States, on 25 October 2004, the aim being to afford an opportunity for reflection and discussion on the status of women living and working in the United States in different settings, and to determine what priorities to set in strategies for full-spectrum support that can help to raise the quality of life for women and ensure full respect for their human rights, both as women and as migrant workers. The meeting was attended by advisers from the Institute of Mexicans Abroad (IME), consular officials and officials from associations offering support to migrants in the United States.

52. Running in parallel to this forum was a publicity campaign: “Here and beyond the border you have rights, know them and assert them”, for which six 30-second television and six radio spots (on dignity, health, maternity, equality, education and rights) were produced and released; these were aired at the 45 consulates that Mexico has in the United States and in the 10 Mexican States from which most Mexicans emigrate. Also produced were three documentaries and 46 inserts for the principal newspapers in the States where migratory mobility is greatest, between 25 and 29 October 2004. The campaign also included the distribution, through IME and consulates in the United States, of postcards making reference to women’s rights.

53. Two two-nation training workshops on gender and international migration were held in 2005. These were run jointly with INM, IME, the Tijuana State Agency for Women on the northern border and the Quintana Roo State Agency for Women on the southern border, Tijuana and Quintana Roo being the States where these events took place.

54. The objectives were to make the staff of governmental bodies and related civil society organizations aware of the problem of migration in the United States and on the southern Mexican border, providing them with conceptual, methodological and technical tools for incorporating the gender perspective into their policies, plans and programmes and helping them, within their various fields of activity, to change discriminatory practices and encourage migrant women and their families to assert their rights.

55. Following up on the efforts to publicize and promote migrant women’s rights that began in 2004, a campaign on the rights of migrant women which included the design, preparation, printing and circulation of the publication “Here and beyond the border you have rights” was launched in September 2005.

56. A national workshop on “Internal migration and gender: starting point, transit and destination” was held on 9–11 November 2005 in coordination with the Guanajuato Institute for Women, the ministries of social development, employment and social security, and health, CDI, INM and the Guanajuato State Commission for Migrant Support. The purpose of this event was to afford an opportunity for reflection and discussion on internal migration within Mexico, its definition, its scope, and its impact on the family, social, economic and cultural circumstances of the various groups involved, in particular women and people living in areas of high migratory mobility, so as to develop proposals for comprehensive public policies addressing migration from the gender perspective.

57. Another course of action pursued by INMUJERES in connection with migration has been the establishment of a sectoral investigation and development fund, INMUJERES-CONACyT 2003–2005, to encourage public policy research and proposals. Works produced and nearing publication include the following:

- (1) Las Comunidades centrales y sus satélites: Trayectorias migratorias de cuatro comunidades oaxaqueñas y cambios en la vida de las mujeres y sus familias, Universidad Nacional Autónoma de México, Dra. Martha Judith Sánchez Gómez;

- (2) Mujeres indígenas migrantes y adscripción religiosa en San Cristóbal de las Casas, Chiapas; Centro de Investigaciones y Estudios Superiores en Antropología Social, Sede Sureste, Dra. Gabriela Patricia Robledo Hernández;
- (3) Migraciones internas e internacionales de mujeres jornaleras; Universidad Nacional Autónoma de México, Dra. María Antonieta Barrón Pérez;
- (4) Impactos de la migración en las dinámicas de género en familias migrantes: el caso de la costa de Hermosillo, Sonora; Centro de Investigación en Alimentación y Desarrollo, A.C., Mtra. Gilda Salazar Antúnez;
- (5) La seguridad alimentaria y la equidad de género en condiciones de migración masculina en el medio rural mexicano. El papel de las instituciones; Universidad Autónoma del Estado de México, Dra. Ivonne Vizcarra Bordi.

58. As part of the INMUJERES publicity strategy, financing has been provided for the publication of a number of works, including a handbook entitled "Migrant women and their implications from the gender perspective" for public officials; *Violencia y mujeres migrantes en Mexico*, produced by Sin Fronteras, as part of the Caring for and Empowering Migrant Women and Children Liable to Domestic Violence project (Fondo Proequidad, 2nd ed.); and a study on matrimony and conjugal life among migrant female day-labourers by Beatriz Eugenia Rodríguez Pérez which won first prize in the Sor Juana Inés de la Cruz competition sponsored by INMUJERES.

59. A handbook on sexual and reproductive health for migrant women in the United States (in Spanish) will be coming out in late 2006; this is aimed at community health advisers and the leaders of non-governmental organizations, and seeks to prevent and cure sexual and reproductive disorders among migrant women. It is based on studies conducted in Yucatán and Baja California Norte in Mexico, and in California and Chicago in the United States. Participating institutions included INMUJERES, the Yucatán State Institute for the Development of Mayan Culture; the Episcopal Commission for the Pastoral Care of Humanity on the Move; the Casa Madre Asunta, Tijuana City, Baja California Norte; the University of California Health Initiative; the Episcopal Diocese of San Diego, United States; and Latin Women in Action, Chicago, United States.

60. Also to be published is a compilation on gender and migration which will include a variety of studies and research projects presented at gatherings on the subject organized by INMUJERES between 2004 and 2006.

61. A meeting to set up a support, advice and routing network for women affected by migration was held on 4 and 5 April 2006 in San Luis Potosí. The purpose of the meeting was to facilitate the establishment of a national support network for women affected by migration, with two main aims: to promote public policies on gender and migration that are consistent with international agreements, working in a coordinated fashion with the Ministry of Foreign Affairs, IME, the Ministry of the Interior, INM, the national and State systems for comprehensive family development, the National Commission on Human Rights, local procurators' offices, INMUJERES, the various state institutes for women, and other public and private bodies providing care and services for the migrant population; and to encourage the development of

standard patterns of care, built around each of the state institutes for women and coordinated by INM and its branch offices in the various States, IME and federal and state government bodies, non-governmental organizations, religious associations and international bodies.

62. These patterns, designed by the various bodies in accordance with their particular characteristics and depending on whether they are situated at the starting points, transit points or destinations of migratory flows, will, by means of referral and direct response, offer legal, work-related and psychological guidance; health services (preventive and therapeutic); temporary shelter; and support for human rights.

### **Inter-agency coordination**

63. Thanks to inter-agency coordination, INMUJERES has been working with a number of bodies on activities including training workshops, forums and meetings sponsored by INM, such as a workshop on migration and human rights offered in the Federal District, Monterrey, Veracruz and Mérida; comprehensive training certificate courses for Beta officials in Hermosillo, Sonora; a forum entitled “Towards a comprehensive migration policy on Mexico’s southern border” organized by INM and conducted in Tapachula, Chiapas, and in Villahermosa, Tabasco; a lecture on migrants’ rights and the role of the United Nations; an international seminar on migrants’ rights organized by INM and the Ministry of Foreign Affairs; and an agreement on cooperation between INM and DIF.

64. INMUJERES has also participated in the Migrants subprogramme of the Ministry of the Interior’s inter-agency board on follow-up to the national human rights programme, the review of Mexico’s first report under the Convention and the first meeting of the Inter-Ministerial Peasant Commission.

### **State institutes for women**

65. Nationally, a number of the state institutes for women, particularly where the impact of migration is greatest, are taking steps to look after migrant women and/or women living in areas from which most Mexicans emigrate. One priority for them is to codify and gender experiences, producing a national report which is scheduled to appear under the INMUJERES work plan for 2007:

#### **Guanajuato**

##### ***Specil Migration Programme 2005–2006***

##### ***Preventive work by the Institute for Women, 2005***

**Goal:** *Inform women at risk of the relationship between migration and HIV/AIDS*

An inter-agency campaign has been run under the title “AIDS, me? Being a woman in the age of AIDS”. This included advertising slots and leaflets distributed in townships where the migration rate is high. Other health problems among women were also taken into account: maternal mortality and HIV/AIDS-related gender considerations.

**Goal:** *Publicity*

Distribute pamphlets on the rights of migrant women and their partners, including the one entitled “Here and beyond the border you have rights – know them and exercise them!” which has been distributed on the “Migrants’ holidays”.

**Goal:** *Training*

Three HIV/AIDS prevention workshops taking account of the gender perspective have been run for 95 public health workers from a variety of institutions: DIF, the health sector, community leaders, teaching personnel, FIDEPO and staff from the townships of San Miguel Allende, San Diego de la Unión and Dolores Hidalgo. Training female public health workers on the subjects of migration, gender, domestic violence and women’s rights. Twenty-five workers have been trained under the Opportunities Programme in Dolores Hidalgo; workers have given five talks, to an aggregate audience of 90 people, to launch the training process in the communities of Palma Prieta, Rincon de Araujo, La Piedra, Xoconostle and Tequisquiapan.

**Goal:** *Surveys of migrant women and their partners*

- (1) Rural households, remittances and power: a study from the gender perspective in Gervasio Mendoza and Puerta del Monte, Salvatierra Guanajuato.
- (2) Women, HIV/AIDS and migration in Guanajuato.
- (3) Cooperation with the State Commission on Care for Migrants and their Families in designing a Guanajuato migrant-aid web page: information, follow-up and evaluation of migration policy.
- (4) Development of 15 gender and migration indicators.

**Tabasco**

Establishment of the Working Committee on Aid for Migrant Women, which is intended to coordinate efforts to promote, protect and uphold migrant women’s rights.

Participating institutions: the State Institute for Women, the National and State Commissions on Human Rights, the Beta Migrant Care Unit, DIF Tenosique, DIF Balancan, the Guatemalan Consulate and the Tabasco Human Rights Committee.

**Training**

- (1) Awareness-raising among middle- and senior-level officials to ensure that those taking decisions on public policy have a clear view of the entire migration issue, and to promote unqualified respect for the rights of migrant women.
- (2) Training for IEM and National Commission staff who can in turn train public officials who are in direct contact with migrants.

### ***Publicity material***

A guide for migrant women, which seeks to bring together the information that migrants passing through Tabasco will need to be aware of their rights, obligations and recommendations: where to turn for humanitarian aid, how to contact the authorities in their home country, and what dangers they face while crossing Mexico. Participants: the State Institute for Women, the National and State Commissions on Human Rights, the Beta Migrant Care Unit, DIF Tenosique, DIF Balancan, the Guatemalan Consulate and the Tabasco Human Rights Committee.

### **Quintana Roo**

#### ***State Board on Migrant Women***

In 2005, the Quintana Roo Institute for Women advocated institutional management and action coordinated by a State board responsible for the treatment of migrant women, which would help to design and flesh out public policies, programmes and plans and comprehensive, joint inter-agency activities to foster respect for the rights of migrant women and their families in Quintana Roo and coordinate efforts to arrive at a deeper collegial understanding of the issues of gender and migration, not only within Quintana Roo but across the region.

#### ***Goals:***

- (1) Lay the foundations for an inter-agency coordination mechanism for dealing with migrant women and their families in a setting of human rights and gender equality.
- (2) Propose public policies and specific courses of action in the fields of health, legal matters, education, training for self-employment and productive labour for the benefit of migrant women in Quintana Roo.
- (3) Draw up an inter-agency working agenda for the period 2005–2011 providing for the involvement of all members of the State Board and commitments to achievement in each area.
- (4) Establish care specifically for migrant women as a component of the services offered by public administrations at all three levels of government, in coordination with civil society organizations.

#### ***Strategies:***

- (5) Sign an agreement on cooperation between the Quintana Roo Institute for Women and INM in order to obtain from INM training in awareness-raising and looking after migrant women.

(6) Establish a State Migration Board: Quintana Roo Institute for Women and Benito Juárez branch office, INM, State Commission on Human Rights, Office for the Defence of Minors and the Family, Ministry of Internal Affairs, COMAR, a representative of non-governmental organizations and a representative of civil society.

***Activities:***

- (1) Look into the causes of migration in the state of Quintana Roo.
- (2) On the basis of the above, analyse the principal components of migration in Quintana Roo.
- (3) Establish a forum and/or space where each participant in the Board can describe what his/her institution has to offer that is applicable to the situation of migrant women in the State.
- (4) Design a programme for the benefit of migrant women (programme design and schedule of activities).
- (5) Conduct periodic follow-up and evaluation of progress and achievements in dealing with migrant women.

66. INMUJERES has done a number of things to facilitate the design and establishment of policies, programmes and plans and comprehensive, joint inter-agency activities that will foster respect for the rights of migrant women and their families:

- Concluded an agreement with the National Institute for Migration on 26 April 2004 and with the Institute for Mexicans Abroad on 25 November 2004;
- Conducted a forum on “Women and international migration on the southern border” in Tuxtla Gutiérrez, Chiapas, in conjunction with the Chiapas Institute for Women, INM, COMAR, the Mexico branch office of the Office of the United Nations High Commissioner for Refugees and the Centre for Research and Higher Study in Social Anthropology (CIESAS), on 4 and 5 November;
- Conducted a forum on “Women and internal migration in Mexico” in December 2004 in conjunction with INM and the Guanajuato Institute for Women;
- Conducted a two-nation forum on “women living and working in the United States” in Indianapolis, Indiana, United States, on 25 October 2004;
- Worked with the Ministry of the Interior on the formulation and adoption by consensus of the National Human Rights Programme, Migrants subprogramme;

- Set up the Gender and Migration Virtual Network;
- Established the Inter-Agency Gender and Migration Coordination Board. The first meeting was held on 1 June 2005. The Board currently comprises 31 Federal and State governmental bodies, state institutes for women, academic institutions, non-governmental organizations and religious associations;
- Run a national workshop on “Internal migration and gender: starting point, transit and destination” on 9–11 November 2005 in Guanajuato;
- Helped, with INM, to run three training workshops on migration and human rights in the States of Monterrey, Veracruz and Merida, and three comprehensive training certificate courses for Beta officials in Hermosillo, Sonora;
- Ran a two-nation training workshop on gender and migration on the southern border in coordination with INM and the Quintana Roo State Agency for Women;
- Ran a two-nation training workshop on gender and migration on the northern border in conjunction with INM, the Institute for Mexicans Abroad and the Ciudad Juarez Institute for Women, Chihuahua, on 10 and 11 August 2005;
- Produced a handbook on gender and migration for public officials;
- Produced a handbook on sexual and reproductive health for migrant women.

Activities launched by other institutions in which INMUJERES has participated in order to incorporate a gender perspective:

- Helped INM run a training workshop on migration and human rights in the Federal District;
- In connection with internal migration, attended working meetings of the Intersectoral Programme for Female Agricultural Day-Labourers on (a) helping to assert the rights of female agricultural day-labourers’ children, (b) certifying improvements in living conditions for day-labourers in migrant shelters, and (c) regulating migrant transit.

67. While it is true that INMUJERES has conducted a number of campaigns to stamp out gender-based stereotypes, it has to be admitted that this is a social process which will take time, and the Government is aware of the problem.

**Please explain the rationale behind article 67 of the General Population Act, which allows only foreigners who are lawfully in the country to bring legal action (see para. 172 of the report). Please also clarify in this context how illegal migrant workers and members of their families can exercise their right to an effective remedy in accordance with article 83**

**of the Convention and specify which judicial, administrative, legislative or other authorities are competent to receive complaints of alleged violations of migrant workers' rights.**

*Paragraphs of the report: 172–178, 260–271*

68. Article 67 of the General Population Act establishes that public officials who have been invested with the public's trust are obliged to demand from foreigners who raise matters falling in their competence that they prove that they are staying in the country legally. However, this neither excludes nor limits access by migrants to the justice system. Article 1 of the Constitution stipulates that any person in the national territory shall enjoy the "guarantees granted by this Constitution". The Constitution clearly states that this is true for every person; thus, no distinction is made on the basis of on the person's migratory status. Among the various guarantees ensured by the Constitution are the guarantees of access to the justice system and of effective appeal.

69. In addition, if any violation were to be committed of such rights, a migrant could bring a case before the National Human Rights Commission (CNDH), which is competent throughout the national territory to receive and investigate complaints of presumed human rights violations. The National Human Rights Commission has a migrants' programme run by the Fifth Inspectorate-General, a service established by the CNDH president in an agreement dated 15 December 2004, which began operating on 1 January 2005. Previously, the programme in question had been under the responsibility of the First Inspectorate-General.

70. While it is a priority for the National Human Rights Commission to defend the human rights of migrants and to ensure that they are respected, the Fifth Inspectorate-General hears cases related specifically to migration and strengthens cooperation mechanisms with federal and local authorities dealing with migration issues and with the public human rights bodies and non-governmental organizations active in that field.

71. To provide better attention to complaints of human rights violations committed against migrants, the National Human Rights Commission has set up offices at various locations along the northern and southern borders. The Fifth Inspectorate-General thus has regional offices in Tijuana, Baja California; Ciudad Juárez, Chihuahua; Nogales, Sonora; Reynosa, Tamaulipas; Tapachula and San Cristóbal de las Casas, Chiapas; Coatzacoalcos, Veracruz; and Villahermosa, Tabasco. There are also mobile offices (called "ombudsmobiles") that travel in areas with large migrant populations in order to facilitate the lodging of complaints and activities to promote the situation of migrants.

**Please inform the Committee about safeguards taken to ensure that "anti-maras" measures (against gang violence) do not disproportionately affect migrant workers and members of their families, especially children and adolescents.**

*Paragraphs of the report: 203*

72. In Mexico, there is no specific legislation specifically addressing the gangs known as *maras*.

73. However, the Ministry of Public Security has adopted measures which basically consist in designing and implementing a migrants' human rights training programme for the Federal Preventive Police. The programme is given by specialists from the National Human Rights Commission, INM, the Ministry of Foreign Affairs and the International Organization for Migration, along with experts from the force itself and from its local administrative bodies.

74. This programme is intended for all operational and field staff who carry out INM immigration checks and support activities at airports, ports and border crossings. It includes training for trainers who disseminate information and knowledge among new staff, in addition to carrying out further training.

75. A good knowledge of the law and its scrupulous enforcement make it possible to apply it where necessary against individuals who, whether or not they are members of a given criminal group, break it. Thus, the human rights of migrants and their families who do not engage in any illegal activities, regardless of their immigration status, are guaranteed, in so far as the guiding constitutional principle of professionalism is applied.

### **B. Part III of the Convention**

**Please inform the Committee about progress made in ensuring that migrant workers and members of their families who are detained for violations of provisions relating to migration are not held together with convicted persons or persons detained pending trial. Please also provide information on what practical measures have been taken to ensure that migrants are not secured for indefinite periods, and what results have been obtained.**

*Paragraphs of the report: 28, 29, 106, 183, 239, 257–259, 278, 292, 298, 408, 510*

76. Any migrant detained for immigration offences is interned, in accordance with article 208 of the regulations of the General Population Act, in facilities known as “migrant holding centres” that house only undocumented migrants. The migrants are therefore not mixed with prisoners, convicts or persons detained pending trial. The migrant holding centres are not part of the federal penitentiary system.

77. Article 94 of the regulations of the General Population Act empowers the Ministry of the Interior, in specific cases and on an exceptional basis, to use pretrial detention facilities as migrant holding centres, only for the time that is strictly required:

*Article 94.* The Ministry may establish or equip, at premises that it considers appropriate, migrant holding centres for the temporary stay of foreigners not meeting immigration requirements upon verification of their documentation, or to house, as a security measure, foreigners awaiting expulsion. In places where the Ministry has no established migrant holding centres, pretrial detention facilities shall be considered as equipped to secure foreigners awaiting expulsion.

In no case shall penitentiaries for convicted prisoners be equipped for this purpose.

When the health authorities rule that foreigners must be interned at medical holding centres, the Ministry shall have the authority to take the supervisory measures it deems appropriate if the foreigners in question have not been authorized to enter the country.

78. As for ensuring that migrants are not secured for indefinite periods, the General Population Act and its regulations have always limited the duration of the various procedures for which they provide, including the administrative migration procedure, thus limiting the time during which migrants may be held.

79. The maximum period that a migrant may be held at a migrant holding centre with a view to regularizing his status must not exceed 90 days.<sup>10</sup> Efforts are made to expedite the administrative immigration procedures so as to speed up the regularization or repatriation, as the case may be, provided the migrants in question cooperate and the identification papers and travel documents required to finalize the procedure are available. This reduces the time during which they are held.

80. Thanks to safe and orderly repatriation agreements between Mexico and the countries of Central America, the stays of Central American migrants at migrant holding centres are generally 24 to 48 hours long, except when there is some legal or administrative impediment to their leaving the holding centres.

81. Such actions are intended to reduce arbitrariness in the length of time migrants in an irregular situation can be held.

82. The speed with which the various countries' consulates and diplomatic representatives in Mexico take action and the extent of their cooperation play a decisive role in determining the number of days foreigners stay at migrant holding centres. When the migrant's home country has no diplomatic representation in Mexico, its representatives in the United States of America must promptly obtain the necessary identity papers and travel documents in order to enable the procedure to which the foreigner is subject to be completed.

83. As for the conditions of stay, action has been taken under the programme for upgrading migrant detention centres to improve the physical conditions and services at migrant holding centres. The aim is to provide better care for the foreigners during their entry, stay and departure at such centres, with strict respect for their dignity and human rights.

**With reference to paragraph 289 of the report, please provide information on measures taken to harmonize domestic legislation with article 21 of the Convention. Please also provide information on measures taken to prevent the retention of identity documents by persons other than authorized public officials, such as employers or recruitment agencies.**

*Paragraphs of the report: 289, 290*

84. As indicated in the reply to question 4, INM is currently working on a bill to bring the national law into line with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

85. Currently, under articles 7 and 151 of the General Population Act, the Ministry of the Interior, through the staff of the immigration service and the Federal Preventive Police, is responsible for checking and supervising foreigners in the country.

86. Article 195 of the General Population Act regulations stipulates that the immigration authorities must give reasons for the action they take, and must in all cases respect human rights and follow the relevant legal procedures.

87. In discharging its duties, the Ministry of the Interior is mandated to ensure respect for human rights, in particular by avoiding the separation of the families of persons covered by the General Population Act. Persons such as employers or employment agencies are not authorized to retain any papers belonging to migrants.

**According to information received by the National Human Rights Commission, the migration authority is not the only body that checks the migration status of individuals and detains undocumented migrants. In this connection, please clarify: (a) what other authorities are involved in this procedure; (b) whether there are regulations that permit such actions by authorities other than the migration authority; and (c) what role is played by the armed forces in controlling migration, particularly on the southern border.**

*Paragraphs of the report: 129, 210, 233, 236, 238, 275, 278, 289, 309, 515*

88. As indicated in the preceding paragraph, article 195 of the General Population Act regulations stipulates that the Ministry of the Interior, through the staff of the immigration service and the Federal Preventive Police, carries out any appropriate duties related to immigration control and supervision of foreigners in the country.

89. For its part, article 73 of the General Population Act stipulates that “authorities who by law have under their command federal, local or municipal forces shall provide assistance to the immigration authorities when so requested, in order to enforce the provisions of this Act”. In addition, article 92 of the regulations establishes that the Ministry’s auxiliary immigration authorities are: Mexican government officials assigned to work in other countries and empowered to carry out consular tasks, and in the absence of authorities of the Ministry itself, officials of the Ministry of Health, of the customs service and of harbour-masters’ offices.

90. Similarly, articles 17 and 151 of the General Population Act recognize the Federal Preventive Police and the Ministry of the Interior through its immigration service (INM), as the authorities legally empowered to carry out immigration checks of foreigners.

91. In the event that such activities should result in the detention by a police authority of a foreigner in an irregular situation, once the authorities have completed the procedures corresponding to their duties, they are under an obligation, under article 72 of the General Population Act and article 202 of the Act’s regulations, to place any foreigners in an irregular situation at the disposal of INM.

92. In accordance with article 29 of the Federal Public Administration Organization Act and article 1 of the Mexican Army and Air Force Organization Act, the Ministry of Defence does not carry out any kind of immigration checks on undocumented persons transiting through the country, as such checks are outside its field of competence.

**Please explain the reasons why, in some cases, the Government of Mexico restricts free transit through its territory to migrant workers and their families, even when they have documentation entitling them to be in the country.**

*Paragraphs of the report: 370, 371, 372*

93. With reference to the free transit through the national territory of migrant workers, articles 32, 33 and 34 of the General Population Act establish the procedures for foreign immigration.<sup>11</sup> In particular, they stipulate that the Ministry of the Interior shall establish, following the corresponding demographic studies, the number of foreigners to be admitted to the country, by activities or by area of residence, and shall make immigration of foreigners subject to the procedures that it deems appropriate, based upon their abilities to contribute to national progress.

94. In this connection, article 139 of the General Population Act regulations stipulates that: “Foreigners shall only be permitted to carry out the activities expressly authorized by the Ministry, and when the procedures so require or it is deemed necessary, their place of residency shall be noted in the corresponding authorization. In cases where the public interest so requires, the Ministry may, by means of general administrative provisions, establish restrictions on the place of residence or transit of foreigners, or any modalities for the activities in which they may engage.”

**Please provide information on measures taken in response to allegations of the involvement of immigration officers and/or public officials in extortion, ill-treatment and physical and verbal abuse against migrants. Please provide information on any investigation or prosecution in this respect and on sanctions imposed, if any.**

*Paragraphs in the report: 129, 187*

95. As the Committee is aware, under article 16 of the Constitution, “No one may be disturbed in his or her person, family, residence, papers or possessions, except by virtue of a written order from the competent authority substantiating the relevant legal basis”; while under paragraph 3, “Any authority who executes an arrest warrant shall be strictly responsible for placing the accused at the disposal of the court without delay. Failure to do so shall be punishable under the criminal law.” Thus acts of this kind by private individuals or officials are liable to criminal proceedings.

96. Similarly, article 47 of the Federal Act on the Administrative Responsibilities of Public Servants establishes the obligations of public servants, which include “to assiduously provide the service for which they are responsible and refrain from any act or omission that might result in the interruption of that service or a reduction in quality, or that might constitute an abuse or improper use of their office, post or assignment.” Article 50 of the Act sets forth the sanctions to be applied to officials who fail to comply with those obligations.<sup>12</sup>

97. In addition, the 2005/2006 programme to promote transparency and combat corruption includes specific measures to punish offences reportedly committed by the authorities, with the main aim of ensuring that migration procedures and services are performed with transparency and in accordance with the law, and also of guaranteeing secure entry to the country in accordance with the law and with due regard for the human rights of migrants.

98. Possible illegal acts to be eliminated include:

(a) Likely involvement of officials in trafficking of undocumented migrants and other Federal and ordinary offences;

(b) Incorrect or delayed application of relevant procedures in cases of violation of migration law; and

(c) Possible involvement of officials in extortion when reviewing cases on entry to the country or dealing with migrant documentation.

99. The programme involves the following units of the National Institute for Migration, which work together and have responsibility in their respective fields of competence: Migrant Regularization Coordinating Centre; Control and Verification Coordinating Centre; Compatriots Programme; Legal Coordination Office; Planning and Investigation Coordination Office; Delegations Coordination Office and Beta groups.

100. The aim of these investigations is to maintain the quality and transparency of public administration and improve public processes and services. To that end, inspections are carried out on individuals and corporate bodies hiring foreigners; counts are made of the percentage of complaints against foreigners that are resolved in a maximum of 70 days, and of the percentage of complaints to the National Human Rights Commission that do not give rise to a recommendation; and complaints of violations of migrants' human rights are received, registered and followed up.

101. Investigation procedures include exchanges of information with the institutions involved in combating trafficking in persons at the three levels of Government; a review of the Integrated System for Migration Operations (SIOM) modules; promotion and implementation of cooperation agreements with the Office of the Attorney-General of the Republic and the judicial authorities in order to establish channels for communication and exchange of information on the progress and outcome of preliminary investigations and judicial proceedings in respect of complaints brought by the National Institute for Migration; general or specific supervisory or evaluative inspections of the regional offices; and strengthening of ground-patrol strategies in risk and high-influx zones, on the distribution of the "Human rights primer for migrants" and on orientation.

102. In addition, the Federal Preventive Police, in accordance with article 9, section III, paragraph H (b), has an internal affairs office and, in accordance with paragraph 2 of the Federal Preventive Police regulations, an internal oversight body and an honour and justice commission, which are responsible for investigating and, where administrative liability is found, imposing sanctions, regardless of any settlement in respect of criminal liability before the Public Prosecutor's Office or the competent court.

103. Likewise, the Department of Public Security, in accordance with article 16 of its internal regulations, has a special section to deal with alleged human rights violations, with requests for reports and with complaints, conciliation and recommendations on migration issues from the National Human Rights Commission.

**Please clarify the concept of “securing” migrants and explain how it differs from a detention system. Please also provide updated information on measures taken to improve detention conditions, in particular through the provision of adequate food, sanitation and medical care, and measures to alleviate overcrowding. In this connection, please indicate whether there are any obstacles to the effective implementation of the “Programme for upgrading migrant detention centres”, mentioned in paragraph 245 of the report.**

*Paragraphs in the report: 28, 183, 239, 245, 246–250, 252–257, 278, 292, 298*

104. In Mexican migration law, the term *aseguramiento* (“securing”) refers to an administrative measure applied by the migration authorities, as they are empowered to do, in migrant holding centres or establishments adapted for that purpose, until such time as a foreigner’s migration status has been determined. As mentioned in paragraph 28 of Mexico’s report, this approach avoids undocumented migration being treated as a crime.

105. With regard to the conditions in the migrant holding centres, under article 73 of the General Population Act, “The Ministry of the Interior shall establish migrant holding centres wherever it deems necessary, in order to accommodate, by securing as appropriate, foreigners who have been granted provisional entry or are due to be deported.” Under article 209 of the General Population Act regulations, “When a foreigner is secured in a migrant holding centre pending expulsion for a violation of the Act, these regulations or other applicable provisions, the following procedure must be followed: ... (f) he or she shall be provided during his or her stay with proper accommodation, food, basic toiletries, and medical care if needed.”

106. In migration matters, the term “securing” applies in the following circumstances under the General Population Act:

*Article 71.* The Ministry of the Interior shall establish migrant holding centres wherever it deems necessary, in order to accommodate, by securing as appropriate, foreigners who have been granted provisional entry or are due to be deported.

*Article 128.* For all legal purposes the expulsion of foreigners, and the measures ordered by the Ministry of the Interior for securing foreigners in migrant holding centres or places adapted for that purpose when the intention is their expulsion from the country, are matters of public order.

*Article 152.* If the verification process brings to light any violation of the Act, these regulations or other applicable provisions such as to warrant a foreigner’s deportation, the foreigner may be secured by the authorized officials.

107. The terms “detention” or “detainee”, by contrast, apply in criminal matters, as, for example, in article 16, paragraphs 4 and 6, and article 19, paragraph 1, of the Constitution.

108. Secured foreigners are housed in National Institute for Migration accommodation, whereas those awaiting criminal trial or serving a custodial sentence are held in the social rehabilitation centres or penitentiaries designated by the Federal or State Government for that purpose, security in such centres being the responsibility of the federal or state ministries of public security, as appropriate.

109. Every migrant holding centre provides secured migrants with three meals a day. In addition, the National Institute for Migration and the Ministry of Health are finalizing the details of an agreement guaranteeing permanent medical services in all Mexico's migrant holding centres.

110. In order to avoid overcrowding in the migrant health centres and to properly manage repatriation flows, the Migrant Holding Centre Securing and Transfer System was launched on 17 January 2006; this makes it possible to establish, in real time via the Internet, the number of foreigners secured in each centre, which means precautions can be taken to minimize any risk of emergencies arising as a result of overcrowding in any of the centres.

111. The programme for upgrading migrant holding centres aims to enhance physical conditions and services with a view to improving the treatment of secured migrants as they enter and leave the centre and during their stay, while fully respecting their dignity and human rights, in accordance with the General Population Act and its regulations and the Agreement on Operating Standards for INM Holding Centres.

112. Measures taken to upgrade the migrant holding centres include:

- (a) Standardization of the consular notification form for the 32 regional offices and migrant holding centres;
- (b) Standardization of the procedure and formats for securing, holding, status-determination and discharge of migrants in the centres;
- (c) Installation of public telephones in migrant holding centres for the use of secured foreigners;
- (d) Installation of complaints and suggestions boxes in the centres;
- (e) Courses and workshops on operational standards in migrant holding centres for migrant officials in all centres, in order to improve the application of migration procedures;
- (f) Distribution of leaflets explaining the 13 basic rules of the migrant holding centres; 20 other leaflets are also being produced;
- (g) Installation of offices of the National Human Rights Commission, consulates and the Mexican Refugee Assistance Commission in category A migrant holding centres, to provide information and advice and prevent any violations of secured migrants' rights;
- (h) Improved treatment of foreigners by providing information on the migration procedure, their rights and the progress of their own determination process;

(i) Establishment of a more efficient network of routes and transfers for repatriating secured migrants to their countries of origin.

113. For 2006, the National Institute for Migration revised the programme for upgrading migrant holding centres in order to provide for more space and standardized services in all migrant centres, and consequently now has renovation and/or building work under way which will offer secured migrants more dignified accommodation. Results to date are as follows:

- In 2003, 23 migrant holding centres were upgraded;
- In 2004, 18 centres were upgraded;
- In 2005, 11 centres were upgraded;
- In 2006, six will be upgraded, including two newly built model centres.<sup>13</sup>

114. In 2003, 23 migrant holding centres were upgraded, representing an investment of more than 3 million pesos. In 2004, 18 were upgraded, for an investment of 4.5 million pesos. Upgrades in 2005 cost 4 million pesos and in 2006 the maintenance cycle is scheduled to start again for the centres upgraded in 2003.

115. The migrant holding centre built at Tapachula, Chiapas, and opened on 30 March 2006, represented an investment of more than 82.5 million pesos. For the construction of the centre at Acayucan, Veracruz, 85 million pesos was invested and for the one built at Janos, Chihuahua, 15.6 million pesos – both should be completed in the second half of 2006.

116. A further eight centres are to be built under the Programme for upgrading migrant holding centres, at Tabasco, Oaxaca, Veracruz, Nuevo León, San Luis Potosí, Sonora, Jalisco and Querétaro; construction will begin during the present Government's term of office. Six more centres have been set up by the National Institute for Migration under the current Government, in Baja California, Baja California Sur, Tamaulipas, Coahuila, Michoacán and Yucatán, in addition to the model centres being built at Janos, Chihuahua and Acayucan, Veracruz. Building of the model centres at Janos, Chihuahua and Acayucan, Veracruz, is scheduled for completion by the second half of 2006.

117. The size and characteristics of the new centres represent a radical departure from the earlier migrant holding centres, providing more space and services and thus better accommodation to secured foreigners; they do an important job given that flows of undocumented migrants have swelled by 74 per cent over the past four years, with an increase in the number of secured persons from 138,061 in 2002 to 240,269 in 2005.<sup>14</sup>

118. The Tapachula (Chiapas) migrant holding centre has a capacity of 960 and replaces the old facilities built 13 years ago. The new centre has an area of 30,000 m<sup>2</sup>, with dormitories, a refectory, medical services, recreation areas and consular and National Human Rights Commission offices.

119. There are also separate visiting facilities for families, children, adults and young people, and a videoconferencing system for foreigners with no consular offices in Mexico.

120. The centre was designed in consultation with the National Human Rights Commission and the International Organization for Migration, the body responsible for cooperation in migration matters between 127 countries.

121. The new centre will solve the problems of overcrowding noted throughout the region, and particularly in the State of Chiapas, where 43 per cent of the total number of migrants secured by the National Institute for Migration in the country as a whole are to be found.

122. At the same time, the Ministry of Health has been working with the Chiapas Ministry of Health and the National Institute for Migration to develop a national programme with staff trained to deal with the secured migrant population and migrants travelling through Chiapas State.

123. The programme is working along three lines of action, the first of which is medical care for transmigrants, seasonal migrants with work permits, frontier workers, secured resident migrants and secured migrants in migrant holding centres.

124. Medical care for the secured migrant population comprises regular consultations and the issuance of a medical certificate including a medical check-up. Provision has also been made for centres to receive expert nutritional advice, including a cycle of 30 balanced and qualitatively and quantitatively adequate menus every month, suitable for the women, men, children and young people in the centres.

125. The second component is public health, including epidemiological monitoring as part of the Mexico-Guatemala Cross-Border Health Programme. The third and last component deals with health risks.

126. The problems arising along the southern border in relation to sectorally transmitted diseases and health risks must be addressed regardless of the migration situation of the migrant population.

127. Consequently, efforts are being made to develop a comprehensive cross-border health system, known as the "Healthy Borders System".

128. The main obstacles to full implementation of the migrant holding centre upgrade programme include:

(a) Lax application of the special regulations governing the operation of the centres (General Population Act and its regulations; Agreement on Operating Standards for INM Holding Centres);

(b) The exponential increase in numbers of secured migrants, which means that despite the significant improvements made to the migrant holding centres, there is an ever-increasing demand for resources to cope with the migration problem.

**Please inform the Committee about any specific measures taken to protect domestic migrant workers, particularly women, who are often subjected to such abuses as long workdays, lack of health insurance, physical and verbal ill-treatment, sexual harassment, and threats because of their undocumented status.**

*Paragraphs in the report: 433, 53, 203 (notes 178 and 182)*

129. In respect of migrant domestic workers, the following provisions of article 123, section A, of the Constitution, should be noted: “For workers, day labourers, employees, domestic workers, artisans, and in labour contracts in general, the maximum length of the working day shall be eight hours or, for night work, seven hours. Unhealthy or hazardous work, industrial night work and all work after 10 p.m. by persons aged under 16, is prohibited. The employment of persons aged under fourteen years is prohibited; persons aged over 14 and under 16 shall have a maximum working day of six hours. For equal work, there shall be equal pay, regardless of sex or nationality.” These provisions are applicable across the board, which means that this safeguard covers all migrants regardless of their migration status.

130. Similarly, all labour, including that of migrant workers in domestic service, is regulated by the relevant legislation.

131. Accordingly, and taking account of surveys of migrant domestic workers – generally undocumented migrants – regarding their labour rights and the obligations of those employing migrants, articles 7 and 151 of the General Population Act provide for National Institute for Migration and Federal Preventive Police inspections of workplaces and work sites, which may give rise to the following situations:

(a) On inspecting a workplace or work site where the foreigners who work there do so with the appropriate migration permit but report some form of physical or verbal abuse, harassment, threats or any other kind of unlawful behaviour, the National Institute for Migration applies article 200 of the General Population Act regulations and so informs the competent authority;

(b) On inspecting a workplace or work site where there are foreigners who are working illegally, without the appropriate migration permit, and who also report some form of physical or verbal abuse, harassment, threats or any other kind of unlawful behaviour, the National Institute for Migration applies article 200 of the General Population Act regulations and so informs the competent authority, but also applies the procedure under articles 195 to 198 and 209 of the General Population Act regulations, as well as imposing fines on the owners and employers responsible for hiring illegal migrants, in accordance with article 140 of the General Population Act.<sup>15</sup>

132. Under article 204 of the General Population Act regulations, inspections may be carried out on the basis of any oral or written complaint.

133. As to employers’ duty to verify immigrants’ migration status before registering them in the social security system, article 74 of the General Population Act describes the obligations of anyone wishing to employ foreigners.

134. The National Institute for Women (INMUJERES) is planning a debate on internal and international migration into urban areas of Mexico, which will deal with concrete issues such as domestic labour, prostitution, informal labour and indigenous migration in the context of the human rights of women migrant workers.

135. The Ministry of Labour and Social Security runs awareness-raising and information campaigns in order to promote respect for and defence of the labour rights of women workers regardless of their migration situation. The following activities were carried out in 2005:

- Promotion of the defence of women's right to labour equality and freedom from violence and harassment: 94,457 copies of a charter of women workers' rights and obligations were distributed. As part of the "Fair Legislation" campaign, 13,978 leaflets on equal opportunities and equal work for equal pay and against the certification of non-pregnancy, were distributed. A leaflet on equality for women and the Ministry's mission was also distributed;
- With the help of external credits, information was also distributed on the charter of women workers' rights and obligations (15,232), institutions offering services (5,020), a comparison of legislation on sexual harassment in the workplace (4,815), eliminating sexual harassment at work (5,124) and the certification of non-pregnancy (10,296). In addition, 5,000 studies on work-life balance were printed and 290 of them distributed; and 5,000 kits on the conceptual, legal and social framework for the prevention and elimination of the worst forms of child labour were printed. Lastly, 5,000 information kits on women workers were printed, containing leaflets on violence at work, more and better jobs for women in Mexico, institutional services and work-life balance;
- As part of the Fair Legislation campaign coordinated with the National Institute for Women, a radio commercial on equal opportunities at work and equal pay, and against the certification of non-pregnancy was prepared and broadcast nationwide. The national newspapers published in the Federal District also carried a written version in April and May 2005.

136. In order to promote and inform on labour equality for women, nine editorials were published in electronic format on topics relating to women and work, and on "Beijing +10: Mexican women 30 years after the first World Conference on Women".

- Articles on women at work on the Ministry of Communications and Transport's page on the e-Mexico Internet portal were updated to make information in various links available to the general public, on issues such as women's visibility, women's rights, health, safety, education and gender, economics and work and men and gender equality. The portal offers support and advice to women in these areas, as well as opportunities for dialogue in forums and interactive communities.<sup>16</sup>
- On the basis that what determines the value of labour is primarily the dignity of the individual, 141 leaflets on "A job well done (Ministry of Labour and Social

Security)” were distributed. Also distributed were 470 videos on women with equal opportunities in the New Labour Culture and on violence at work, and 780 2005 calendars on the theme of women with equal opportunities in the new labour culture.

- Printed material has been disseminated through, among others, trade unions, associations and chambers of industry, educational institutions, members of the legislature, the media, civil society organizations, museums, embassies, State Governments, the Federal District Government and departments of the Ministry of Labour and Social Security such as Federal labour offices and State employment offices, as well as State branches of the Federal Office for the Defence of Workers, FONACOT (a fund to promote and guarantee consumption by workers) and the Conciliation and Arbitration Boards.
- Action to combat violence against women at work. To encourage action to raise the esteem of women’s work and combat violence in the workplace, the Ministry has promoted working women’s rights in leaflets on the prevention of sexual harassment, distributed by the federal labour offices to State and private institutions, civil society organizations and interested individuals, and has publicized, coordinated and organized various major events.
- The Ministry also worked on the workplace violence research project, which culminated in a publication dealing with sexual harassment, psychological harassment or workplace bullying, and discrimination on grounds of reproductive functions, to be promoted and distributed in 2006.
- In order to coordinate and follow up action to promote better conditions and increased opportunities for working women, the Ministry took an active part in events organized by State and private bodies on topics relating to the situation of women at work. It also took part in working meetings, most notably those of the Working Group on the Social Advancement and Human Rights of Women, of the Ministry of the Interior’s subcommission for coordination and liaison for the prevention and eradication of violence against women in Ciudad Juárez; the Ministry of Foreign Affairs; the Chamber of Small Businesses; the National Institute for Women; the Department of Public Security; and the International Labour Organization (ILO); as well as various events on working women and particularly on the subject of workplace violence, including interviews with the media and institutions such as ILO, IMER 660 AM and Radio NET 1490, highlighting the issue of violence in order to promote equity and equality in the world of work and prevent discrimination, particularly against women.
- Awareness-raising on the rights of women domestic workers. In order to highlight the importance of a legal framework and an appropriate environment that excludes discrimination and abuse and promotes the rights of male and female domestic workers, the Ministry distributed 908 copies of the report on a forum on domestic work held in 2003 (“Give your hands a hand”), which refers to migrant workers in Mexico.

- Work-life balance. Under the first phase of the Training and Employment Support Programme, which was financed in part through a contribution from the Inter-American Development Bank, the Bank's contribution was used for a work-life balance publicity campaign on the metro, with the aim of raising passengers' awareness of work-life balance and the need for fathers to spend more time with their children so as to balance personal, family and working life; this was a way of achieving stated information goals, since the campaign was based on the results of the study on work-life balance. In that sense the campaign is an extension of the efforts being made to design public policies to help balance working life and family life, for which that study was the starting point.

137. An event was organized in 2005 to announce the results of the study on "Balancing working life and family life in order to achieve equal opportunities at work", enabling participants to examine women's situation in terms of responsibilities at work and within the family and thereby contribute to a labour policy that would promote a balance between working life and family life for women workers and their families, and provide a sufficient basis for strategies for improving working conditions for women and their families, contribute to a strengthening of parental responsibility in order to enhance performance at work for men and women workers and their families on the basis of the values of the new labour culture, and, lastly, encourage the identification and systematization of best practices and experience at the international and national levels in promoting work-life balance in the various production sectors.

138. One of the reasons for publicizing this study was that balancing working life and family life is a response to one of the most significant social changes of the second half of the twentieth century, namely the inclusion of women in the world of work outside the home. The study suggests that this process requires the effective and active inclusion of men in the domestic arena, as has slowly but surely begun to happen, and makes proposals for the policies and actions required of companies, the law and society at large in order to bring about an effective balance. These instruments will make it possible to promote public policies in this regard during 2006 and set up a national programme to balance working life and family life, which will outline cross-cutting, long-term, concrete strategies that will ensure a balance between men's and women's working lives and family lives and thereby redress the inequality between the world of work and domestic responsibilities.

**With reference to article 25 of the Convention, please provide more detailed information on measures taken to ensure that undocumented migrant workers enjoy equal treatment with regard to conditions of work, such as hours of work, rest days, paid holidays, safety and health, and other terms of employment.**

*Paragraphs in the report: 317–318, 324–327*

139. As indicated in the previous reply, all workers enjoy the same guarantees and safeguards under labour law.

140. Concrete action taken by Mexico in this regard includes the following. On 28 January 2005, at the second meeting of the Mexico-Guatemala subgroup on agricultural labour matters, held in Mexico City, it was agreed that the best way to address the situation of Guatemalan agricultural workers was through information exchange and dialogue.

141. The Mexican delegation submitted for the Subgroup's consideration a joint draft of a guide to migrant agricultural workers' labour rights, in leaflet form, as a simple means of disseminating information on the rights of Guatemalan workers in Mexico and the authorities available to assist them.

142. The parties also reviewed the bilateral cooperation activities carried out by the Subgroup. To date such activities have been in the areas of: (a) the competence of Mexican authorities; (b) legal remedies available to workers; (c) the General Population Act, the Federal Labour Act and the Social Security Act; (d) distribution of the Charter of Labour Rights and Obligations in indigenous languages; and (e) distribution of the Visiting Agricultural Worker Migration Form.

143. Similarly, at the Fourteenth Inter-American Conference of Ministers of Labour of the Organization of American States (OAS), held in Mexico City on 26 and 27 September 2005, the Minister of Labour and Social Security urged that the agreements reached at the meeting should also cover migrant workers, regardless of status. Paragraph 25 of the Declaration of Mexico, "People and their work at the heart of globalization", reads as follows:

"We reaffirm that all migrants, regardless of their immigration status, should be accorded the full protection of human rights and the full observance of labor laws applicable to them, including the principles and labor rights embodied in the ILO Declaration on Fundamental Principles and Rights at Work."

144. Thus, in the Declaration of Mexico, the Labour Ministers of 34 countries of the region recognized the importance of decent employment within a globalization process that attends to the human dimension, notably by promoting respect for the labour rights of migrant workers, whatever their status.

145. Continuing in the same vein, paragraph 26 of the Declaration of Mar del Plata, "Creating jobs to fight poverty and strengthen democratic governance", of the Fourth Summit of the Americas, endorsed the agreement reached at the Fourteenth Inter-American Conference of Ministers of Labour, thereby firmly establishing it as a commitment of the Heads of State and Government meeting at Mar del Plata, Argentina, on 5 November 2005.

**Please provide information on the measures taken to ensure that undocumented migrant workers enjoy equal treatment with respect to social security benefits, particularly in the light of the requirement that employers verify the migratory status of migrant workers before registering them with the social security system (para. 326 of the report).**

*Paragraphs in the report: 317–319, 324–327*

146. Social Security legislation applies across the board to all who meet the criteria established in law; social security law makes no distinction between foreigners and nationals in the application of the safeguards contained therein.

### C. Part IV of the Convention

**With reference to paragraph 374 of the State party's report, please clarify how in practice migrant workers and members of their families can exercise the right to form trade unions, if they cannot form part of the leadership of such unions, and explain the reasons for that restriction. Please also explain whether migrant workers and members of their families can form associations other than trade unions, and whether they can be part of the leadership of such associations.**

*Paragraphs of the report: 323, 374, 535, 540*

Any worker in Mexico, irrespective of his or her migration status, has the right to trade union membership. Article 372 of the Federal Labour Act provides that workers and employers have the right to form trade unions without prior authorization. The only restriction placed on foreigners by that article is the prohibition on becoming a member of the leadership of a trade union, which does not affect their right to join any trade union.<sup>17</sup>

In that regard, it should be noted that articles 9 and 123 of the Mexican Constitution provide for the right to association in the following terms:

*Article 9.* The right to associate or peacefully assemble for any lawful purpose shall not be abridged; but 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.

No assembly or gathering that has as its object to make a petition or present a protest because of some act to an authority, shall be illegal or be dissolved, provided injuries are not suffered by the authority, nor use was made of violence or threats to intimidate it, or obligate it to respond in the manner desired.

*Article 123.* Every person has the right to decent and socially useful work. To this end, the creation of jobs and the social organization of work shall be promoted in accordance with the law.

The Congress of the Union shall, without contravening the following principles, pass labour laws which will regulate:

A. All labour contracts among workers, day labourers, employees, domestic workers, artisans and others:

...

XVI. Workers as well as business owners will have the right to come together with each other in defence of their respective interests; forming unions, professional associations, etc.; ...

**Please specify the measures taken by the State party, if any, to facilitate consultation with and participation by migrant workers and members of their families in decisions that affect the life and administration of local communities.**

*Paragraphs of the report: 391, 392*

147. The Mexican Government recognizes the role played by Mexicans living abroad in the promotion of development and the reduction of poverty in their communities of origin. Therefore, the Mexican Government supports migrants and the contribution they make, together with different governmental institutions, to local development and poverty eradication in their communities of origin, for example, through the “3 x 1” programme for migrants, which is coordinated by the Ministry of Social Development. The programme contemplates, among others, the participation of migrant workers in decision-making and the approval of social projects aimed at enhancing the socio-economic development of their communities of origin.

### **1. “3 x 1” programme for migrants**

148. The principal feature of the programme is that national, state and municipal efforts and resources and contributions from migrant groups and organizations abroad are combined, in order to implement projects that will help improve the quality of life of residents in poor communities with high levels of migration. The programme aims at fostering the sense of identity linking Mexicans living abroad with their communities of origin; investment is directed towards the most marginalized communities.

149. The aim of the 3 x 1 programme is to support the initiatives of citizens living abroad concerning projects that will improve the socio-economic conditions of the target communities by pooling national, state and municipality resources and contributions from the citizens resident abroad. The programme is designed to benefit residents of poor communities selected by the migrants that are in need of better basic social infrastructure and development of the productive capacities.

150. In order to receive financial support, the projects must:

(a) Be based on initiatives of migrants living abroad, preferably those represented by associations or organizations engaged in activities, among others, that benefit their communities of origin in Mexico;

(b) Be co-financed by migrant associations or organizations, the central Government, and the states and municipalities concerned;

(c) Help address shortcomings in terms of basic infrastructure and services or generate employment or sources of income for the population.

Over the period 2002 to 2005, the 3 x 1 programme facilitated the implementation of over 3,800 investment projects in 26 states. During the 2005 fiscal year, the programme was implemented in 26 states, with a budget of 230,129,870 pesos that financed the implementation of 1,703 projects and actions in 1,033 communities in 438 Mexican municipalities.

151. Similarly, the Ministry of Social Development supports agricultural workers that migrate between the states through the Programme for Agricultural Day Labourers.

## **2. Programme for Agricultural Day Labourers**

152. The Programme for Agricultural Day Labourers aims to improve the living and working conditions of the men and women who make up the agricultural day labourer population, based on comprehensive and adequate care through community development, institutional coordination between the three levels of government and agreements between growers, government institutions and the beneficiaries themselves.

153. The following specific aims should be highlighted:

(a) Encourage, promote and coordinate the involvement of the three levels of government and public and private, national and international bodies in the development of projects and actions that help create conditions of social welfare for agricultural day labourers;

(b) Encourage the organization and social participation of agricultural day labourers in identifying their needs and demands, and in implementing and evaluating projects and action taken on their behalf in the framework of the programme;

(c) Encourage and promote the co-participation of growers in the implementation of projects and actions aimed at improving the living conditions of the families of agricultural day labourers;

(d) Coordinate inter-institutional involvement in socially and economically viable projects that help build capacities, create opportunities, promote equity, establish a link between agricultural day labourers and their communities of origin, and improve conditions of work and migration in general;

(e) Assist the most vulnerable groups of the agricultural day labourer population, namely women, children, the elderly and the disabled.

154. The programme takes an integrated approach that is based on the needs of agricultural day workers and their families. The key projects include those related to housing and environmental health; food and nutrition; health and social security; education, culture and recreation; vocational training; the issuance of identity documentation; and the dissemination of human and labour rights.

**With reference to paragraphs 406 and 407 of the report, please provide information on the conditions under which family reunification is allowed and provide specific data in this respect.**

*Paragraphs of the report: 240, 406, 407*

(For more information, see paras. 195–199 and 211–242 below)

155. The National Scheme for the Comprehensive Development of the Family (DIF) promotes family reunification by returning the children and adolescents in transit shelters to their places of

origin. The transfer is carried out in compliance with the procedure for the verification of family relationships established by each of the Office for the Defence of Minors and the Family.

Operations concern the following areas:

- (a) Localization of family members;
- (b) Institutional liaison and coordination;
- (c) Transfer of the child or teenager;
- (d) Placement in an institution and/or family.

156. Once the children and teenagers have been transferred to their places of origin to be reunited with their families, an organizational framework must be set up to monitor the assistance afforded along the northern border; efforts must also be made in the area of prevention.

157. We also conduct:

(a) Social studies in support of localization. Coordination between the national and municipal schemes for the comprehensive development of the family at the northern border with those in the places of origin, so the latter can assist the former in locating and verifying the children's families by visiting their respective homes and conducting social evaluations and socio-economic studies;

(b) Reception and monitoring activities as regards transport from the border to the place of origin. Coordination between national and municipal schemes for the comprehensive development of the family at the northern border with those in the places of origin, in order to ensure the satisfactory transfer of children and teenagers, oversee the handover to their respective families or, where appropriate, place them in foster care or a temporary shelter, pending return to their family.

#### **D. Part V of the Convention**

**Please inform the Committee about the legislative framework and measures taken to ensure that seasonal agricultural workers throughout the country can fully enjoy the right to the same treatment as nationals in respect of health, education, fair pay, conditions of work and social security benefits.**

*Paragraphs of the report: 432–446*

158. The Government promotes equal treatment for foreign and Mexican seasonal agricultural workers. In this connection, article 1 of the Constitution states that: "In the United Mexican States, every individual will enjoy the guarantees that this Constitution grants, which shall not be restricted or suspended except in the cases and with the conditions under which the same is established." This universal provision applies to all persons, irrespective of their migration status.

159. Moreover, article 123 of the Constitution provides as follows:

*Article 123.* Every person has the right to decent and socially useful work. To this end, the creation of jobs and the social organization of work shall be promoted in accordance with the law.

The Congress of the Union shall, without contravening the following principles, pass labour laws which will regulate:

A. All labour contracts among workers, day labourers, employees, domestic workers, artisans and others:

...

VII. For equal work, there must be equal pay, regardless of sex or nationality.

160. The Federal Labour Act takes up these principles and establishes work as a right and social duty, which must respect the freedoms and dignity of the worker, and must be carried out in conditions ensuring the life, health and a decent standard of living for the worker and his or her family. Also, no distinction must be made between workers on the basis of race, sex, age, religious belief, political opinions or social status.<sup>18</sup>

161. The Act provides that no worker must be paid a lower salary than another providing equal work within the same company or business, the same professional category or working days of equal length, on the basis of age, sex or nationality. Under no circumstances must the standards for working conditions be lower than those established in the Act; they must be commensurate with the value of the services provided and the same for equal workers, without distinction on the basis of race, nationality, gender, age, religious belief or political opinions, except for categories expressly set forth in the Act.<sup>19</sup>

162. The Act further establishes that it is prohibited for employers to refuse to hire workers because of their age or gender, and grants women the same rights and duties as men.<sup>20</sup>

163. The Federal Labour Act also contains specific provisions on agricultural workers. It establishes that workers that are employed for three or more consecutive months by the same employer must be treated as in-house staff.<sup>21</sup>

164. In addition, article 283 of the Federal Labour Act provides that employers have the following duties:

(a) Pay the salaries in the place where the work or services are provided and within a time period not exceeding one week;

(b) Provide workers with comfortable and sanitary accommodation free of charge, in accordance with the number of family members or dependents, and with adjacent land to raise farm animals;

- (c) Keep the accommodation in good condition, undertaking necessary repairs where appropriate;
- (d) Stock first aid medication and materials in the workplace and train first-aid staff;
- (e) Provide health care for workers and their families or take them to the nearest place where they can receive treatment. The obligations mentioned in article 504, section II, of the Federal Labour Act also apply;
- (f) Provide medicines and treatment materials to workers suffering from tropical or endemic diseases or illnesses proper to the region free of charge, and pay 75 per cent of salaries for a period of up to 90 days;
- (g) Give workers working on the premises permission to:
  - (i) Get household water and water for the farm animals from the water tank;
  - (ii) Hunt and fish for personal use, within the legally limits;
  - (iii) Make free use of roads and pathways, so long as no harm is done to sown fields or crops;
  - (iv) Observe regional holidays in the habitual place;
  - (v) Promote the creation of consumer cooperatives among workers;
  - (vi) Promote literacy among workers and their families.

Conversely, pursuant to article 284 of the Federal Labour Act, employers may not:

- (a) Allow the entry of persons selling alcoholic drinks;
- (b) Prevent the entry of persons selling merchandise or charge them a fee; or
- (c) Prevent workers from raising farm animals on the premises adjacent to the accommodation assigned to them.

165. Agricultural workers have the right to work and social security benefits, which essentially depend on the nature of the work carried out and are the same as those afforded to other workers, irrespective of their nationality.

166. In order to improve the health and welfare of the population living on the Mexico-Guatemala border, cooperation agreements have been concluded between the respective health authorities in the areas of control of communicable diseases common to both countries; health care; and protection against health risks. The legal basis for such cooperation is the agreement concluded in March 2003 providing for the establishment of the Mexico-Guatemala Border Health Commission.

167. Mexico needs a comprehensive policy on migrant health, because it is a place of origin, transit and destination of migration. A distinction must be made between internal and external migration:

- (a) A total of 18.4 million Mexicans migrate inside Mexico following crop seasons;
- (b) Approximately 390 million Mexicans migrate to the United States and make up the net annual loss.

168. The number of migrant patients receiving treatment in hospitals located on the main migration routes has increased in absolute and relative terms. Surgical interventions mostly concern accidental amputations, head injuries and multiple fractures.

169. In the State of Chiapas, for example, the proportion of referral patients treated for train, car or other travel-related accidents has increased from 1.57 cases per 1,000 deported migrants in 2001 to 2.1 per 1,000 in 2003 (a 33.8 per cent increase).

170. Primary health care facilities in the border regions deliver care to all persons in need of treatment, regardless of their place of origin. Available services are those included in the basic health package; patient volumes are high, because the majority of the population has no social security coverage. Referral hospitals offer treatment in basic specialty areas and most of the patients are women and children.

171. The national health programme for 2001–2006 includes the programme of action entitled “*Vete sano, regresa sano*” (“Go healthy, come back healthy”), which offers a comprehensive package for health maintenance for migrants and their families through information, preventive care and treatment in places of origin, transit and destination of migrants. It also provides for the establishment of an office to promote bilateral cooperation.

172. The “Go healthy, come back healthy” programme is based on the following four strategies in the place of origin, transit and destination:

- (a) Basic information and guidance;
- (b) Communication and bilingual and targeted education;
- (c) Training in health education; and
- (d) Health care provision based on medical records.

173. Promotional material on migrant health such as the “ABC of migrants’ health” was prepared and an extensive radio campaign was launched that involves the dissemination of health messages on 80 topics, which are classified by age group and gender.

174. Thus far, migrant health actions have developed along various lines: health outreach aimed at establishing direct contact with the migrant population through exchanges of outreach workers and health professionals; systematization of information that may be of use to migrants; and support for bilateral research on migrant health issues.

**According to information received by the National Human Rights Commission, there have been reports of cases in which seasonal agricultural workers under the Visiting Agricultural Worker Migration Form (FMVA) Programme in the State of Chiapas have been subjected to physical ill-treatment by their employers. Please indicate whether the State party is addressing this situation and how it is doing so.**

*Paragraphs of the report: 432–446*

175. The guarantees contained in the Mexican Constitution apply to all persons living in the national territory, irrespective of their migratory status, and include the right to access to justice when fundamental rights are being violated. Residents may also appeal to the National Human Rights Commission when the alleged human rights violation was committed by a public official.

176. The Federal Labour Inspectorate attached to the Ministry of Labour and Social Security is responsible for monitoring compliance with labour legislation concerning agricultural day labourers, among others.

### **E. Part VI of the Convention**

**Please provide additional information on the extent of the phenomenon of trafficking in persons in the State party's territory.**

*Paragraphs of the report: 171, 203–225*

177. As far as trafficking in persons is concerned the National Institute for Migration (INM) joined the project entitled “Combating trafficking in women, young people and children in Mexico in 2004–2005”, an inter-agency effort to deal with networks associated with the problem in Mexico, which enjoys the support of the International Organization for Migration, the National Institute for Women (INMUJERES) and the Inter-American Commission of Women of the Organization of American States.

178. The main aim of the project was to provide technical assistance to prevent and combat trafficking in persons in Mexico, by studying the scale of the problem nationwide and by training staff in the bodies directly or indirectly concerned by the migration phenomenon in Mexico.

179. Broadly speaking, the project sought to overcome two basic obstacles in order to plan effective action in the area: the lack of objective, widely available information on the scale of the problem in the country; and limited awareness of the basic concepts, the scope of the definition of the offence and the relevant international instruments to which Mexico is party.

180. As part of the project, from November 2004 to May 2005, government training sessions were given at four seminars: one in Monterrey, Nuevo León, for officials of the northern border states; the second in Tuxtla Gutiérrez, Chiapas, for the southern border states; the third in Mexico City for senior federal and Federal District officials; and the fourth for representatives of the academic world, civil society and the media. More than 300 officials and members of civil society were trained at these seminars.

181. Moreover, given that one of the main obstacles to effectively combating trafficking in persons is the lack of awareness and information about the proportions this offence is assuming, a handbook, “Trafficking in persons: the basics”, was published in May 2006 as part of the project. The handbook is a general reference book on people-trafficking and related topics, such as prevention and identification, and assistance to and protection of victims; it also outlines proposals and courses of action. During the same period, two preliminary studies were conducted into the incidence of and conditions under which the offence of trafficking in persons is committed in the border areas of Tijuana, Baja California, and Tapachula, Chiapas, entitled “Preliminary survey of trafficking in persons: women and children. Mexico’s northern border” and “Trafficking in women and children on Mexico’s southern border”. These studies are among the first efforts to investigate what is being done about people-trafficking in Mexico.

182. In addition to the above, the National Institute for Migration was involved in the conclusion of:

(a) A memorandum of understanding on the protection of women and children from people-trafficking and -smuggling on the border between Mexico and Guatemala;

(b) An agreement between Mexico and Guatemala for the repatriation of Guatemalans, Salvadorans and Hondurans, in which specific times and places are laid down for repatriation operations, with special treatment for vulnerable groups and victims of trafficking; and

(c) An agreement between Mexico and El Salvador on the repatriation of the victims of trafficking, which provides for preferential treatment for vulnerable groups.

**Please update the Committee on the measures taken to criminalize trafficking in persons and to avoid criminalization of the victim and ensure his or her physical and psychological recovery and social reintegration.**

*Paragraphs of the report: 171, 203–225*

183. As far as the criminalization of trafficking in persons under Mexican criminal law is concerned, it should be noted that although articles 206, 207 and 208 of the Federal Criminal Code refer to the criminal offence of procuring, the types of conduct described do not cover those of the offence of trafficking in persons under article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children which complements the United Nations Convention against Transnational Organized Crime. For this reason, amendments to the Federal Criminal Code are in the process of being approved, with a view to criminalizing trafficking in persons without further delay.

184. In parallel, INM has carried out various activities with a view to eliminating such practices. For instance, in February 2006, it issued a provision stipulating that the victims of trafficking should be taken into the care of a person or institution of sound reputation. In that way, steps can be taken to ensure their physical, psychological and social recovery, including with the assistance of non-governmental organizations and other representatives of civil society,

while bearing in mind that the aim is to provide foreign victims with the means to ensure their overall stability, the regularization of their situation and to obtain a statement against the trafficker.

185. In this connection, it is worth noting that one of the activities of INM staff was the preparation, on 27 February 2006, of the basic list of questions to be asked when taking a statement or additional statement from foreigners at any time while they are being held. The list focuses on identifying and preventing the phenomenon of trafficking with the help of the victims themselves.

186. Although trafficking in persons is a criminal offence in some parts of the country only,<sup>22</sup> at the federal level the Office of the Attorney-General of the Republic ensures that in all cases of people-smuggling, procuring or corrupting minors or legally incapable persons, child pornography or prostitution or unlawful deprivation of liberty and labour exploitation, the persons responsible are brought to trial for each of those acts, which taken together constitute what is defined as trafficking in persons.

187. The Office of the Attorney-General of the Republic also has a department for crime victims, where the support of professionals in medicine, psychology and other fields is sought to improve care for victims. Every effort is made to treat migrants humanely and with dignity, irrespective of their migration status, and to be ready to cater for their medical and psychological needs where possible.

188. When cases of labour exploitation are identified in which migrants work excessively hard with wages below the legal minimum, again irrespective of their migration status, the federal labour authorities and the state and municipal authorities are informed of the situation, so that they can take appropriate action.

189. In this connection, it should be noted that the General Population Act clearly defines trafficking as a criminal offence:

*Article 138.* A penalty of six to twelve years' imprisonment and a fine equivalent to 100 to 10,000 times the daily minimum wage in the Federal District at the time the offence is committed will be imposed on anyone who, for the purposes of trafficking, either himself/herself or through an intermediary takes or seeks to take Mexicans or foreigners into another country without the relevant documentation.

The same penalty will be imposed on anyone who, acting alone or with another person or persons, illegally introduces without the relevant documentation issued by the competent authority one or more foreigners into Mexican territory with the intent of concealing them in order to avoid migration controls.

Anyone who knowingly provides the means, offers his or her services or assists in the acts described in the preceding paragraphs will be liable to five to ten years' imprisonment and a fine equivalent to 5,000 times the daily minimum wage in the Federal District.

The foregoing penalties are increased by up to a half when the conduct described involves minors or takes place in conditions or by means that endanger the health, physical integrity or life of undocumented persons or when the author of the crime is a public servant.

190. The foregoing is without prejudice to the provisions of articles 206, 207 and 208 of the Federal Criminal Code relating to procuring.

**Please provide information on measures taken to address allegations of the involvement of public officials in trafficking in and smuggling of migrants. Please also provide information on any investigation or prosecution in this regard and on the sanctions imposed.**

*Paragraphs of the report: 171, 205, 208, 215–219, 515, 516, 518, 524, 525, 545*

191. With a view to facilitating investigations into and bringing legal action against criminals involved in cases of trafficking in persons or migrants, INM is currently drafting a procedure for providing assistance to women who are the victims of trafficking, in coordination with the International Organization for Migration. Where the cooperation of the Mexican authorities is required, the procedure provides for legal assistance so that appropriate investigations may be conducted by the Office of the Attorney-General.

192. With regard to the protection of foreign victims, INM ensures that criminal complaints are not filed against foreigners who have been the victims of trafficking and who are living in Mexico illegally. It also has the power to determine their migrant status, for example as a “non-immigrant visitor”, to enable them to remain in the country temporarily so that they can file complaints and take part in the corresponding legal proceedings.

193. As for the involvement of public officials at the three levels of government in the unlawful acts mentioned above, there is close cooperation between INM and the Federal Preventive Police (the authorities empowered to carry out migration monitoring and inspection activities), the Federal Investigation Agency (the arm of the Office of the Attorney-General which assists the Public Prosecutor’s Office in the investigation of these offences) and the municipal and state authorities. In cases where public officials from these services are involved in such offences, all the necessary facilities are available for compiling the information required to conduct preliminary investigations, and when there is evidence of their probable guilt, criminal action is taken them.

194. In this connection, it should be noted that since 2005, 2,798 preliminary investigations have been launched: 2,008 cases were brought to trial; 122 are under way; 157 were rejected for lack of jurisdiction; 319 were confidential; in 291 cases it was decided not to take criminal action and in one case to extend jurisdiction.

**Preliminary investigations into the trafficking of undocumented persons and trafficking in persons since 2005**

Office	Brought to trial	Proceedings under way	No criminal action taken	Lack of jurisdiction	Confidential	Extension of jurisdiction	Total per office
Aguascalientes	0	0	0	0	0	0	0
Baja California	463	2	59	9	8	1	542
Baja Cal. Sur	0	0	0	0	0	0	0
Campeche	8	2	9	1	0	0	20
Coahuila	7	2	2	2	2	0	15
Colima	0	0	0	0	0	0	0
Chiapas	369	5	31	10	135	0	550
Chihuahua	0	49	0	0	0	0	49
Federal District	0	1	0	0	0	0	0
Durango	8	1	0	0	2	0	11
Mexico State	19	1	5	0	5	0	30
Guanajuato	5	4	0	0	0	0	9
Guerrero	0	0	0	0	0	0	0
Hidalgo	11	3	5	0	5	0	24
Jalisco	3	0	4	0	0	0	7
Michoacán	5	1	1	2	0	0	9
Morelos	0	0	0	0	0	0	0
Nayarit	6	0	0	0	1	0	7
Nuevo León	49	5	17	3	1	0	75
Oaxaca	69	2	3	3	25	0	102
Puebla	12	1	2	0	3	0	18
Querétaro	10	0	2	1	3	0	16
Quintana Roo	12	4	3	0	0	0	19
San Luis Potosí	20	8	21	4	3	0	56
Sinaloa	19	1	1	0	3	0	24
Sonora	528	0	79	3	23	0	633
Tabasco	134	4	35	9	22	0	204
Tamaulipas	29	22	1	1	2	0	55
Tlaxcala	2	1	1	0	2	0	6
Veracruz	211	2	10	7	72	0	302
Yucatán	1	1	0	0	0	0	2
Zacatecas	8	0	0	2	2	0	12
<b>Total</b>	<b>2 008</b>	<b>122</b>	<b>291</b>	<b>57</b>	<b>319</b>	<b>1</b>	<b>2 798</b>

Year	Status	Preliminary investigations
2005 to date	Launched	62
	Brought to trial	17
	Pending	1
	No criminal action taken	1
	Lack of jurisdiction	10

**Please describe the measures taken by the Government of Mexico to implement bilateral or regional agreements on migration, particularly with regard to the return of migrant workers and respect for their human rights at the local level.**

*Paragraphs of the report: 475–492, 505*

195. In accordance with the General Population Act (arts. 81–84) and its regulations (arts. 216–218), Mexico pursues a policy for the safe and orderly repatriation of migrants with full respect for their human rights. This policy applies to the bilateral agreements with other countries mentioned in paragraphs 483–494 of the report (CMW/C/MEX/1). These agreements lay down the procedures for repatriating the most vulnerable groups, such as women, minors, older persons and differently abled persons.

196. The most noteworthy recent developments in this area include:

- On 17 May 2005, the Agreement for the Orderly, Swift and Safe Repatriation of Salvadoran Nationals by Land from Mexico was signed. Its purpose is to establish the bases for the safe and orderly return of Salvadoran migrants who have been held in Mexico; it accords special treatment to vulnerable groups, such as children under the age of 18, persons with special abilities, people over the age of 60 and the victims of trafficking;
- On 28 June 2005, a new version of the Agreement for the Safe and Orderly Repatriation of Guatemalan, Salvadoran and Honduran Nationals on the Borders of Mexico and Guatemala was signed. It lays the foundations for the safe and orderly return of these migrants, with a commitment by Mexico and Guatemala to cater for their basic needs;
- On 10 June 2005 the Voluntary Programme for Interior Repatriation between Mexico and the United States was launched in the Sonora-Arizona region. Its purpose is to expedite the flow of persons between the two countries with respect for the human rights of the nationals concerned. It is based on the principle of voluntary repatriation, namely the express acceptance by the nationals in question before the United States authorities with endorsement by the Mexican Consul to be repatriated to their place of origin in Mexico. It focuses in particular on caring for nationals at risk: older persons, children, the disabled, the weak or ill, pregnant women and Mexicans who have been rescued from the desert.

197. The first flight under the programme, on 7 July 2006, carried 68 migrants. The Ministry of the Interior declared that it would monitor repatriation operations effective as at 30 September 2006 and ensure that they are conducted in a dignified manner, in keeping with the procedures agreed upon in the Memorandum of Understanding on the Safe, Orderly and Humane Repatriation of Mexican Nationals.

- On 27 June 2006, at the twenty-second meeting of the Mexico-United States Binational Commission, the representatives of both nations signed two new local agreements for the repatriation of Mexican nationals to be applied in Chicago, Illinois, and El Paso, Texas.

198. The purpose of the two agreements is to guarantee that during the repatriation operations of Mexican migrants the principles of safety, order, dignity and respect for human rights enshrined in the Memorandum of Understanding on Repatriation adopted in 2004 are observed.

199. Under the agreements, the authorities of the two countries strengthen their commitment to apply clear rules for the repatriation of vulnerable persons and minors; to comply with consular formalities; to update repatriation points and times; to preserve family unity; and to establish complaints mechanisms for ill-treatment and other abuses.

**Please provide additional information on the activities and results achieved within the Programme for the Comprehensive Development of the Cultures of Indigenous Peoples and Communities to support the culture of indigenous migrants, as stated in paragraph 499 of the State party's report.**

*Paragraphs of the report: 496–499*

200. Through the National Commission for the Development of Indigenous Peoples (CDI), the Government pursues comprehensive and cross-cutting public policies to deal with indigenous matters.

201. The National Commission currently forms part of the Programme for the Comprehensive Development of the Cultures of Indigenous Peoples and Communities, together with the National Council for Culture and the Arts and the States of Chiapas, Chihuahua, Guanajuato, Hidalgo, San Luis Potosí, Sonora and Veracruz.

202. Its overall objectives are:

- (a) To establish a fund to support cultural development projects proposed by indigenous communities, organizations and artists;
- (b) To pool the efforts of the Federation, states and municipalities to support the cultural initiatives of the indigenous peoples; and
- (c) To strengthen inter-agency coordination to support initiatives that promote the enhancement of cultural diversity.

203. Its specific objectives are:

(a) To create conditions that make it possible for indigenous peoples, organizations and communities to participate in the preparation, implementation and evaluation of their cultural development programmes;

(b) To strengthen the capacity for self-management of indigenous peoples and communities by supporting their initiatives and allocating resources based on their interests and proposals as parties concerned by cultural development;

(c) To disseminate and promote a culture of respect for ethnic, linguistic and cultural diversity, which is an integral part of the Mexican nation; and

(d) To promote activities which strengthen coordination between the Federation and the states, municipalities and cultural institutions for dealing with indigenous peoples.

### **Beneficiaries**

204. The nation's cultural potential lies in its diversity, and the indigenous population represents a large part of that diversity. Its maintenance and development need the strong impetus of financial support to continue organizing the cultural events that lend meaning to its existence, as well as to create the conditions that favour cultural exchange between the various peoples who make up the Mexican nation.

205. Along these lines, the beneficiaries of the Programme for the Comprehensive Development of the Culture of the Indigenous Peoples and Communities (PRODICI) are:

(a) Communities, traditional organizations, legally constituted civil associations recognized by community authorities;

(b) Indigenous creators who develop cultural and artistic projects linked to their communities;

(c) Local indigenous promoters who promote cultural projects in their community of origin or current place of residence;

(d) Informal groups with a record of experience in indigenous communities;

(e) Communities and organizations dedicated to the growth of sustainable cultural development based on the utilization of their natural and cultural resources.

206. Indigenous migrants would also be included in one of the arms of PRODICI.

207. Currently, the National Commission for Development of Indigenous Peoples is carrying out the Programme for the Promotion and Development of Indigenous Cultures. The overall objective of this Programme is to contribute to the processes of rescuing, enriching and creating the cultural heritage of the indigenous peoples, based on the recognition of and respect for ethnic and cultural diversity, equity, and shared responsibility, and on needs, circumstances and the current social context.<sup>23</sup>

208. Similarly, its specific objectives are:

(a) To support processes that promote the recovery, preservation and creation of the elements and events that constitute the cultural heritage of the indigenous peoples through the financing of initiatives presented by indigenous individuals, organizations and communities;

(b) To document and spread the cultural events that make up the cultural heritage of the indigenous peoples in a manner such that they contribute to strengthening the processes of indigenous peoples' social identity and intercultural relations.

209. Thus, as part of PRODICI, a proposal was developed to educate indigenous migrant children living in agricultural camps and in cities attracting migrant populations. The implementation of the proposal has called for the development of promoters and inter-institutional cooperation.

Host organization	Date	Number of participants	Participant profile
Educational services of the National Museum of Popular Cultures	12–13 April 2005	9	Workshop participants from the Museum
Departmental unit for the provision of services to vulnerable groups. Iztapalapa Delegation.	14–15 April 2005	31	Social and cultural promoters of the Iztapalapa Delegation
Office for the provision of services to Indigenous persons. Department of Equity and Social Development.	27 April 2005	5	Cultural promoters
Regional Unit of Popular and Indigenous Cultures, Papantla, Veracruz	16 May 2005	31	Administrative and technical staff, as well as <i>wirráríka</i> cultural promoters
Northern campus of the University of Guadalajara, Colotlán, Jalisco	1–3 June 2005	15	University professors and students, as well as <i>wirráríka</i> cultural promoters
“La Vecindad” Children’s Cultural Centre, Cuernavaca, Morelos	16 June 2005	5	Workshop participants from the Centre
“Ecoguardas” Ecological Park, Ajusco, Federal District	16 June 2005	18	Indigenous migrant young people of the Republic of Mexico
Carmen Salles School, Jiutepec, Morelos	22 June 2005	71	Primary schoolchildren
“La Vecindad” Children’s Cultural Centre, Cuernavaca, Morelos	7, 14, 21 and 28 July 2005	119	Children between the ages of 6 and 12
“La Vecindad” Children’s Cultural Centre, Cuernavaca, Morelos	4 and 11 August 2005	36	Children between the ages of 6 and 12
National Museum of Popular Cultures	24–26 August 2005	18	Various institutions of the Federal Government and local administrations, civil society organizations and groups, and cultural promoters

Host organization	Date	Number of participants	Participant profile
International Book Fair, Monterrey, Nuevo León	14 October 2005	21	Children between the ages of 8 and 16
Herminia Ordoñez Torres Primary School, Xochimilco, Federal District	14–29 November 2005	296	Primary schoolchildren
Elementary Education Institute of the State of Morelos, Cuernavaca, Morelos	23–25 November 2005	47	District superintendents, principals, primary schoolteachers and staff of the Institute
Institute for Research and Promotion of Mexican Dance	26 November 2005	11	Researchers and teachers of this Institute
First Governmental Meeting of Indigenous Organizations	3–4 December 2005	23	Representatives of indigenous migrant organizations
National Museum of Popular Cultures	7–9 December 2005	10	Independent groups and workshop participants
Elementary Education Institute of the State of Morelos, Cuernavaca, Morelos	25–27 January 2006	36	District superintendents, principals, primary schoolteachers and staff of the Institute

### Training and implementation activities involving children, 2006

Requesting organization	Date	Profile
Tlalpan Delegation, Mexico City, Federal District	29–30 April	Non-indigenous children
Cultural Centre, Piedras Negras, Coahuila	3–4 May	Non-indigenous children
State Centre for Indigenous Affairs, Civil Association, Valle de Mandadero, Municipality of Ensenada, Baja California	22–23 May	Bilingual indigenous teachers
Book Fair for Children and Young People, Saltillo, Coahuila*	11–15 September	Non-indigenous children
Institute for Research and Promotion of Dance, Civil Association, Federal District	30 September, 7–14 October	Teachers, researchers and cultural promoters

\* Planned, but not yet completed.

210. The forum entitled “Culture in movement: Meeting of Indigenous Migrant Organizations” has provided an opportunity to analyse the phenomenon of indigenous migration in order to review and nationalize experiences and to evaluate the impact of actions aimed at cultural development, strengthening of identification, migrants’ cultural contributions in their new homes and the importance of the remittances they contribute to perpetuating their cultures in their places of origin.

## F. Other matters

**Please inform the Committee whether the special measures and programmes to assist the large number of unaccompanied minor migrants on the northern border have been extended to the southern border. In particular, please provide updated information on the implementation of a care strategy for migrant minors on the southern border, as indicated in paragraph 103 of the State party's report.**

*Paragraphs of the report: 11, 67, 78–106, 103, 158, 205, 208, 215, 216, 224, 359, 485, 487, 490, 516, 518, 546*

211. The National Institute for Migration is very concerned about unaccompanied migrant children and pays special attention to their treatment from the moment they are secured until they are returned to their countries of origin. In the country's migrant holding centres, separate areas are reserved for men, women and children.

212. In addition, Mexico has concluded bilateral cooperation agreements with the countries of Central America. These, combined with extensive and constant communication with representatives of these countries in Mexico and various authorities in their own countries, have made it possible to safeguard the physical and emotional integrity of minors, ensuring their safety until they are handed over personally to the care of their families, or for lack of a family, to the appropriate authorities or institutions providing social and family support in each country, as described in paragraphs 104, 105, 489 and 490 of the Mexican Government's report.

213. For its part, the National Scheme for Family Development (DIF), working with the authorities of the various federal states, has set up temporary shelters for minors with a view to later reintegrating them into their families.

214. Protection activities and social and support services are coordinated in order to locate minors' family members. In addition, at its shelters, DIF provides them with food, accommodation and, if necessary, with medical and psychological care.

215. This year, there are plans to conclude a local inter-institutional cooperation agreement between the Human Development Institute (IDH), DIF, COMAR and INM in order to establish procedures for the care of Central American migrant children in Tapachula, Chiapas.

216. The aim of the agreement is to jointly promote cooperation for "migrant children" or "child asylum seekers" along the southern border, in the state of Chiapas, recognizing and protecting the fundamental rights of child migrants as set out in the Convention on the Rights of the Child, to which Mexico has acceded.

217. Among the main responsibilities assigned to INM in the agreement are the following: to house migrant children in migrant holding centres, with due consideration for methodologies and technical assistance; to hand over secured and unaccompanied migrant children who are subject to repatriation procedures and child asylum seekers who are at migrant holding centres to the Human Development Institute for appropriate care; to assist in the design, dissemination,

execution and evaluation of prevention campaigns and to address the needs of migrant children, the defence of their rights and coverage of related problems, such as sexual exploitation and/or trafficking in children; and to assist in establishing the whereabouts of their family members or legal guardians, and to convey such information immediately.

218. Furthermore, based on the work done by INMUJERES in the Inter-Institutional Gender and Migration Coordination Board, which also includes DIF, joint activities have been planned to defend the human rights of children and teenagers affected by migration at both the northern and the southern borders. These include mainstreaming the gender perspective in DIF's migration work, developing dissemination and prevention activities for the parents of migrant children, and encouraging participation by INMUJERES in the DIF inter-agency programme for children in border areas, which includes INM, the Ministry of Foreign Affairs and youth integration centres.

219. Section XIV of the Migration Policy of the State of Chiapas, entitled "Developing specific orientation programmes for immigrant children", sets in motion various activities to protect the human rights of children and teenagers. Among these is the establishment of a shelter for immigrant children, which was inaugurated in April 2005. It has also been proposed to conclude an agreement with the Central American countries for the transfer of migrant children and their return to their families in their communities of origin. The state Ministry of Social Development, the Human Development Institute, the International Relations Coordination Office, the State Population Council (COESPO), the Office for the Defence of Minors, Women and the Family, and the Ministry of Foreign Affairs are taking part in such efforts.

220. It has been proposed that agreements should be signed between the three levels of government and international bodies such as UNICEF in order to provide immigrant children with support and protection and to design an awareness campaign for the promotion and protection of their rights. The state Ministry of Social Development, the Human Development Institute, the State Population Council, the Office for the Defence of Minors, Women and the Family, civil society associations, the Chiapas Radio and Television System, the Women's Institute and UNICEF are taking part in this initiative.

### **Inter-agency programme for children in border areas**

221. The inter-agency programme for children in border areas was established 10 years ago as a result of the joint efforts of public and private institutions working to provide care for children in border areas<sup>24</sup> – migrant children<sup>25</sup> and repatriated children<sup>26</sup> – as a collaborative effort of the DIF system, the Ministry of Foreign Affairs and the National Institute for Migration.

222. The programme is structured to work in three areas of action:

- (a) Northern border;
- (b) Place of origin;
- (c) Southern border.

223. Its aim is to bring together the efforts and actions of bodies at the three levels of government and those of public and private institutions and national and international civil society organizations in order to prevent migration by minors and to meet the needs of unaccompanied migrant and repatriated children, protecting them from the associated problems to which they are exposed.

224. Minors in border areas are vulnerable, as they are alone and far from their homes and families. The ultimate aim of the programme is to protect their physical and mental integrity until they are reunited with their families in their places of origin.

225. The programme's aim is to establish spaces and mechanisms that will allow the Government and civil society organizations to provide appropriate care for migrant and repatriated children and teenagers. Its main achievement has been to obtain a strong commitment to action from the state and municipal DIF systems of each of the federal states and municipalities along the northern and southern borders, through the various public and private shelters in the programme's network. In 2005, the programme provided care for 18,392 migrant and/or repatriated children and teenagers, and through May 2006, for 9,546.

226. The states and municipalities taking part in the programme along the northern border are: Baja California, in the municipalities of Tijuana and Mexicali; Coahuila, in Ciudad Acuña and Piedras Negras; Chihuahua, in Ciudad Juárez and Ojinaga; Sonora, in Agua Prieta and Nogales; and Tamaulipas, in Matamoros, Nuevo Laredo and Reynosa. As of 2005, the municipalities of Monterrey (Nuevo León) and San Luis Río Colorado (Sonora) joined the programme's operation in the north. Along the southern border, the programme officially began to operate with the inauguration on 30 April 2005 in Tapachula, Chiapas, of a temporary shelter for migrant children. So far, it has provided care for children and teenagers mainly from Guatemala, Honduras and El Salvador.

227. Thanks to the efforts described above, the programme now has a network of 24 transit shelters, 14 belonging to the state and municipal DIF systems, 6 run by civil society organizations and 4 reception and care modules belonging to the state DIF systems of Baja California and Sonora. The latter have been located along the border so as to provide immediate care for migrant and repatriated children and teenagers.

228. One of the programme's main achievements has been the strengthening of inter-agency coordination. This includes the consolidation of a working group whose membership consists of staff from the national DIF system, the Ministry of Foreign Affairs, the National Institute for Migration, youth integration centres and UNICEF. A cooperation agreement was signed on 19 May 2005 between the National Institute for Migration and the national DIF system, establishing the basis for cooperation in the provision of care for migrant and repatriated children in any of the programme's three areas of action.

229. Since 2006, coordination with other departments has been enhanced. The inclusion of new institutions such as the Ministry of Social Development and INMUJERES has been encouraged, thus strengthening activities in migrants' places of origin.

230. At the level of the states and municipalities taking part in the programme, local committees have been set up. These include staff from the state and municipal DIF systems,

government departments and civil society organizations involved in providing care for migrant children. Such committees provide forums for the exchange of experiences and ideas underpinning public policy for this group, and also providing guidance for the work of each body in its field of competence.

231. Regarding the strategy to provide high-quality, child-friendly care, its aim is to treat migrant and repatriated children and teenagers with dignity, fairly and with respect for their rights, using qualified staff in facilities that are suitable for receiving them, caring for them and returning them to their places of origin. To this end, in 2003 and 2005 various training courses were held for the operational staff of the state and municipal systems and of civil society organizations.

232. In addition, to strengthen efforts to provide such high-quality, child-friendly care, work is being carried out in 2006 with the Technological and Higher Studies Institute, as part of a DIF-UNICEF cooperation programme to design teaching aids for use in the programme's shelters.

233. Regarding the Guidelines for the Promotion of the Rights of the Child, two media campaigns have been conducted, the first in 2001 and the second in 2004, with the main theme being "Think, wait and go back... For migrant children's rights". In addition, different activities have been carried out in the shelters to promote and strengthen knowledge of children's rights, with various types of support material being developed, such as the brochure "For your rights: Look after them, defend them...", an information and awareness flyer for the target population, a comic book called "Wandering plant: News from the border. Know your rights", and a photo exhibition based in part on testimonials given by children.

234. In 2003 and 2004, as part of the legislative review strategy, and also as part of the research strategy, a study was conducted on the legal framework for the care of migrant and repatriated children on the northern border. The aim was to identify any gaps in the law in this area and to provide some basic practical advice on the services provided by the shelters.

235. As a result, in 2005 a book entitled *Migrant Children on the Northern Border: Legislation and Procedures* was published and distributed. It describes the procedures followed to provide care for unaccompanied children and teenagers in each of the border cities taking part in the programme, as well as the rules on migration. On the basis of this study, a series of recommendations were made to improve migration management and to bring the standards of each state into line with the Convention on the Rights of the Child.

236. In addition, the book was presented in the states along the northern border to officials and operational staff from municipal DIF services, consulates, INM regional and local offices, Beta groups, UNICEF and other bodies. These presentations made it possible to obtain feedback from municipal working groups, which had an opportunity to discuss whether the recommendations made by the researcher were feasible at the local level.

237. From the outset, the present Government has been systematically analysing the statistics provided by the participating shelters in an effort to have available the most significant data on the migration and repatriation of children in vulnerable situations. It was to this end, and as part of the research strategy, that the 2001–2003 Statistical Yearbook was published. It presents the

general characteristics of migration and gives a profile of migrant and repatriated children and teenagers. This work is composed of two parts: a first section, which presents a global analysis of the data on the children and teenagers who received care at the network's shelters in each of the states along the northern border, and a second section, which presents a local analysis for each.

238. In 2005, as part of the research strategy, and in response to the need to have a clear picture of the risks associated with child migration, a plan was put forward to carry out joint research by the DIF national system and youth integration centres into drug consumption by migrant children and teenagers in the United States. The objective was to learn about the migration process of minors along the border and the prevalence of drug consumption, consumption patterns, family situations, social networks and perceptions about access to drugs, risks and means of protecting minors from drugs. Part of the research involved holding workshops in Mexicali (Baja California), Nogales (Sonora) and Ciudad Juárez (Chihuahua) to teach staff in the network's shelters how to use the interview manual to collect the required information.

239. Along the southern border, the Mexican Government, which is dedicated to helping migrant children regardless of their nationality, provides support and assistance to foreign children, especially those from Central America, who often enter Mexico across the border in Chiapas and Tabasco.

240. Like Mexican children, these children are considered a vulnerable group: they are alone, far from home and unaccompanied by an adult. When they are under the protection of the National Institute for Migration, extra support is provided for them under the cooperation agreement with the DIF national system until they are repatriated to their countries of origin. They are placed in an appropriate shelter in accordance with a coordination protocol.<sup>27</sup>

241. Work along the southern border is based on the following elements:

- (1) Signing of local cooperation agreements (DIF and INM state systems);
- (2) Local coordination committees: specific protection schemes (civil society organizations, state and municipal DIFs);
- (3) Establishment of transit shelters (civil society organizations, state and municipal human development institutes); institutional capacity-building; staff development;
- (4) Evaluation of care for children along the border (street children, migrants, victims of sexual exploitation or child trafficking, etc.);
- (5) Promotion of care for minors along the border in Central American countries, placing the subject on the public agenda; coordination with counterpart agencies; coordination with international bodies;
- (6) Signing of a southern border action plan (with Central American countries).

242. As has already been mentioned, all this has made it possible to establish a network of 24 transit shelters under the programme: 14 belonging to the state and municipal DIF systems, 6 run by civil society organizations and 4 reception and care units belonging to the state DIF systems of Baja California and Sonora. The latter have been located along the border. This has made it possible to provide care for 9,546 people through May 2006, and for 18,392 in 2005, on an annual budget of 683,117 pesos per year.

### Notes

<sup>1</sup> See annexed report on entry flows of foreigners by land on the southern Mexican border, 2004 (annex 4).

<sup>2</sup> The figures are for the 2004 tax year (1 October 2003 to 30 September 2004).

<sup>3</sup> This includes 79,996 crossings by people returning to Guatemala after entering Mexico without admission documents, predominantly single locals crossing at Ciudad Hidalgo/Tecún-Uman and Talismán/El Carmen. There were a further 61,500 crossings by undocumented locals at other places along the border with Guatemala, calculated by correlating the survey figures and other INM sources. Estimates produced by the INM Centre for Migration Studies on the basis of data obtained from questioning people crossing from Mexico to Guatemala by land for the 2004 survey of migration on the Mexican-Guatemalan border conducted by the College of the Northern Border (COLEF), the INM, the Ministry of Labour and Social Security, the National Population Council (CONAPO) and the Ministry of Foreign Affairs.

<sup>4</sup> Information on the size and nature of migrant flows on the southern border of Mexico was supplied by the INM Centre for Migration Studies.

<sup>5</sup> Ibid.

<sup>6</sup> Figures available at [www.inami.gob.mx](http://www.inami.gob.mx).

<sup>7</sup> Legal crossings include migrants crossing on a daily basis, leaving and returning to their place of origin.

<sup>8</sup> A variety of instruments are concerned, ranging from the Universal Declaration of Human Rights (1948) to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (2000), and including the Declaration on the Rights of the Child (1959), the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (1963), the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention (1989), the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992) and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, to name but a few.

<sup>9</sup> Arquidiócesis de México, Pastoral de Migrantes, Caritas Hermanos Indígenas y Migrantes, A.C.; Casa Alianza México; Centro de Apoyo al Trabajador Migrante; Colegio de la Frontera Sur; Comisión Episcopal para la Movilidad Humana; Comisión Estatal de Apoyo a Migrantes Guanajuato; Comisión Nacional para el Desarrollo de los Pueblos Indígenas; Comisión para la

Pastoral de Migrantes, Arquidiócesis Primada de México; Programa de Organización Productiva para Mujeres Indígenas; Fundación Mexicana para la Planeación Familiar, A.C. (MEXFAM); Instituto de la Mujer Guanajuatense; Instituto de la Mujer Chiapas; Instituto de los Mexicanos en el Exterior; Instituto Mexicano de la Juventud; Instituto Michoacano de la Mujer; Instituto Municipal de Allende para las Mujeres de Guanajuato; INM; Instituto Quintanarroense de la Mujer; Organización Internacional para las Migraciones (OIM); Presidencia Municipal de Silao, Guanajuato; Programa Universitario de Estudio de Género (PUEG-UNAM); Oportunidades para las Mujeres del Programa HABITAT; Programa de Atención a Jornaleros Agrícolas; Secretaría de la Reforma Agraria; SRE; Programa de la Mujer en el Sector Agrario (PROMUSAG); Programa Vete Sano Regresa Sano; Secretaría del Trabajo y Previsión Social; Servicio Jesuita a Migrantes México; Sin Fronteras, I.A.P.; Sistema Nacional para el Desarrollo Integral de la Familia (DIF); Visión Mundial de México, A.C.

<sup>10</sup> Article 7 of the Agreement issuing norms for the functioning of INM migrant holding centres (published in the Official Gazette on 26 November 2001) establishing that the securing of foreigners shall not exceed 90 days, with the exception of cases set out in the Agreement.

<sup>11</sup> *Article 32.* The Ministry of the Interior shall establish, following the corresponding demographic studies, the number of foreigners to be admitted to the country, by activities or by area of residence, and shall make immigration of foreigners subject to the procedures that it deems appropriate, based upon their abilities to contribute to national progress.

*Article 33.* In accordance with the provisions of the previous article, entry permits shall be granted preferentially to scientists and technical workers who are working or have worked in research or teaching in fields not covered or insufficiently covered by Mexicans, and to investors, as described in article 48, part II, of this Act. The entry of tourists into the country shall be facilitated.

*Article 34.* The Ministry of the Interior shall establish the conditions that it deems appropriate for foreigners entering the country in respect of the activities that they may carry out and their place or places of residency. It shall also ensure that the immigrants play a useful role for the country, and that they have the income required for their subsistence and, if necessary, the subsistence of persons economically dependent upon them.

<sup>12</sup> See <http://www.inami.gob.mx/afuente/documentos/transparencia/813000/2005/programa1.mht> for results of the 2005 Programme to Promote Transparency and Combat Corruption.

<sup>13</sup> See annex 5 for the categories of migrant holding centres.

<sup>14</sup> Information on secured migrants provided by the Department of Migrant Holding Centres of the Control and Verification Coordinating Centre of the National Institute for Migration.

<sup>15</sup> Article 200 of the General Population Act regulations: In the event of an offence liable to automatic prosecution, any person, object or assets linked to the offence shall be placed at the disposition of the competent ministerial authority.

<sup>16</sup> See [www.e-mexico.gob.mx](http://www.e-mexico.gob.mx).

<sup>17</sup> *Article 354.* The Act recognizes the freedom of coalition for workers and employers.

*Article 355.* A coalition is a temporary agreement entered into by a group of workers or employers in order to defend their common interests.

*Article 356.* A trade union is an association of workers or employers set up for the purpose of studying, promoting and defending their respective interests.

*Article 357.* Workers and employers have the right to form trade unions without prior authorization.

*Article 358.* None may be compelled to join or refrain from joining a trade union.

Any provision that establishes a fine for the termination of membership of a trade union or undermines in any way the provision contained in the previous paragraph shall be considered null and void.

*Article 360.* Workers' trade unions may be:

- I. Guilds, formed by workers of the same profession, trade or specialization;
- II. Company-based, formed by workers providing services to the same company;
- III. Industry-based, formed by workers providing services to one or several companies belonging the same sector of industry;
- IV. National industry-based, formed by workers providing services to one or several companies belonging to the same sector of industry set up in one or several states;
- V. Mixed trade, formed by workers of different professions. These trade unions can only be established when fewer than 20 workers in a given municipalities belong to the same profession.

*Article 362.* All workers over 14 years of age are entitled to trade union membership.

*Article 363.* Workers of trust may not join trade unions of other workers. The trade union statute shall determine the status and rights of members that are promoted to a position of trust.

*Article 364.* Trade unions must comprise 20 workers in active service or three employers at least. When determining the minimum number of workers, those whose employment relationship was suspended or terminated during the period comprising 30 days before the date of submission of the application for trade union membership and the date on which membership was granted are taken into account.

*Article 372.* Not eligible for becoming a member of the leadership of a trade union are:

- I. Workers under 16 years of age; and
- II. Foreign workers.

<sup>18</sup> *Article 3.* Work is a right and a social duty. It is not a commodity, must respect the freedom and dignity of the worker, and must be carried out in conditions ensuring the life, health and a decent standard of living for the worker and his or her family.

No distinction must be made between workers on the basis of race, sex, age, religious belief, political opinions or social status.

Also, it is in public interest to promote and monitor training and skill building for workers.

<sup>19</sup> *Article 5.* The provisions of this Act are of public order and therefore have no legal effect and do not hamper the enjoyment and exercise of the rights, both written and oral, of the provision that establishing:

...

- XI. A lower salary than that paid to another worker in the same company or business for the same work, in the same professional category or working days of equal length, on the basis of age, gender or nationality...

*Article 56.* Under no circumstances must the standards for working conditions be lower than those established in the Act; they must be commensurate with the value of the services provided and the same for equal workers, without distinction on the basis of race, nationality, gender, age, religious belief or political opinions, except for categories expressly set forth in the Act.

<sup>20</sup> *Article 133.* It is prohibited for employers to:

- I. Refuse to hire someone because of their age, gender...

*Article 164.* Women have the same rights and duties as men.

<sup>21</sup> *Article 279.* Agricultural workers are those who carry out habitual activities proper to agriculture, animal husbandry and forestry for an employer.

The workers in industrial forestry operations are covered by the general provisions of this Act.

*Article 280.* Workers that are employed for three or more consecutive months by the same employer must be treated as in-house staff.

*Article 281.* In the case of tenant-farming contracts, the owner of the premises may be held responsible if the tenant alone is unable to meet the obligations arising in the context of his or her relationship with workers. In the case of sharecropping contracts, the owner of the premises and the tenant shall be co-responsible.

*Article 282.* Working conditions shall be established in writing, in accordance with the provisions of articles 25 ff.

<sup>22</sup> The States in which trafficking in persons is a criminal offence are Quintana Roo, Guerrero, Coahuila, Hidalgo, San Luis Potosí, Sinaloa, Tabasco and Veracruz.

<sup>23</sup> Information concerning projects aimed at the migrant population and those that have received support through this programme is contained in annex 6.

<sup>24</sup> That is, children and teenagers in border areas: a generic term used to denote both migrants and repatriated children travelling without an adult family member in the direction of the United States of America.

<sup>25</sup> Migrant child: any minor who is found in the national territory while in transit to the United States of America before crossing the border, and who is thus handed over for care to the system's network of shelters or to a civil society organization taking part in the programme.

<sup>26</sup> Repatriated child: any minor who, while in transit to the United States of America, is found by the United States authorities in the territory of the United States, and whose repatriation process has thus begun, with notification of the consular authorities, who send the minor to the National Institute for Migration, for subsequent transfer to the DIF system's network of shelters or to any civil society organization taking part in the programme.

<sup>27</sup> See attached cooperation plan for the repatriation of Mexican children, annex 7.

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