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## CONTENTS

|   | <i>Paragraphs</i> | <i>Page</i> |
|---|-------------------|-------------|
| I. LAND AND PEOPLE .....  | 1 - 15            | 3           |
| II. GENERAL POLITICAL STRUCTURE .....   | 16 - 57           | 5           |
| III. GENERAL LEGAL FRAMEWORK WITHIN WHICH<br>HUMAN RIGHTS ARE PROTECTED .....   | 58 - 114          | 10          |
| A. Judicial and administrative authorities with<br>jurisdiction affecting human rights .....  | 58 - 81           | 10          |
| B. Remedies available to an individual who claims that<br>any of his or her rights have been violated, and systems<br>of compensation and rehabilitation .....  | 82 - 86           | 13          |
| C. Protection of the rights referred to in the various<br>human rights instruments .....  | 87 - 100          | 14          |
| D. Way in which human rights instruments are made<br>part of the national legal system .....  | 101 - 108         | 17          |
| E. Can the provisions of the human rights instruments<br>be invoked before, or directly enforced by, the courts<br>or administrative authorities, or must they be<br>transformed into internal laws or administrative<br>regulations in order to be enforced by the<br>authorities concerned? ..... | 109               | 18          |
| F. Institutions or national machinery with responsibility<br>for overseeing the implementation of human rights .....  | 110 - 114         | 18          |
| IV. INFORMATION AND PUBLICITY .....   | 115 - 126         | 19          |
| Note .....  | 127 - 132         | 21          |

## I. LAND AND PEOPLE

1. Mexico is a densely populated country and one that has had a consistently high population growth rate. According to the last general population and housing census, the population grew from 81.1 million inhabitants in 1990 to 97.5 million in 2000. The total figure is 105.34 million if all Mexicans residing abroad are included. The population is 50.27 per cent female and 49.73 per cent male, and is growing at an annual rate of 1.8 per cent (INEGI<sup>1</sup>).
2. Mexico's population is unevenly distributed, with 20.7 per cent concentrated in the State of Mexico and the Federal District, while other States, such as Quintana Roo, are home to no more than 3 per cent of Mexicans. The population density is estimated at 50 inhabitants per square kilometre in the country as a whole, and is higher in the cities. Of the total population, 74.7 per cent, that is 75.8 million people, live in urban areas, while the remaining 24.7 million live in rural areas (INEGI).
3. As regards age distribution, the 2000 census revealed Mexico's population to be very young. About 32.6 million Mexicans, or 34.4 per cent of the total population, are under 14 years of age. A further 58.1 million Mexicans, or 60.6 per cent of the population, are aged between 15 and 64. The remaining 6.8 million Mexicans are over 65 years of age and make up 5 per cent of the population (INEGI).
4. Men head 79.4 per cent of Mexican households, while women head the remaining 20.6 per cent (INEGI).
5. In terms of health, the relative improvement in Mexicans' economic and social conditions has been most obvious in the considerable drop in mortality rates. The maternal mortality rate has fallen from the levels of previous years to 5.9 deaths per 10,000 births. The infant mortality rate has fallen to 19.7 deaths per 1,000 live births, reflecting significant improvements in the country's health services for newborns (INEGI, CONAPO<sup>2</sup>).
6. Today, Mexicans' life expectancy at birth is 75.2 years - more specifically, 72.4 years for men and 77.4 for women - the highest it has been in decades. Thanks to the improvement in living conditions, Mexico's fertility and birth rates have reached, respectively, 2.16 children per woman and 18.8 births per 1,000 inhabitants (CONAPO, INEGI).
7. The Mexican population has also made progress in economic terms. The economically active population accounts for 56.6 per cent of the total population, the highest it has ever been in the country's history. This percentage has grown by 6.6 per cent annually since 1994, showing the progress made in Mexico's economy. There is still a higher proportion of economically active men - 73.5 per cent - than of women - 41.4 per cent. The unemployment rate is 3.75 per cent - 3.3 per cent for men and 4.46 per cent for women. This is considerably lower than in 1996, when it was estimated at 5.5 per cent (INEGI).
8. It should be noted that 16.3 per cent of Mexico's economically active population works in the primary sector (7.1 million people), 28.7 per cent in the secondary sector (10.4 million) and 55 per cent in the tertiary sector (21.3 million), meaning that Mexico is more a producer of trade and services than of manufactured goods (INEGI).

9. Other indicators also show strong growth in Mexico's exports and consistent improvements in its economy. Between 1990 and 1997, gross domestic product (GDP) rose by 2.19 per cent to \$402,964 million, with a per capita income of \$4,270. In the second quarter of 2004, GDP reached \$639,076 million, while per capita GDP reached \$8,970 and the minimum wage averaged \$3.93 (43.29 pesos) per day, according to official figures from the Ministry of Finance and Public Credit (INEGI, Bank of Mexico, Ministry of Finance).
10. The Mexican Government has a net internal debt of 916,147 million pesos. Mexico reduced its external debt and obtained better terms for servicing and paying off its existing debt. The country's external debt remains nevertheless substantial, at \$79,072 million. Mexico has gained more control over its inflation rate, bringing it down from 19.9 per cent in 1995 to 4.82 per cent in 2000 (INEGI, Bank of Mexico, Ministry of Finance).
11. Progress has also been made in the field of education. According to the 2000 census, Mexicans attend school for an average of 7.6 years. The literacy rate is 92 per cent for men and 87.1 per cent for women, meaning that 56.8 million Mexicans over the age of 15 can read and write (27.8 million men and 29.1 million women) (INEGI, SEP<sup>3</sup>).
12. Mexico's graduation efficiency rate has increased considerably. Today, 88 per cent of children enrolled in primary school complete their primary education. The rate tends to decrease in secondary school, though it is still high, at 78.8 per cent. In the last year of high school, the graduation efficiency rate is 61.6 per cent, and in vocational education, 50.5 per cent. The figures indicate that 91.8 per cent of children aged between 6 and 14 attend school. Some 55.3 per cent of young people aged between 15 and 17 attend secondary school until high school graduation, while 22.3 per cent of young people aged between 18 and 24 are in higher or technical education (INEGI, Ministry of Education).
13. Mexico's current literacy rate is 90.5 per cent, with adult illiterates making up 9.5 per cent of the total population; 74 per cent of children are enrolled in primary or secondary school; and the country's education index is 0.813. The above figures put Mexico at the high end of the Human Development Index, in 53rd place. The education budget rose from 27.3 million pesos in 1990 to 283.8 million in 2003. The Government has amended article 25 of the Education Act in order to gradually increase the education budget to 8 per cent of GDP by 2006 (INEGI, United Nations Development Programme (UNDP), *Human Development Index 2004*).
14. Mexico has a substantial indigenous population. A total of 12,707,000 indigenous people - about 13 per cent of the population - are estimated to live in Mexico. The 2000 general census recorded 62 indigenous languages and several dialects, including Nahuatl, Maya, Mixtec, Zapotec, Tzotzil, Otomi and Tzeltal. It is worth clarifying that even though Mexico's official language is Spanish, the law now recognizes indigenous languages as national ones. The illiteracy rate among the indigenous population, at 44.27 per cent, is much higher than the 10.46 per cent national average (INEGI, National Commission for the Development of Indigenous Peoples).

15. Catholicism, which is practised by 92 per cent of Mexicans, is the country's dominant religion. Some 8 per cent of Mexicans say they practise other religions, the most popular of which are Protestantism and Evangelicalism; 3.5 per cent state they have no religion at all (INEGI).

## II. GENERAL POLITICAL STRUCTURE

16. The Constitution of the United Mexican States provides that the country is a representative, democratic and federal republic composed of 31 States and a Federal District, where the federal Government is located. Each State of the republic is free, sovereign and autonomous, and has its own Constitution.

17. Power is exercised through the executive, legislative and judicial branches, including at the local level.

18. The President of the Republic heads the executive branch of government and is elected for a six-year term by direct vote of the population over the age of 18. The President chooses his own cabinet ministers, of whom there are currently 18.

19. The legislative branch is divided into two chambers: the lower chamber, or Chamber of Deputies, and the higher chamber, or Senate. The Chamber of Deputies has 500 members, 300 of whom are elected by direct suffrage and 200 by proportional representation for a three-year term. The Senate has 128 members - 4 per State - elected for six-year terms.

20. The judiciary is composed of the Supreme Court of Justice, the collegiate and single-judge circuit courts, the district courts and the Council of the Federal Judiciary, which was created in 1994 by means of an amendment to the Constitution.

21. This amendment was aimed at strengthening and rendering more effective the Mexican judiciary by increasing its constitutional powers, the autonomy of judicial bodies and the independence of judges. The Council of the Federal Judiciary, as defined by the constitutional amendment, was set up on 2 February 1995.

22. As a result of these changes, the Council of the Federal Judiciary is responsible for the management, supervision, discipline and training of the country's judiciary, excluding the Supreme Court of Justice and the electoral court. It also assigns territorial jurisdiction and, where necessary, jurisdiction over particular subjects to the collegiate and single-judge circuit courts and district courts.

23. On 11 June 1999, several articles of Mexico's Constitution were amended, including article 100, which defines the Council of the Federal Judiciary as an organ of the Mexican judiciary that is independent in technical and managerial matters and in its decisions. The reform of the Council saw the appointment of new Council members to oversee its independence and the changes in the way it is run.

24. In the last few years, Mexico has experienced greater political participation, which reflects a strengthening of its democracy and the subsequent change of governing party. In 2000,

eight political parties were registered with the Federal Electoral Institute: the Partido Acción Nacional (PAN), the Partido Revolucionario Institucional (PRI), the Partido de la Revolución Democrática (PRD), the Partido Verde Ecologista de México (PVEM), the Partido del Trabajo (PT), the Partido de la Sociedad Nacionalista (PSN), the Partido Alianza Social (PAS) and Convergencia por la Democracia (Convergencia).

25. There are other parties not currently registered because they did not poll the minimum percentage of votes set by the Federal Electoral Institute. These parties, which nevertheless took part in the 2000 elections, are: Democracia Social (Democracia), the Partido Auténtico de la Revolución Mexicana (PARM) and the Partido Centro Demócrata (PCD).

26. In the 2000 presidential election, votes per party were: 42.52 per cent for the PAN/PVEM alliance; 36.11 per cent for PRI; 16.64 per cent for the PRD/PT/PAS/Convergencia/PSN alliance; 1.58 per cent for Democracia; 0.55 per cent for PCD; and 0.42 per cent for PARM.

27. In the elections for deputies, who are elected by relative majority, the breakdown was: 38.24 per cent for PAN/PVEM; 36.92 per cent for PRI; 18.68 per cent for PRD/PT/PAS/Convergencia/PSN; 1.88 per cent for Democracia; 1.15 per cent for PCD; and 0.73 per cent for PARM. In elections for senators, the results were: 38.11 per cent for PAN/PVEM; 36.75 per cent for PRI; 18.85 per cent for PRD/PT/PAS/Convergencia/PSN; 1.80 per cent for Democracia; 1.39 per cent for PCD; and 0.74 per cent for PARM.

28. The elections for deputies in 2003, again by relative majority, yielded the following results: 31.87 per cent for PAN; 23.99 per cent for PRI; 14.06 per cent for PRI/PVEM; 18.24 per cent for PRD; 2.48 per cent for PT; 4.15 per cent for PVEM; 2.33 per cent for Convergencia; 0.28 per cent for PSN; 0.77 per cent for PAS; 0.42 per cent for PMP; 0.94 per cent for PLM; and 0.48 per cent for FC.

29. A key factor in the process of change in the country is the political agreement on national development signed by the federal Government and the leaders of political parties, which has also been approved by the legislature.

30. The agreement recognizes the importance of enforcing transparency and accountability and of fighting corruption and impunity, especially in cases of human rights violations and harm to national assets.

31. According to the agreement, the priority is to make sure that human rights are respected and that human rights violations and any abuses of power are punished within the constitutional framework. The agreement also stresses the importance of greater accountability on the part of public servants.

### **Historical overview**

32. As was explained in the previous core document, the historic events in Mexico's past include the Spanish Conquest, the War of Independence and the Mexican Revolution.

33. The latter led to the convening of a constituent congress which, on 5 February 1917, promulgated the Constitution which is still in force to this day.
34. As stipulated in the Constitution, federal elections are held every six years to elect the President of the Republic. For that reason, the analysis and presentation of Mexico's policies follows the six-year presidential cycle.
35. In December 2000, Vicente Fox Quesada, of the Partido Acción Nacional, became the first president to be elected from the opposition. President Fox set up a completely transparent and inclusive administration.
36. Subsequently, and for the first time, Mexican citizens were invited to take part in drawing up the National Development Plan. The three major themes of the plan for 2001-2006 are social development, growth with quality, and order and respect. The backbone of the plan is the promotion of education, with a view to triggering an educational revolution that will increase the country's competitiveness on the world stage.
37. The National Development Plan sets out a vision of Mexico in 2025, when its population will have reached at least 126 million, of whom 18 million will be young people aged between 15 and 24, and 13.5 million will be over the age of 65.
38. Within that time frame, the National Development Plan aims to: achieve 100 per cent educational coverage and raise the average length of time spent at school to 12 years; increase the population's standard of living and eradicate extreme poverty; attain universal coverage of services; and protect and preserve the environment. The plan is also designed to strengthen harmonious relations and democratic participation, as well as to ensure that the Government is respectful of its institutions and addresses the population's needs effectively and transparently.
39. The objective of the "growth with quality" element of the National Development Plan is to create a macroeconomic setting in which productive activities such as work, investment and savings, innovation and creativity, open up opportunities for all. It also aims to achieve stable, sustained and sustainable economic growth. Such growth is characterized by low inflation and, consequently, by confidence in the financial framework, as well as by greater competitiveness, including in sectors and regions that have not so far benefited from the gradual rises in real wages associated with greater and more widespread competitiveness.
40. With regard to the "order and respect" element of the plan, one of the current Government's priorities is to guarantee public order while fully respecting citizens' freedoms and rights and the rule of law.
41. Migrants are one of the most important groups in the view of the new administration. During its first 100 days in office, the Government set priorities in the field of migration, including: the channelling of social projects towards areas of high migration to reduce the outflow of Mexicans; the launch of a programme to make it easier for Mexicans living abroad to send remittances at an affordable cost; and the creation of an institution to help Mexican migrants abroad.

42. The Institute for Mexicans Living Abroad (IME) is a decentralized body of the Ministry of Foreign Affairs established by presidential decree. Its main function is to implement the policies and instructions of the National Council, which is headed by the President and made up of government ministers, with a view to managing and improving contacts with and assistance to Mexicans living outside Mexico.

43. The IME resulted from the merger of the Presidential Office for Mexicans Abroad and the Ministry of Foreign Affairs' Programme for Mexican Communities Abroad, which had been working with these communities since 1991. It receives support and guidance from an advisory council composed of Mexican citizens who live abroad.

44. The IME promotes the investment of migrant capital in areas of extreme poverty, encouraging Mexican migrants to invest voluntarily in the regions they come from, in programmes in areas such as health, work, education, community development, access to the administration and services, remittances, links between places of origin in Mexico and of residence abroad, business development, etc.

45. Meanwhile, Mexico is taking steps to grant legal status to undocumented Central American workers. The National Institute for Migration has started a regularization programme that could amnesty some 10,000 migrants, mostly from Central America. The offer of regularization also applies to members of their families.

46. The Mexican Government's priority is to create the conditions in which indigenous peoples and communities can participate on an ongoing basis in building up a legal framework that guarantees them the full exercise of their autonomy and self-determination. The Government also reiterates that tolerance is vital to the consolidation of a pluralist society and that it is essential to eradicate all forms of discrimination against minority groups and to prevent their exclusion, while paying special attention to the vulnerability of indigenous people.

47. Accordingly, President Fox's administration established the Office for the Development of Indigenous Peoples and later the National Commission for the Development of Indigenous Peoples, whose objectives are: to enable the direct participation of indigenous peoples in national development; to ensure that indigenous communities interact with all sectors of society and at all three levels of government - federal, state and municipal; and to help overcome their disadvantages and combat the structural causes of their marginalization in order to improve the living conditions of indigenous peoples, while respecting their habits and customs.

48. The Government also pays special attention to disabled people. In recent years, it has established institutions to assist and rehabilitate citizens with physical or mental disabilities, as well as federal and State programmes to integrate them into society and economic life. The aim is to foster understanding and awareness of the fact that disabled people are also members of society and can contribute to any common activities.

49. In parallel, the National Development Plan includes several projects, salient amongst which is the Puebla-Panama Plan involving nine Mexican States and seven Central American

countries. Its objective is to raise inhabitants' living standards and encourage investment in the region. Infrastructure projects will focus on the building of roads, dams, ports, airports, railways and telecommunications systems.

50. Mexico's foreign policy is based on principles drawn from its history and enshrined in its Constitution, such as the self-determination of peoples, non-intervention, the peaceful settlement of disputes, the legal equality of States, international cooperation, the prohibition of the threat or use of force and efforts to achieve world peace and security.

51. In its international dealings, Mexico has also adopted other precepts which are shared by the majority of nations and which are fundamental to good relations within the international community: sovereignty over natural resources, the right of asylum, the protection of human rights, respect for ideological pluralism, democratic decision-making within the international community and Latin American solidarity.

52. As a direct result of the profound change wrought in Mexico by the elections of 2 July 2000, Mexico's human rights policy is one of the areas where change has been most apparent, both at home and abroad. A substantial improvement in the human rights situation is a prerequisite for the full, democratic transformation of Mexico. The Government therefore gives this task the highest priority.

53. The Government's human rights policy has two basic aims. The first is to make sure that input from international organizations and the international community feeds into the daily workings of institutions so as to bring about the structural change Mexico needs, mainly to address a number of historical disadvantages. In the current transitional phase, it is imperative that institutions dealing with human rights be improved.

54. The policy's second aim is the international recognition and promotion of human rights as fundamental and universal values. Hence Mexico's active participation in various forums dedicated to strengthening international scrutiny of human rights and the legal framework underpinning them. Mexico considers that upholding human rights is both an individual responsibility and a collective one for all States. Its ambition is to respond to change at the national, regional and global levels with vision and consistency, while adequately protecting and promoting national interests.

55. The key to Mexico's foreign policy is diversification, which allows it to further strengthen its ties with all other regions of the world and not just one of them, and to avoid committing itself exclusively to trading blocs or common markets. This international policy aims to project Mexico's interests worldwide and allow it to take an active part in today's global society.

56. Mexico has developed closer ties with several international markets, having signed trade agreements with North America, the European Union, Israel and several Latin American countries.

57. Aside from trade agreements, Mexico has also entered into political and cooperation agreements within the framework of such groups as the Latin American Integration Association (LAIA) or the Rio Group.

### **III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED**

#### **A. Judicial and administrative authorities with jurisdiction affecting human rights**

58. Various institutions are responsible for ensuring the promotion and observance of human rights. The most important of these are the National Human Rights Commission and its local counterparts. The judiciary has the task of ensuring, through its decisions and the remedy of *amparo*, that the individual guarantees set out in the Constitution are respected and that judgements are in compliance with the international instruments ratified by Mexico.

59. Government departments also deal with human rights issues in their areas of competence. The federal Government has made respect for human rights one of the linchpins of its action, together with the promotion of a culture of respect for human rights. To this end, President Fox has ordered every federal government office to set up a unit for the promotion and protection of human rights.

60. In other areas of its work, the federal Government also pays particular attention to monitoring the migration situation in the country, to ensure respect for the rights of Mexican migrants returning home and those of foreign migrants inside the country, as well as those of refugees. Through its Compatriots Programme, the Ministry of the Interior provides assistance, information and guidance to migrants and receives their complaints and accusations and forwards them to the appropriate bodies. This programme is, moreover, a model of cooperation and coordination as regards the implementation of the decisions and measures taken by the Inter-Ministerial Commission, of which more later. The Beta Group programme and the Inter-Agency Project for Border Children are other projects aimed at protecting migrants' rights (Ministry of the Interior).

61. In November 2002, under the Political Agreement on National Development, the federal Government, together with the National Human Rights Commission, called for a national dialogue on human rights as an efficient way to draw up a list of the priorities in the field of human rights requiring immediate action by the federal Government.

62. In order to promote human rights in Mexico, the Ministry of the Interior announced the establishment of the Office of the Under-Secretary for Legal Affairs and Human Rights and the Unit for the Promotion and Defence of Human Rights, so as to have in place a permanent programme for the promotion and strengthening of human rights and for training in this field.

63. The federal Government believes that the right to justice is a fundamental human right. Accordingly, steps have been taken to train staff and to promote, nurture and entrench a human rights culture in the Office of the Attorney-General with a view to preventing human rights violations.

64. The Office of the Attorney-General has a special prosecutor's office for indigenous affairs, whose basic function is to provide guidance, advice and assistance with formalities or procedures to officers of the Federal Public Prosecutor's Office, investigators and officials

assigned to the office, in order to ensure that indigenous detainees and defendants are treated promptly, efficiently and with all due respect for their human rights, in consultation with the prosecutor's office. The prosecutor's office provides legal assistance to indigenous people involved in federal crimes and to members of their families, who are mostly women. It also visits various communities to give workshops on indigenous rights, which are attended mostly by women.

65. It should be pointed out that in addition to the above-mentioned offices there are other institutions whose work involves promoting and ensuring respect for human rights. They include the National Institute for Women, the National Council for the Prevention of Discrimination, the National Commission for the Development of Indigenous Peoples, the National Youth Institute, the National Scheme for the Comprehensive Development of the Family and the National Institute for Senior Citizens.

66. By the same token, the federal Government is endeavouring to achieve a just, lasting and definitive peace in the area of conflict in the State of Chiapas. In its efforts to address the problems there, it is constantly in touch with academic institutions, international bodies, non-governmental organizations and opinion leaders. It is also dealing with other problems stemming from the conflict, such as the upheavals resulting from the forced displacement of people from their communities. The Government hopes to contribute to the process of social reconciliation through the resumption of dialogue, which should lay the foundations for a permanent peace in the region.

67. The Government signed an agreement setting out a number of measures to ensure that justice is done in the case of offences against persons with links to past social and political movements. The following bodies were set up under this agreement: a special prosecutor's office for acts likely to constitute federal offences committed directly or indirectly by government officials against persons with links to past social and political movements; a citizens' committee to help the prosecutor in his work; and an interdisciplinary committee charged with studying, analysing and submitting proposals on compensation procedures and terms.

68. On 28 August 2002, President Fox submitted a report on policies and progress in the field of human rights and made a number of particularly important announcements with a view to producing a comprehensive human rights policy. The report describes media campaigns to promote and gain recognition for the work of human rights defenders, as well as activities that would increase citizens' participation in the dissemination and protection of human rights. In pursuit of the goals set out in this report, the decree on the law promoting the activities of civil-society organizations was signed in January 2004.

69. Mexico has a policy of being completely open to international scrutiny and cooperation with international mechanisms. In 2001, the Minister for Foreign Affairs extended an open invitation, through the United Nations Commission on Human Rights, to the representatives of international human rights mechanisms to visit Mexico.

70. Mexico attaches great importance to efforts to raise international human rights standards. Hence, it has advocated the adoption of several international instruments such as the Optional

Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which establishes a system of visits to detention centres and which was adopted on 18 December 2002. It has also produced proposals for the protection of the human rights of vulnerable groups, particularly indigenous people, the disabled and migrants.

71. The protection of the human rights of migrants is a subject of particular interest to Mexico, which has submitted two proposals in this respect to the Commission on Human Rights. The first called on States Members of the United Nations to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which entered into force following the deposit of the 20th instrument of ratification in December 2002. The second called on Member States to effectively promote and protect the basic human rights of migrants and to strengthen the mandate of the Special Rapporteur on the human rights of migrants.

72. The Mexican Government has a great interest in ensuring respect for human rights and fundamental freedoms in the fight against terrorism, and intends to continue to play an active role in that regard. Mexico sponsored the resolution of the Commission on Human Rights entitled "Protection of human rights and fundamental freedoms while countering terrorism", which was adopted without a vote for the second year running.

73. On 17 October 1997, the Inter-Ministerial Commission on Mexico's International Human Rights Commitments was set up by presidential decision. The commission includes representatives of the foreign affairs, interior, defence, navy, social development, health and public security ministries, the Office of the Attorney-General, the National Human Rights Commission, the National Indigenous Institute, the National Scheme for the Comprehensive Development of the Family, the Citizens' Commission on Discrimination Studies, the Office for the Development of Indigenous Peoples, the National Institute for Women and the Presidential Office for the Development of Indigenous Peoples.

74. The Inter-Ministerial Commission set up a dialogue mechanism to:

- (a) Discuss issues on the international human rights agenda with civil-society organizations and jointly define Mexico's position on these issues;
- (b) Encourage the adoption of domestic measures in line with this position;
- (c) Recommend the action to be taken to enable Mexico to comply with its international human rights obligations.

75. In November 2001, eight working groups were established within the framework of the dialogue mechanism. Representatives of the federal Government and civil-society organizations took part in them on an equal footing. The working groups dealt with the following issues: the harmonization of domestic legislation with Mexico's international commitments; indigenous rights; civil and political rights; economic, social and cultural rights; women's rights; human rights education; and the rights of vulnerable groups. The working group on the latter issue was subdivided into groups dealing with children's rights, migrants' rights and the rights of other vulnerable groups.

76. Given the need to ensure that the Government's foreign policy in the field of human rights is properly reflected inside Mexico, the Government decided to establish a new inter-ministerial commission to replace the one set up in 1997. The Inter-Ministerial Commission on Government Policy on Human Rights was established by a presidential decree published on 11 March 2003.

77. In order to formulate a comprehensive national policy on human rights for the federal Government, the new Inter-Ministerial Commission sought the participation of more federal government offices whose work is closely related to human rights.

78. The Inter-Ministerial Commission is chaired by the representative of the Ministry of the Interior, and the vice-chair is the representative of the Ministry of Foreign Affairs. It also includes representatives of the ministries of defence, the navy, public security, education, social development, finance and public credit, health, and the environment and natural resources, as well as the Office of the Attorney-General.

79. The Inter-Ministerial Commission is responsible for coordinating the work of the various federal government offices and bodies, to ensure that government action is consistent at both the national and the international levels.

80. The Inter-Ministerial Commission has institutionalized the process of participation by civil society in the formulation of government policy on human rights. It ensures that civil-society organizations are fully represented at all its meetings as permanent observers. The civil-society organizations concerned designate their own representatives to the Commission, in reasonable numbers, so that an effective dialogue and exchange of ideas can take place. The dialogue mechanism, in the form of subcommissions, is part of the new Inter-Ministerial Commission, and operates in accordance with the existing arrangements.

81. The meetings of the Inter-Ministerial Commission are also attended by permanent observers from the National Human Rights Commission, the Mexican Social Security Institute, the Security and Social Services Institute for State Employees, the National Institute for Women and the National Commission for the Development of Indigenous Peoples, all of whom can speak but not vote at meetings.

**B. Remedies available to an individual who claims that any of his or her rights have been violated, and systems of compensation and rehabilitation**

82. The first part of the Constitution sets out the individual guarantees that the State has an obligation to protect and enforce. The same obligation is set out in the laws regulating articles 1 to 29 of the Constitution and in each State's Constitution.

83. Any individual who alleges that their rights have been violated can appeal to a court for the appropriate remedy: in criminal cases, the appropriate remedies are reconsideration, appeal, complaint for refusal of leave to appeal and *amparo*; and, in civil cases, reconsideration, appeal, special appeal, complaint, judicial liability and *amparo*.

84. Anyone who wishes to file a complaint for alleged violations of their human rights by a government official can turn to the National Human Rights Commission, which will give them advice on the legal measures available to them and on how to use them or, if all legal remedies have been exhausted, will investigate the case and, where appropriate, issue a recommendation.

85. One of the key elements in the current administration's human rights policy concerns the processing and definitive resolution of cases of human rights violations reported to the relevant international jurisdictional bodies. The following policies have been implemented in this respect:

(a) Recognition of the obligations arising from the decisions of such bodies in the cases before them;

(b) Recognition of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights as legitimate forums for the consideration and resolution of such cases;

(c) The establishment of ad hoc working groups consisting of representatives of the Ministry of Foreign Affairs, the authorities directly involved and the victims or their representatives;

(d) Support for the prosecution of those responsible for the violation and for fair compensation for the harm done.

86. On this basis, the Government is dealing with 433 individual cases that have been reported to two of the most important international forums: the Inter-American Commission on Human Rights (129 cases) and the United Nations (304 cases).

### **C. Protection of the rights referred to in the various human rights instruments**

87. As has been mentioned previously, human rights are protected by articles 1 to 29 of the Constitution, from which derogation is only possible in the event of invasion, serious disturbance of public order or any other serious incident that endangers society. Only the President may, with the agreement of the ministers of State and the Attorney-General of the Republic and with the approval of Congress, suspend, either throughout the country or in a particular place, any guarantees that are an obstacle to dealing with the situation. However, he may do so only for a limited time and by means of general measures, so that the suspension does not affect a particular individual. It should be pointed out that no such guarantees have ever actually been suspended.

88. A substantial improvement in the human rights situation is a prerequisite for the full democratic transformation in Mexico; for this reason, it is given the highest priority by the Government.

89. In view of this, priority has been given to making greater respect for human rights an essential component of State reform. Details of progress in this respect are given below.

90. The State Reform Commission defined 21 subjects as priorities for discussion, in five main areas: (a) the regulatory framework for human rights; (b) the defence of human rights; (c) civil and political rights; (d) economic and social rights; and (e) cultural, environmental, migrants', women's and children's rights.

(a) Regulatory framework for human rights. The subjects identified include: the enforcement of every fundamental right by enabling legislation of constitutional rank; the precedence of international human rights treaties over domestic law; and the restructuring of the human rights chapter of the Constitution.

(b) Defence of human rights. Among the decisions highlighted were those to find ways to give general effect to *amparo* decisions in which the court finds against a general rule; to give greater weight to the recommendations of human rights bodies by means of mechanisms that involve the legislature; to adopt the principle of the peaceful settlement of disputes to deal with any outbreaks of social unrest; to prepare a new federal criminal code and corresponding procedural rules; and to undertake a root-and-branch overhaul of the justice system.

(c) Civil and political rights. The main agreements reached were to: make a clear distinction between freedom of expression and the right to information, including by setting them out in different articles of the Constitution, so that the regulations on freedom of expression and the content and scope of the right to information can be adapted accordingly; establish the principle of non-discrimination in the Constitution and review the whole legislative framework with a view to eliminating all forms of segregation; formulate affirmative action in support of gender equity; delete the constitutional provision regarding the discretionary expulsion of foreigners and guarantee the right to a hearing and due process; and place religious freedom in the context of the other freedoms on which it is based or that are related to it, such as freedom of conscience, thought, expression and association.

(d) Economic and social rights. Attention was drawn to the urgent need to give effect to and enforce these rights by constitutionally regulating the State's minimum obligations in the fields of education, health care, housing, food and work.

(e) Environmental, cultural and migrants' rights. The main agreements were to: incorporate in the Mexican legal system the concept of environmental sustainability as the basis for the continued existence of human beings; ensure that the various social groups have the freedom to enjoy and practise their cultural values and traditions on an equal footing, provided that they do not interfere with the basic functions of the State; and put into practice the provisions of bilateral and multilateral agreements guaranteeing freedom of transit across borders.

91. The Federal Act on Transparency and Access to Public Government Information, enacted by decree on 11 June 2002, is designed to guarantee that everyone has access to the information held by State bodies. The Act sets out objective criteria for classifying information, so that only information considered confidential is withheld from the public.

92. In March 2004, the federal executive submitted a proposal for reforms in the area of public security and criminal justice. The proposal was based on input from civil-society organizations, academics and the National Human Rights Commission and on the recommendations of the Office of the United Nations High Commissioner for Human Rights. The three pillars of the reform are the reorganization of public security institutions, reform of criminal procedure and the professionalization of the criminal defence system.

93. The proposal also aims to replace the current procedural system with a system of quick, fair, oral, transparent and public hearings.

94. In addition, on 26 April 2004, the President submitted to Congress a proposal to amend the Constitution in the area of human rights. It is proposed to amend articles 1, 3, 14, 15, 22, 33, 73, 89, 102, 103 and 105 of the Constitution.

95. The purpose of the proposal is to recognize human rights in the Constitution; include a gender perspective in State education; eliminate the death penalty; protect the human rights set out in treaties to which Mexico is a party, including by means of *amparo* proceedings; guarantee due process for foreigners facing expulsion or deportation; facilitate declarations of competence in cases of human rights violations; make the protection of human rights a principle of foreign policy; grant autonomy to the State human rights commissions; and give the National Human Rights Commission and its State counterparts the power to seek judicial review of laws that they consider to be an infringement on human rights.

96. During the present Government's term of office, the country has been visited by the representatives of 15 international mechanisms.<sup>4</sup> A number of their reports and recommendations are being used in the formulation of a comprehensive human rights policy that meets international standards.

97. In view of the usefulness and importance of the recommendations made by the various international mechanisms by which Mexico has agreed to be scrutinized, and in order to publicize them, at the end of 2003 the Ministry of Foreign Affairs published a compilation of the 388 recommendations they had made.

98. On 2 December 2000, President Fox signed a technical cooperation agreement with the United Nations High Commissioner for Human Rights, Ms. Mary Robinson. The first phase of the technical cooperation programme was implemented between February and August 2001. It consisted of holding seminars on how to combat torture, particularly by making use of two model protocols on the medical diagnosis of torture and the forensic identification of torture, which are based on international standards.

99. In October 2001, Mexico signed a framework agreement on the second phase of the technical cooperation programme, which got under way with the establishment of an office of the High Commissioner in Mexico to support the structural reforms needed to guarantee respect for human rights in the country. One of the outcomes of this phase was the national human rights survey, which was presented to President Fox on 8 December 2003.

100. The results of the survey, which was produced by four Mexican experts selected by the High Commissioner's office, and the recommendations of the international human rights mechanisms were used as input to the National Human Rights Programme.

**D. Way in which human rights instruments are made part of the national legal system**

101. Article 133 of the Constitution states that all treaties which are in keeping with the Constitution and which have been or may be concluded by the President of the Republic with the approval of Congress are the supreme law of the Union. Accordingly, the Inter-Ministerial Commission's working group on the harmonization of legislation considered a proposal to amend article 133 by giving constitutional status to the rights recognized in international treaties containing provisions for the protection of persons.

102. In the Mexican legal system, international treaties are hierarchically above federal legislation according to the most recent ruling of the Supreme Court in its opinion No. 192.867, under the heading "International treaties are hierarchically superior to federal laws and secondary to the federal Constitution". This means that, where there is a conflict with federal legislation, treaty provisions take precedence as a result of the application of the hierarchical principle to the resolution of conflicts between rules; it also means that, where there are gaps in federal legislation, the rules contained in treaties serve as guidelines or principles that can be used to complete the legislation.

103. It should be pointed out that one of the first actions taken by the present administration was to review Mexico's situation as regards accession to international human rights instruments, both universal and regional, and to submit a proposal in that respect.

104. In December 2001, after wide-ranging discussions, Congress adopted several important instruments, including the Inter-American Convention on the Forced Disappearance of Persons, and recognized the competence of treaty bodies to receive communications from individuals.

105. As part of this whole process, the following conventions have entered into force pursuant to the deposit of the relevant instruments: the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the Inter-American Convention on the Forced Disappearance of Persons, the Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the optional protocol to the Vienna Convention on Consular Relations concerning the compulsory settlement of disputes.

106. Mexico also accepted the amendments to article 17, paragraph 7, and article 18, paragraph 5, of the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment; partially withdrew its interpretative declaration and reservation to article 12, paragraph 3, and article 23, paragraph 2, of the American Convention on Human Rights, with regard to the exercise of the right to vote by ministers of religion and public acts of religious worship; and partially withdrew its reservation to article 25 (b) of the International Covenant on Civil and Political Rights, with regard to the exercise of the right to vote by ministers of religion.

107. Mexico also recognized the competence of the Committee against Torture and the Committee on the Elimination of Racial Discrimination to receive communications from individuals and States and has signed an agreement with the International Committee of the Red Cross (ICRC) on the establishment of an ICRC regional office in Mexico.

108. As far as the Rome Statute of the International Criminal Court is concerned, the executive has submitted to the Senate a proposal to amend article 21 of the Constitution so as to recognize the jurisdiction of international courts established under treaties to which Mexico is a party, as defined in the courts' terms of reference and in accordance with their procedures, and to comply with their decisions and judgements. This amendment would be a decisive step forward in the incorporation and application of the rules of international law in domestic law, especially those related to human rights.

**E. Can the provisions of the human rights instruments be invoked before, or directly enforced by, the courts or administrative authorities, or must they be transformed into internal laws or administrative regulations in order to be enforced by the authorities concerned?**

109. Under current legislation, international human rights instruments become part of domestic law as soon as they have been ratified by the Senate, and can thus be invoked before the courts. Under the Constitution, the courts of each State must conform to the federal Constitution and laws and to treaties, notwithstanding any provisions to the contrary in State Constitutions or laws.

**F. Institutions or national machinery with responsibility for overseeing the implementation of human rights**

110. The national bodies responsible for the protection and dissemination of human rights are the National Human Rights Commission and its State counterparts.

111. The establishment of the National Human Rights Commission in 1990 and the 1995 reforms to strengthen and increase the independence of the judiciary, as well as other measures, illustrate Mexico's willingness to bolster the promotion and protection of human rights.

112. Article 102 B of the Constitution, as amended on 13 September 1999, establishes the National Human Rights Commission as an independent body with its own budget, legal personality and assets. Its basic objective is to protect, apply, promote, study and publicize the human rights provided for in the Mexican legal system.

113. Pursuant to this amendment, the head of the Commission is appointed by the legislature - the Senate, to be specific - thereby guaranteeing that the person appointed is completely independent of the executive.

114. The Commission's specific objectives are to strengthen a culture of respect for human rights; reinforce institutional mechanisms for the protection of human rights; continue its efforts to eradicate impunity in cases of proven human rights violations; design mechanisms to identify, on a regular and systematic basis, the progress made and obstacles encountered in implementing human rights policies; publicize mechanisms for the promotion and protection of human rights more widely; help ensure compliance with the country's international human rights commitments; increase the autonomy of the non-judicial system; and promote cooperation between the public sector and civil society using existing institutional and legal mechanisms to strengthen the protection of human rights.

#### **IV. INFORMATION AND PUBLICITY**

115. A meeting was held between 25 and 28 February 2003 at the Ministry of Foreign Affairs on the subject of higher education in human rights in Latin America and the Caribbean. The aim was to continue exploring the subject and to analyse it in greater depth.

116. A meeting was held in February/March 2002 between representatives of the Mexican foreign ministry and a group of experts from the European Commission, to negotiate a joint cooperation project in the field of human rights.

117. The overall aim of the project proposed by Mexico is to identify the specific actions and policies needed to incorporate international human rights rules and standards into Mexican law, within the framework of the discussions going on within the Inter-Ministerial Commission on Government Policy on Human Rights. As a result, four specific objectives have been set out:

(a) Ensure that the authorities and civil-society organizations have an understanding of international and regional human rights protection and Mexico's international obligations in this area;

(b) Establish a forum for, and encourage a culture of, dialogue between government and civil society, so that public policies based on international human rights rules and standards can be more readily drawn up and implemented;

(c) Facilitate the exchange of the knowledge and experience needed by the eight subcommissions (formerly known as working groups, within the framework of the dialogue mechanism) of the Inter-Ministerial Commission, consisting of government officials and representatives of civil society, to enable them to produce concrete proposals for public policies by means of seminars and workshops on specific subjects led by European and Latin American experts;

(d) Prepare a campaign to publicize the experience and knowledge gained from the programme.

118. The proposed activities include holding seminars on the protection of human rights at the international and regional levels, the dialogue between government and civil society and the issues addressed by the various subcommissions, as well as preparing a campaign to publicize the experience and knowledge gained from the programme.

119. It was also planned to produce a survey and assessment of the actual impact of media campaigns on the human rights situation in Mexico and to publish the outcomes of the meetings mentioned above in the course of 2003.

120. The first of these activities - a seminar giving information on the project - was held on 25 February 2004. It was attended by representatives of non-governmental organizations and the federal government offices represented on the thematic subcommissions of the Inter-Ministerial Commission on Government Policy on Human Rights.

121. In December 2001, a regional conference on human rights education was held in Mexico, and resulted in the signing of the Mexico City Declaration on Human Rights Education in Latin America and the Caribbean. The Declaration contains a long list of actions aimed at developing a culture of human rights through formal and informal education. In March 2002, within the same cooperation framework, an agreement was signed on the development of a programme of human rights activities, with special attention to economic, social and cultural rights. Mexican academic institutions that offer human rights courses were invited to contribute to the implementation of the agreement, and for this purpose a parallel cooperation agreement valid for two years was signed by the Ministry of Foreign Affairs, the National Autonomous University of Mexico, the Ibero-American University and the United Nations Educational, Scientific and Cultural Organization (UNESCO), to organize seminars and other academic activities that would encourage debate and the promotion of human rights.

122. The first seminar was held on 4-5 July 2002, on the subject of "Obstacles to the exercise of economic, social and cultural rights in Latin America".<sup>5</sup> The second was held on 7-8 October 2002, on the subject of "Human rights and migratory flows in Mexico and Central America", and was well attended by academics and representatives of government and civil society, as well as by speakers from Mexico and Central America.<sup>6</sup>

123. Lastly, in May 2003, a third international seminar was held at the Mexican foreign ministry on the subject of "Higher education in human rights in Latin America and the Caribbean". The purpose of this seminar was: (a) to contribute to a survey of the current state of higher education and research into human rights in the region; (b) to encourage universities to include human rights issues in all their courses; and (c) to help establish a Latin American network for cooperation in human rights education and research among Latin American specialists and academics, with the support of the Inter-American Commission on Human Rights.<sup>7</sup> The outcomes of the three seminars were published on 20 January 2004.

124. Pursuant to Commission on Human Rights resolution 2003/22 on women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing, a regional meeting on the right of women to adequate housing was held on 4 and 5 December 2003 in Mexico City. The meeting was organized by the United Nations Special Rapporteur on adequate housing, Mr. Miloon Kothari.

125. A regional seminar on internally displaced persons in the Americas was held at the Ministry of Foreign Affairs from 18 to 20 February 2004. The seminar was co-sponsored by the office of the Representative of the Secretary-General on internally displaced persons, and sought to identify policies and practices for addressing the current needs of displaced persons in the region.

126. The National Human Rights Commission and its State counterparts publicize the issues related to the nature, promotion and protection of human rights in the mass media. They also organize training courses, film seasons and plastic arts exhibitions, produce radio and television programmes featuring members of the Commission and its board - who also give lectures and speak on human rights at round tables and other events - and produce training videos. The Commission has also produced publications, including in indigenous languages, to promote respect for human rights; they deal notably with complaints, indigenous issues, the country's prison system, the protection of children and migrant workers.

#### Note

127. Since this document was prepared, progress has been made in a number of areas, the most important of which are mentioned below.

128. On 23 June 2005, the Chamber of Deputies, meeting in plenary, adopted a constitutional amendment that expressly prohibits the death penalty in Mexico. The amendment, to articles 14 and 22 of the Constitution, was adopted with 412 votes in favour and 2 abstentions. As the proposal had already been approved by the Senate, it was then sent, as required by law, to the State legislatures. It needs to be approved by 16 of the 31 State congresses to enter into force.

129. The amendment removes from the Constitution the reference to the imposition of the death penalty for the crimes of treason during war with a foreign country, parricide, homicide with malice aforethought or premeditation or for gain, arson, kidnapping, highway robbery and piracy and for serious military offences. This legislative measure rules out any possibility of applying the death penalty in Mexico.

130. On 29 June 2005, the *Diario Oficial de la Federación* published a decree amending a number of provisions of the Code of Military Justice so as to abolish the death penalty. It should be pointed out that, even when the Code of Military Justice provided for the death penalty for certain serious offences, the death penalty had not been executed since 9 August 1961.

131. On 11 April 2005, Mexico deposited the instrument of ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

132. On 28 October 2005, Mexico deposited the instrument of ratification of the Rome Statute of the International Criminal Court. Mexico had signed the Statute in September 2000, and the Senate had adopted it on 21 June 2005. Its adoption required an amendment to be made to the Constitution; this was done on 20 June 2005. Now that the instrument of ratification has been deposited, Mexico is formally bound by the Rome Statute, which will enter into force in national territory on 1 January 2006, and becomes the 100th State to have ratified it.

### Notes

<sup>1</sup> National Institute of Statistics, Geography and Informatics.

<sup>2</sup> National Population Council.

<sup>3</sup> Ministry of Education.

<sup>4</sup> The sixteenth visit was carried out in February 2005 by the Special Rapporteur on violence against women, its causes and consequences.

<sup>5</sup> This seminar led to the publication of the book *Los Derechos Económicos, Sociales y Culturales (DESC) en América Latina: Obstáculos a Su Eficacia y Principales Instrumentos Internacionales* (Mexico, UNESCO, Ministry of Foreign Affairs, Ibero-American University, National Autonomous University of Mexico, 2003).

<sup>6</sup> The proceedings of this seminar were published in book form in *Derechos Humanos y Flujos Migratorios en las Fronteras de México* (Mexico, UNESCO, Ministry of Foreign Affairs, Ibero-American University, National Autonomous University of Mexico, 2003).

<sup>7</sup> One of the outcomes of this seminar was the publication of the book *La Educación Superior en Derechos Humanos en América Latina y el Caribe* (Mexico, UNESCO, Ministry of Foreign Affairs, Ibero-American University, National Autonomous University of Mexico, 2003).

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