

UPR MONITOR

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Overview

The delegation was headed by the Minister of the Interior, Mr Fernando Gomez-Mont, and was composed of 24 representatives from various Government ministries and offices. The delegation appeared well-prepared and did excellent good job of responding to nearly all of the questions and comments during the interactive dialogue. The head of the delegation responded to many questions himself but also deferred frequently to delegation experts.

56 States raised issues and questions during the interactive dialogue. No regional group dominated and there was little politicization of issues during the dialogue. The comments and questions, while complimentary of Mexico's report and general openness, offered serious criticisms and recommendations. The recommendations were often quite specific and achievable but they did not generally ask Mexico to set any deadlines for implementing reforms.

Mexico was cooperative during the review. The delegation's opening statement was frank and self-critical. Although the statement did not expand upon the comprehensive national report, it did focus on certain key themes. The delegation provided detailed information in response to the questions and acknowledged its shortcomings. While the delegation did not cover every question asked, it addressed most of the major concerns and issues and provided detailed information and data in its answers. The lack of politicization in Mexico's review, the State's modesty, its general openness to criticism, and the seriousness with which the delegation approached its reporting obligations and the interactive dialogue made for a comparatively high quality review.

General information on Mexico

- Mexico is a member of the Human Rights Council until June 2009 (1st term).
- The members of the troika for the examination of Mexico were South Africa, Pakistan, and Nicaragua.¹
- According to its report, Mexico held two forums with civil society organisations in Mexico City and in Mérida, Yucatan, as well as a national consultation with academic institutions, experts in the Federal District, members of the federal judiciary, and legislative commissions. Mexico also collected information through an internet site.

¹ Mexico did not request that a member of its regional group be among its troika. There were no objections by Mexico or by the members of the troika to the selection. For a full summary of the selection of troikas, see ISHR's *Daily Update* of 8 September 2008, available at www.ishr.ch.

Information submitted to the Working Group

The **national report** of Mexico² is both thorough and self-critical. It both identifies the major achievements and progress made by the State in recent years and details the challenges and problems it is facing. The report's major themes include: efforts to incorporate international human rights standards into domestic law and federal institutions, strengthening the rule of law and reforming the judicial and penal systems, combating poverty and ensuring economic, social and cultural rights, combating discrimination and violence against women, protecting children's rights, and protecting indigenous rights. The report is reflective of a collaboration with civil society.

The OHCHR **compilation of UN information**³ focuses on: discrimination and violence against women,⁴ discrimination against migrants,⁵ combating poverty and increasing social assistance and social services,⁶ poor working conditions and labour reforms,⁷ torture,⁸ arbitrary detention,⁹ and the need for judicial reforms,¹⁰ especially combating impunity,¹¹ and guaranteeing the rights of indigenous peoples and minorities.¹² The issues in the OHCHR report are generally reflective of the issues presented in the other reports, although the picture painted in the State report is a rosier one. The OHCHR compilation indicates that Mexico issued a standing invitation to all special procedures, and indeed there have been seven visits since 2001. The government has responded to 51% of communications and replied to 10 out of 12 questionnaires on thematic issues within the deadlines. Two visits were requested in 2008 and have not yet been agreed upon, however. Mexico has an overdue report to CERD since March 2008, and overdue reports to OP-CRC-AC and OP-CRC-SC since April 2004. It is up-to-date on its other reporting obligations.

18 other stakeholders, including 17 non-governmental organisations (NGOs) and the National Human Rights Commission, submitted information for the OHCHR **summary of stakeholders' information**.¹³ The major issues covered were the need to incorporate all international legal obligations not only into national legislation but also into state and municipal legislation;¹⁴ the insufficient independence of the Comisión Nacional de Derechos Humanos (CNDH) from local governments and its failure to act decisively on reports of violations or pursue remedies for victims,¹⁵ despite its being accredited by the International Coordinating Committee of National Institutions with 'A' status since 1991¹⁶ and the inadequacies of the National Human Rights Program;¹⁷ Mexico's public security crisis,¹⁸ allegations of torture, arbitrary detention, and the assignment of

² A/HRC/WG.6/4/MEX/1, available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MXSession4.aspx>

³ A/HRC/WG.6/4/MEX/2, available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MXSession4.aspx>

⁴ CEDAW, CESCR, CMW.

⁵ CMW, Special Rapporteur on Migrants, UNHCR, UNFPA.

⁶ CESCR, OHCHR-Mexico, UNDP.

⁷ CESCR, CMW, UNICEF.

⁸ CAT.

⁹ CAT, Working Group on Arbitrary Detention.

¹⁰ CAT, the High Commissioner for Human Rights, OHCHR-Mexico, Special Rapporteur on the independence of judges and lawyers.

¹¹ OHCHR-Mexico, the Working Group on enforced or involuntary disappearances, the Special Rapporteur on violence against women, CEDAW, CRC, CESCR.

¹² The Special Rapporteur on indigenous people, CERD, CRC, CESCR,

¹³ HRC/WG.6/4/MEX/3, available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MXSession4.aspx>

¹⁴ Civil Society Organisations for the Universal Periodic Review (joint submission)

¹⁵ Amnesty International

¹⁶ A/HRC/WG.6/4/MEX/2 at C. 4., available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MXSession4.aspx>

¹⁷ National Network of Human Rights Civil Organisations "Todos los Derechos para Todas y Todos" (joint submission)

¹⁸ Civil Society Organisations for the Universal Periodic Review (joint submission)

police functions to the army;¹⁹ a low-intensity war in the state of Chiapas;²⁰ the serious and unresolved problem of femicide;²¹ the need for judicial reforms; the right to an adequate standard of living; freedom of expression; the rights of indigenous peoples and minorities; and the rights of migrants.

Two issues were brought up in the OHCHR summary of stakeholders' information but were not specifically addressed in the review. One was the issue of access to contraception for women, in particular emergency contraception, and access to legal abortion for victims of rape and incest.²² The other issue was broad legislation on the crime of terrorism.²³

Interactive dialogue²⁴

Presentation by the State

In the presentation by the Mexican delegation, Mr Gomez-Mont provided a balance between highlighting Mexico's progress and achievements and identifying challenges and areas needing improvement. The two main challenges Mr Gomez-Mont identified were strengthening the rule of law 'where security and justice institutions are fully capable of protecting all citizens [and] . . .the enjoyment and exercise of human rights are fulfilled in a context of authentic democratic governance' and 'overcoming the inequalities that characterize Mexican society'.

During the rest of his 26-minute presentation, Mr Gomez-Mont did not expand substantially on the national report submitted by Mexico. He did, however, go into greater detail on key issues such as the role of armed forces in carrying out public security tasks, combating torture, and providing greater protections for journalists (in response to several questions submitted to the troika in advance of the session). Mexico did not directly answer all 29 of the advance questions but it did address many of them indirectly.

During the dialogue, Mexico exhibited an openness to dialogue and criticism that not only indicated a genuine commitment to the review process but also set it apart from most of the other States reviewed during the fourth session of the UPR.

Themes and issues

The interactive dialogue during Mexico's review was fruitful. States congratulated Mexico on the quality of its national report and for its cooperation with international human rights mechanisms, but also posed serious questions that Mexico made a good effort to answer. **Violence and discrimination against women** was a prominent issue addressed in the recommendations made by many States.²⁵ Italy, Ukraine, and Sweden were among the States that expressed concern over the high rates of domestic violence, the femicide epidemic in

¹⁹ National Network of Human Rights Civil Organisations "Todos los Derechos para Todas y Todos" (joint submission)

²⁰ Ibid.

²¹ Civil Society Organisations for the Universal Periodic Review (joint submission)

²² Civil Society Organisations for the Universal Periodic Review, and National Network of Human Rights Civil Organizations 'Todos los Derechos para Todas y Todos' (joint submissions).

²³ National Network of Human Rights Civil Organisations "Todos los Derechos para Todas y Todos" (joint submission).

²⁴ Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR>. Fill in the form at www.ohchr.org/english/bodies/hrcouncil/form.htm to receive username and password. Audiovisual archives of the meetings of the Working Group 'webcast' are available at www.un.org/webcast/unhrc/index.asp.

²⁵ Draft Report of the Working Group on the Universal Periodic Review of Mexico, http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/MX/A_HRC_WG6_4_L13_MEX_E.PDF II. (93) 8, 11- 18.

Chihuahua and Ciudad Juarez, as well as the impunity for the perpetrators of violence against women and insufficient investigation into such cases.²⁶

New Zealand was one of a number of States that addressed the problem of legislative discrimination against women.²⁷ The need to harmonise State and municipal legislation with national legislation on human rights and to **harmonise all domestic legislation with international human rights obligations** was frequently raised during the interactive dialogue and was a particular concern of Canada and Turkey.²⁸

There was also a great deal of concern expressed by Germany, Norway, the Netherlands, and numerous other States over killings and attacks against **journalists and human rights defenders** and the need to create a safer environment for free speech and a democratic media.²⁹ Uzbekistan, Portugal, and Denmark, were among the many States that emphasized the need for **judicial reforms** in Mexico to address problems of **impunity, torture**, and indefinite detention, and to improve the conditions in prisons and ensure that detainees' rights are respected.³⁰

The **role of the Mexican military in maintaining public security** was also a prominent issue, brought into question by a large number of States,³¹ especially by Canada as regards the use of force by military officials on civilian populations,³² and by Ireland regarding the problematic use of military tribunals to deal with offences against civilians.³³

There were also numerous recommendations regarding the **rights of indigenous, migrant, and marginalised populations**.³⁴ **New Zealand and Finland spoke about the need for special attention to be paid to indigenous rights in the justice system.**³⁵ Argentina raised concerns about constitutional discrimination against indigenous peoples,³⁶ while Guatemala and Uzbekistan expressed concern about the rights of migrants and their working conditions,³⁷

It was made clear during the interactive dialogue that indigenous peoples and migrants often suffer the most from poverty and poor living conditions. Japan, Canada, Honduras, and Vietnam were among the countries making this link.³⁸ **Poverty eradication** more generally received a lot of attention, and Mexico received both many congratulations for its achievements in poverty-reduction as well as many recommendations for further improvement.³⁹ The Holy See was concerned about maternal mortality,⁴⁰ Honduras about access to healthcare,⁴¹ Canada addressed the need for employment programmes,⁴² and Malaysia addressed housing financing and the implementation of food aid programmes.⁴³

²⁶ Ibid at II. (93) 17- 23.

²⁷ Ibid at II. (93) 12-15.

²⁸ Ibid at II. (93) 3- 8.

²⁹ Ibid at II. (93) 23, 52-60.

³⁰ Ibid at II. (93) 26- 29, 34- 35, 38- 48, (94) 1.

³¹ Ibid at II. (93)35-37, 43, (94) 3-7.

³² Ibid at I. B. 43.

³³ Ibid at I. B. 54.

³⁴ Ibid at II. (93) 8, 11, 49, 75-81

³⁵ Ibid at I. B. 49, 53.

³⁶ Ibid at I. B. 60.

³⁷ Ibid at I. B. 31, 71.

³⁸ Ibid at I. 42, 43, 69, 70.

³⁹ Ibid at II.(93) 10, 63-74.

⁴⁰ Ibid at I. B. 61.

⁴¹ Ibid at I. B. 69.

States also engaged Mexico in discussion on the following themes: the need to withdraw reservations to international human rights instruments;⁴⁴ protecting the rights of children, in particular combating violence against children,⁴⁵ and protecting them from corporal punishment;⁴⁶ combating trafficking and all forms of sexual exploitation;⁴⁷ strengthening the national human rights programme;⁴⁸ enforced disappearances;⁴⁹ providing human rights training for police and armed forces;⁵⁰ fighting organised crime;⁵¹ freedom of demonstration;⁵² improving the rates of girls in school;⁵³ creating a process to follow-up on the UPR recommendations, increasing dialogue with civil society, and disseminating the various reports;⁵⁴ and re-establishing the Special Prosecutor's office for past political and social movements.⁵⁵

Adoption of the report

In the adoption of the draft report of the Working Group on the Universal Periodic Review for Mexico, the troika congratulated Mexico on its 'wonderful' review. Mexico expressed its enthusiasm for the review process and gave special thanks for the participation of civil society in its review and noted with particular appreciation the meeting with NGOs and autonomous human rights bodies that was held in the afternoon following Mexico's review.

Mexico accepted 83 recommendations and kept eight recommendations pending. Mexico did not reject any recommendations. The recommendations kept pending dealt primarily with issue of extending jurisdiction of civil courts in cases of human rights violations against civilians by the military, but there were also recommendations regarding the enacting of a definition of organised crime, abolishing the practice of 'arraigo' or preventative detention, and re-establishing the Special Prosecutor's office for past political and social movements.

In concluding the adoption of the report, Mexico made voluntary commitments to adopt the necessary measures to address the recommendations of the UPR in the framework of its National Human Rights Programme, to work within the framework of the OHCHR in Mexico to foster the implementation of the recommendations, and to follow up on the recommendations with the full participation of civil society and autonomous human rights institutions.

⁴² Ibid at I. B. 43.

⁴³ Ibid at I. B. 80.

⁴⁴ Brazil.

⁴⁵ Algeria, Indonesia.

⁴⁶ Bangladesh, Sweden.

⁴⁷ Philippines, Belarus, Syrian Arab Republic.

⁴⁸ Austria, Germany.

⁴⁹ Colombia, Uruguay.

⁵⁰ Turkey.

⁵¹ Italy, Switzerland, Portugal.

⁵² France.

⁵³ Philippines.

⁵⁴ Norway, Panama, Honduras.

⁵⁵ Belgium.

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