

Distr.  
RESTRICTED

E/CN.4/Sub.2/2000/CRP.1  
2 August 2000

ENGLISH ONLY\*

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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on the Promotion  
and Protection of Human Rights  
Fifty-second session  
Agenda item 7

HUMAN RIGHTS OF INDIGENOUS PEOPLES

Report prepared by Mrs. Erica-Irene A. Daes, Chairperson-Rapporteur  
of the Working Group on Indigenous Populations,  
on her visit to Mexico (28 January-14 February 2000) \*

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GE.00-014603

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A. EXECUTIVE SUMMARY

1. The visit of the Chairperson of the Working Group on Indigenous Populations of the Sub-Commission for the Promotion and Protection of Human Rights (hereinafter Chairperson) to Mexico took place from 28 January to 14 February 2000 following an invitation by the Instituto Nacional Indigenista (INI) of the Ministry of Social Development. This invitation was extended to the Chairperson within the framework of a public statement by the Chairman of the Sub-Commission made on 24 August 1999 in the context of the consideration of the human rights situation in Mexico.

2. The human rights situation of the indigenous peoples of Mexico follows the trends of the overall human rights situation in the country, with some particularities, especially regarding in certain cases extreme poverty and marginalization, land's disputes, violence, forced displacement and oppression.

3. The political will expressed by the Government to improve the implementation of its international human rights obligations should be generally seen as a hopeful sign for the respect of indigenous rights as well and should be commended and encouraged. It is obvious that political will cannot be translated into concrete results in people's lives overnight. The Government needs to engage all state institutions and actors in a process of long-term transformation in favour of human rights. Political will and policy initiatives, including legislative reform, must be followed by sustained concrete steps of implementation and must be monitored by the Government, and accountability mechanisms must be established. In the last analysis, the evaluation of the commitment and human rights policies of the Government will be results-based.

4. The Chairperson recommends comprehensive legislative reform at the federal level regarding indigenous affairs, in order to fully incorporate and detail into specific laws ILO Convention 1989/ 169. The Chairperson regrets that such legislative reform is currently hostage to the stalemate of the San Andres accords and underlines that immediate and creative steps should be taken by the Government, the Zapatista National Liberation Army ( EZLN ) , the legislative authorities and political parties to reverse this trend and to adopt urgently the relevant important legislation and administrative measures.

5. Regarding the conflict in Chiapas, the Chairperson recommends that the Government and the Zapatista National Liberation Army ( EZLN ) resume the dialogue, as soon as possible, so that the San Andres accords are implemented for the benefit of the indigenous peoples of Mexico and of all Mexicans. The parties could use the good offices of appropriate international facilitation in this process.

6. The Chairperson is deeply concerned over the militarization of indigenous areas, especially in Oaxaca, Chiapas and Guerrero, and the increasing use of the military for police functions. This situation creates eruptions of violence, an atmosphere of fear and gross violations of human

rights, including the right to life and physical and mental integrity, the right not to be subjected to torture or to cruel, inhuman or degrading treatment and the right to be free from arbitrary arrest and detention.

7. The Chairperson is convinced that social issues should be solved through a democratic and genuinely participatory dialogue, rather than through oppression and militarization.

8. The Chairperson is concerned over reports about the deprivation of indigenous communities of their traditional lands and of the fragmentation of indigenous lands, a situation that has often created tension and conflicts, including within and between indigenous communities. The Chairperson expresses the hope that the Government of Mexico will take legislative and administrative measures to recognize indigenous lands, to demarcate these lands and to protect duly and effectively their unhindered use by indigenous communities.

9. The Chairperson commends the dynamic efforts and policy initiatives of INI for the improvement of the economic and social conditions of indigenous communities and believes that many of these efforts have indeed produced important results and borne useful fruits. At the same time the Chairperson considers that the work and resources of INI are not adequate to address the immense problems of indigenous communities and that many parts of the state structure must be fully mobilized to face these issues.

10. While economic, social and cultural rights are a matter of progressive implementation depending on the level of economic development of each country, it is clear that the Government of Mexico, like every Government, is responsible to undertake sustained and systematic efforts for the enjoyment of these rights, based both on its own means or, if those are not adequate, through the assistance of the international community. The Government's priority on social development and its policy of decentralization are welcome. It is also recognized that the globalization of the world economy and the impact of internationally set prices for products, such as coffee, create difficulties for the indigenous producers. Further efforts should be made by the Administration of Mexico and the competent international and regional institutions, including the European Union, for market research in order the producers, including the indigenous women producers, to sale their products at fair prices.

11. The principles underlying the right to development, as proclaimed in the 1986: " Declaration on the Right to Development," requires more emphasis on the genuine participation of indigenous communities in decision-making regarding their own development, as well as equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Issues of genuine and full participation of indigenous communities in the development process are still a challenge for the Government of Mexico. It is recommended that the competent authorities review the process of decision-making and fully involve indigenous communities in the planning, implementation and evaluation of development projects affecting their lives. Special measures need to be enhanced for the

participation of women in the development processes and for placing the artifacts of their hard work to the markets.

12. The Chairperson welcomes the good functioning in certain areas of self-administering indigenous communities without governmental interference and their recognition de jura or de facto. She is concerned, however, over allegations of such interference in other areas, namely Chiapas and Guerrero, including the removal of indigenous authorities and their replacement by government-selected ones as well as the phenomenon of re-municipalization that appears to undercut democratic processes. The Chairperson considers genuine participation of indigenous communities in the political life of the country as crucial for their own development and for Mexico's development and democracy overall. Where indigenous communities express the wish to administer their own affairs, this should be allowed by the Government, provided that such self-government takes place within the framework of international human rights principles and standards. It is also recommended that the practice of re-municipalization in indigenous areas be reviewed and revised to reflect the genuine and free will of indigenous communities.

13. In the area of economic and social rights, efforts are being made by the Government to improve the health and education of indigenous people. However, serious challenges still exist, especially in terms of malnutrition, and, generally, more resources appear to be needed in the health area. Sterilization of indigenous women, as a result of enforced practices or due to misinformation is not only a serious violation of the right to health and of women's reproductive health, but also of the right to physical integrity. The Government is sincerely encouraged to investigate allegations of such practices and to eliminate them, wherever they may exist.

14. The Chairperson commends the efforts of the shelter for outpatient children in need of long-term treatment in Mexico City, Casa de los Mil Colores, and encourages its financial enhancement by national or international donors.

15. In terms of the right to education, the efforts of the Government to facilitate primary education for indigenous children, including by the establishment of centers for indigenous students are commendable. However, bilingual education is not systematically pursued by the authorities. Sustained policy efforts and resources are needed to improve this area, especially in terms of teacher training, teacher remuneration and bilingual education materials.

16. Access of indigenous youth to secondary and tertiary education requires considerable improvement. It is recommended that the authorities consider adopting a pro-active policy in this area, including consideration of affirmative action in favour of indigenous youth in higher education.

17. The education of girls, a priority of the United Nations in the year 2000, needs further efforts. Beyond the official encouragement of the authorities, which is welcome and should continue, there is a fundamental role to be played also by indigenous community leaders, women's organizations,

community workers, church representatives and others in changing traditional mentalities which result in discrimination against indigenous girls and women in education.

18. The Chairperson considers the use of indigenous languages in the media extremely important for the preservation and development of indigenous cultures and encourages further efforts in this area. Especially in states where the indigenous population constitutes the majority or a considerable percentage of the population, the authorities should consider, besides radio stations, the establishment of television programmes in indigenous languages. This would appear appropriate, for example, in Yucatan, where the Maya language is spoken even by the majority of the population. Mechanisms should be established for indigenous people to fully participate in the administration of cultural sites of their own cultural heritage. It has been applauded that the INI has encouraged and helped indigenous children and youth to be directly involved with establishment of radio's station, their management, the preparation of educational programmes and the participation of communications activities in general.

19. The administration of justice faces great challenges in Mexico and indigenous people are affected by its problems and view it with mistrust. The Chairperson reiterates appeals of other United Nations bodies and mechanisms regarding impunity of the police and the army, excessive use of force by the police and the army, problems related to interpretation, detention procedures, and the overall lack of transparency in judicial procedures as well as the lack of awareness by indigenous people of what constitutes a crime in Mexican law.

20. Religious conflicts are a reality in many indigenous communities, often complicated further by political or economic considerations. State, religious and indigenous authorities and all others concerned have the responsibility to foster tolerance mutual respect, peaceful coexistence and freedom of religion or belief for all indigenous persons of any religion or any denomination.

21. The Chairperson supports the request of the Huichol people regarding the sacred site of Tatei Aramara in Nayarit so that the area will stop being used as a firing range by the navy. This request is based, inter alia, on the principle already adopted by the WGIP and respected by many Governments that indigenous sacred sites, cemeteries and other sacred places should be respected and protected by the Governments everywhere they exist.

22. Regarding technical co-operation between the Government of Mexico and OHCHR, the Chairperson is convinced that the constructive exchange of views between the HC of Human Rights Mrs. M. Robinson and the leadership of Mexico and the timely conclusion and implementation of a Memorandum of Understanding should be vigorously pursued. The Chairperson expresses appreciation for the openness of the Mexican Government in discussing these matters and is convinced of the significance of technical cooperation in the long-term effort to improve institutions. The specific areas for technical co-operation identified by the Chairperson in connection with indigenous peoples include, inter alia: enforced disappearances; the issue of paramilitary groups or

groups of armed civilians; corruption as it affects many sectors of public services and in particular the administration of justice; combatting illegal traffic of drugs, illicit transfer of arms, the use of force by police and the military; the need for training of police and prison officials; enhancing participatory processes for indigenous communities; need for formal recognition and training of indigenous court interpreters and awareness of their legitimate role on the part of the judicial police and the judiciary and its staff; need of awareness of basic constitutional, other legal and in particular penal principles and provisions as well as of fundamental human rights principles and standards by indigenous communities.

23. The displacement by force of the indigenous population appears to have multiple causes, an in-depth analysis being beyond the scope of this report. It is clear that religious conflicts, land conflicts, militarization and poverty are part of the problem and each of these areas needs to be given an appropriate policy response, in accordance with the international human rights obligations of Mexico.

24. The Chairperson commends the Government of Mexico for serving as a generous place of refuge for indigenous Guatemalans and others over the years appreciates the elementary educational possibilities for Guatemalan children and youth, provided by the competent authorities of Mexico and in particular welcomes the granting of Mexican citizenship to the Guatemalan indigenous refugees requesting it and for facilitating the economic and social development of those indigenous communities.

25. The Chairperson expresses the deep wish that the newly elected President and the subsequent Government and administration will make every effort, as soon as possible, to demonstrate political will and responsibility in taking legislative and administrative measures for the full implementation of the recommendations of the present report. Especially, they should also establish just and fair procedures in accordance with the obligations and responsibilities provided by the international humanitarian and human rights law, aimed at the prevention of violations of human rights and effective protection of the human rights and fundamental freedoms of all peoples -indigenous and non-indigenous peoples- of Mexico.

## B. INTRODUCTION

### (a) Mandate and programme of work

26. The visit of the Chairperson of the Working Group on Indigenous Populations of the Sub-Commission for the Promotion and Protection of Human Rights (hereinafter Chairperson) to Mexico took place from 28 January to 14 February 2000 following an invitation by the Instituto Nacional Indigenista (INI) of the Ministry of Social Development. The Sub-Commission took note of the invitation addressed to the Chairperson in its Chairman's public statement of 24<sup>th</sup> August 1999, in the context of the human rights situation in Mexico.

27. Through the above-mentioned statement, the Sub-Commission welcomed the positive developments which had taken place within Mexico since the year before, including the ratification by the Government of Mexico of the International Convention on the Protection of the Rights of All Migrant Workers and of Their Families, as well as the ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; the Sub-Commission was also particularly pleased that the Government of Mexico had established the National Programme for the Defense and Promotion of Human Rights on 21 December 1998; those initiatives of the Government of Mexico might help to ensure a situation in which human rights would be increasingly respected and observed; in particular, the Sub-Commission welcomed the provisions of the National Programme which establish special social programmes relating to the promotion of human rights education, securing the human rights of women and children, and the alleviation of poverty. The Sub-Commission further took note that on 6 June 1999 the Federal Congress of Mexico approved a constitutional amendment providing for the complete autonomy of the National Commission on Human Rights.

28. At the same time, however, the Sub-Commission expressed its continuing concern over the human rights situation in Mexico, and noted persistent allegations of torture, extrajudicial executions and "disappearances, as well as violations perpetrated against indigenous communities within the country; the Sub-Commission also took note of the concluding observations of the Human Rights Committee of 27 July 1999 in which it had expressed concern over the increase in actions by the armed forces within society, particularly in the states of Chiapas, Guerrero and Oaxaca; the Sub-Commission requested the Government to take effective steps urgently to implement the National Programme for the Defense and Promotion of Human Rights, as well as to investigate all human rights violations, committed by both State and non-State forces, and to take concrete measures to bring the perpetrators to justice in accordance with international human rights standards.

29. In her intervention after the statement of the Chairman of the Sub-Commission, the Chairperson, inter alia, expressed sympathy for the drama and the suffering of Chiapas and of indigenous groups elsewhere in the State of Mexico, including those living in Guerrero and Oaxaca; pointed out that disputes even conflict between the Government and indigenous groups can be more effectively solved through peaceful negotiations and, if necessary, through the contribution by competent bodies of the United Nations; recommended that the San Andres accords signed by the Government and the Zapatista National Liberation Army (EZLN) be respected and implemented by all concerned.

30. In a statement to the Sub-Commission, the Permanent Representative of Mexico to the International Organizations in Geneva, inter alia, drew attention to several additional undertakings the Government of Mexico was willing to make to improve the human rights situation in the country; first, the Government had invited the High Commissioner for Human Rights (hereinafter HCHR) to visit the country in November 1999; second, the Government would invite the Special Rapporteur on the Independence of the Judiciary and the



Special Rapporteur on Violence Against Women to visit the Country during 2000.

31. The Chairperson interpreted her mandate as covering the human rights situation in Mexico and in particular the human rights and fundamental freedoms of the indigenous peoples of Mexico. Given the difficult situation in Chiapas, the Chairperson paid particular attention to the promotion of a peaceful solution in the conflict in that state, and in particular to the implementation of the San Andres accords of 1996. Moreover, given the conclusion of a Memorandum of Intent between the Government of Mexico and the Office of the High Commissioner of Human Rights (hereinafter OHCHR) in November 1999, the Chairperson encouraged the conclusion of an agreement as soon as possible regarding a programme of technical cooperation for human rights between the Government and the OHCHR, including on matters of interest to indigenous communities. The Chairperson considers that her visit in no way replaces the necessity of visits to Mexico by special monitoring mechanisms of the Commission on Human Rights that have so requested.

32. The Chairperson visited Mexico D.F., and the States of Nayarit, Oaxaca, Chiapas, Campeche, Yucatan and Guerrero. The programme of the visit was prepared in cooperation with INI and the Foreign Ministry. The Director of INI and other INI officials accompanied the Chairperson throughout her visit, and the Director on Human Rights of the Foreign Ministry accompanied her during the main part of her visit. OHCHR advised on a number of non-governmental organizations to be contacted and provided ample background material. The UNDP Office in Mexico D.F. assisted her in addition to the meetings she had with a great number of NGO's to convene a long meeting with many NGO's on United Nations premises.

33. The Chairperson met with indigenous representatives in several States, including very remote and mountainous villages and areas, she visited and heard testimonies and received material regarding the situation of indigenous peoples, including allegations of human rights violations. She met with other human rights defenders and representatives of human rights non-governmental organizations in Mexico City, Oaxaca, Chiapas and Guerrero and received testimonies and material from them as well. She also heard testimonies from relatives of victims of alleged human rights violations in particular in places of the Chiapas and Guerrero.

34. The Chairperson held meetings with the Foreign Minister, the Deputy Foreign Minister, the Attorney-General and the Minister of Social Development and other officials of those Ministries, with the Director of INI and many INI officials both in Mexico D.F. and in the States visited, with the official of the Ministry of Interior, responsible for the promotion and protection of human rights, with the State Governors of Nayarit, Oaxaca, Chiapas and Guerrero and other officials of those State Governments, with representatives of the Human Rights Commissions of Nayarit, Chiapas and Campeche and with the Parliamentary Commission on Indigenous Affairs. In connection with Chiapas, the Chairperson also had extensive briefings by Bishop Samuel Ruiz in San Christobal de las Casas and, in Mexico City, with the Coordinator for the Dialogue in Chiapas appointed by the Government of Mexico. The Chairperson also received briefing material from the Mexican

officials she met, especially by INI and also had the opportunity to meet with Mexican intellectuals and academic experts in Mexico City, Chiapas and Oaxaca. The Chairperson also met with the United Nations Resident Coordinator and the Director of the United Nations Information Centre and their colleagues in Mexico City as well as with the UNDP representative in Yucatan.

35. The Chairperson visited indigenous communities in San Pablo Oztotepec in Mexico DF, in Lindavista and Mesa del Nayar in the State of Nayarit, in Santo Domingo Keste and in Chenes in the State of Campeche, in Mani and Samahil in the State of Yucatan, in Vigas in the State of Guerrero. And many other remote communities. The Chairperson saw educational facilities and shelters for indigenous children pursuing their schooling, visited health centers or clinics in Mexico City, Nayarit -- including the Regional Hospital of Jesus Maria -- and in Oaxaca spoke with local indigenous authorities, including political and spiritual leaders and indigenous judges, as well as with indigenous women, indigenous agricultural producers and crafts producers, indigenous parents organizations, indigenous teachers and students, indigenous interpreters in the court system, indigenous radio producers, social workers, doctors and nurses, including indigenous traditional doctors. The Chairperson also visited an indigenous community of Guatemalan origin in Campeche and was briefed about the project Programme of Support to the Definitive Integration (PAID).

36. This report provides the Chairperson's points of view on the work of the INI, on the situation of human rights of the indigenous peoples and a summary of the human rights situation in Mexico. The sub-division in terms of specific rights in the text is for emphasis only, since the respect or violation of one human right generally impacts on the respect or violation of another.

(b) Public statements of the Chairperson during her visit in Mexico

37. In her public statements the Chairperson underlined the following main points:

- S Expressed appreciation for the invitation of the Government of Mexico and of INI and for their constructive cooperation with UN human rights mechanisms.
- S Expressed the hope that the Government of Mexico would soon invite other special mechanisms of the Commission on Human Rights, namely the Special Rapporteur on Violence against Women and the Special Rapporteur on the Independence of the Judiciary (at the time of writing of this report, the latter had been invited by the Government).
- S Encouraged the Government to continue to pursue a technical cooperation programme on human rights with OHCHR, including projects on indigenous rights.
- S Welcomed the positive steps taken by the Government to deal with the health and education problems of indigenous communities, and stated that, despite progress made, a long way still remained until it could be said that indigenous communities adequately enjoyed their economic and social rights; a great number of indigenous communities still suffered

- from extreme poverty and marginalization.
- S Welcomed efforts to promote the respect of indigenous cultural rights, including through the establishment of radio programmes.
- S Expressed concern over allegations she had received of violations of the right to life and physical integrity, torture, arbitrary detention, and violation of indigenous rights to land and natural resources.
- S Deplored the increasing militarization of indigenous areas which led to human rights violations and called on the army to return to its barracks.
- S Cautioned the existence of para-military groups or groups of armed civilians which terrorized indigenous communities.
- S Criticized the impunity of perpetrators of violations of human rights that had been reported to her and asked for the strengthening of the administration of justice.
- S Regarding Chiapas, called on all parties to resume the dialogue so that the San Andres accords would be implemented and said that the United Nations could help facilitate this process.
- S Invited the Government to support the rapid completion and adoption of the draft declaration on the rights of indigenous peoples and the establishment of a permanent forum of indigenous peoples at the United Nations; and, upon the Government's assurances, welcomed the support that the Government promised to provide to these two important endeavors.
- S Encouraged the National Commission, the States Commission on Human Rights and the indigenous organizations and communities to continue their constructive efforts for the full respect of human rights and fundamental freedoms in particular of the indigenous peoples and to contact, as necessary, the United Nations, including the United Nations Voluntary Fund for Indigenous Populations and the Voluntary Fund for the Decade of Indigenous People.

38. The mass media followed the visit with considerable interest and a number of editorial articles, news, information and comments appeared during the visit. Many photographs were published with interesting titles which denote the great concern and satisfaction of the indigenous peoples from the visit. The Chairperson gave brief interviews to journalists following her at several locations as well as to three indigenous radio stations, one in Nayarit and two in Yucatan.

#### General considerations

39. Today Mexico faces a complex reality, not least due to the challenges of globalization. A beautiful and very important country of some 100 million people. Mexico has an indigenous population estimated at 10% (the most recent census started during the period of the visit of the Chairperson ), with some 59 languages spoken (some 70 languages are mentioned in the recent publication National Museum of Anthropology, edited by the Instituto Nacional de Antropología e Historia, Editorial Raíces, MexicoD.F., 1999, p.183). Its people indigenous and non -indigenous are gifted, generous and proud. Massive migration and internal displacement of the indigenous population towards urban

centres, partly due to the search of better economic opportunities, partly due to conflict conditions or massive development projects, has created new challenges for the migrants and the displaced, for society as a whole and for the Government who bears major responsibility in finding solutions. The culturally rich and mostly resilient but economically marginalized and poor indigenous population that was for decades considerably out of sight for the more developed part of the country is now inhabiting urban centres. This creates intense contacts, contrasts and shocks between Mexicans living in different development and cultural dimensions.

40. There are particularities in the variety of indigenous situations in Mexico that require specialized solutions and focus. Indigenous realities vary from area to area, some communities living in very small settlements in remote areas that are difficult to access, others live together in populous communities and constitute the majority or large part of the population in a number of States (Oaxaca, Chiapas, Yucatan, Guerrero). Yet, there are similarities in the indigenous realities that underlie a lot of their human rights problems. Many communities live in resource-rich territories that attract the attention of development projects, including of private companies, that in turn devise ways of exploitation of such resources without the consultation of the indigenous communities or despite their will, creating conflict between communities and police, communities and army units performing police functions, but also within communities. The remoteness and isolation of many indigenous communities also creates conditions where narcotrafficking further complicates the situation, including the expansion of traffic of illicit arms and the proliferation of paramilitary groups or groups of armed civilians. The latter is a term used by the Government which does not consider those groups as created by the army. However, the Chairperson heard alarming NGO testimony and received documentation regarding the nature of those groups as paramilitary, who are responsible for serious violations of human rights.

41. The events in Chiapas in 1994 and the fact that indigenous communities enhanced their level of organization and their demands for meaningful participation in decisions affecting them have apparently triggered a number of visible efforts by the Government to promote progress in the area of economic, social and cultural rights. At the same time, it is clear that indigenous areas, especially in Oaxaca, Chiapas and Guerrero, are increasingly militarized, resulting in tension, clashes and human rights violations. Despite some efforts and good will in parts of the Government to combat impunity, this is still a major problem, exacerbating the frustration and suspicion of indigenous communities towards the state, especially in the area of the administration of justice.

42. While certain law reforms to the benefit of human rights have been taking place in the last few years, major legislative reforms at the federal level that would address the problems of the indigenous peoples in a comprehensive way are being held hostage to the current political impasse in the dialogue over the implementation of the San Andres Larrainzar accords of 16 February 1996. The Chiapas conflict and its solution, has therefore acquired fundamental significance in the solution of the human rights problems

of several indigenous peoples in Mexico, and a symbolic significance in the solution of many issues of democracy and human rights in the country as a whole.

43. The increased awareness of human rights in Mexican civil society is indeed welcome. The recent granting of independent status to the National Commission on Human Rights is also commendable, and it is encouraging to note that a number of State Commissions on Human Rights are also becoming independent. These Human Rights Commissions are working very hard and systematically not only for the promotion of human rights, but also for the defense of human rights of every individual. There seems, however, to exist a discrepancy between the overall development of human rights awareness and human rights illiteracy within civil society on the one hand, and within state institutions on the other hand, thus creating an environment prone to confrontation rather than dialogue for the solution of human rights problems. Hence, the pressing need for human rights training and institution-building in various areas of the state machinery.

44. Mexico has ratified all the major international human rights treaties, namely the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Also, the ILO Convention 1989/169. The country therefore finds itself on solid international legal ground to proceed with needed legislative and administrative reforms.

I. Economic, social and cultural rights

45. The Chairperson was informed by the Minister for Social Development and was provided with official documentation stating that social development is a budgetary priority and that there is a policy in place for the decentralization of social development. A number of health, education, agricultural, crafts and industrial facilities visited by the Chairperson were examples of this policy.

(a) The right to health

46. The Chairperson was able to attest to an important effort of the Government to deal with the issues of health of the indigenous communities, at the levels of primary, secondary and tertiary health care. Health care is free and a national strategy is in place regarding the three levels of health care which are complemented by additional strategies specific to the health challenges of the specific regions or States. Emphasis is placed on primary health care at the community level, where vaccination, prenatal health care and prevention through the promotion of hygiene are particularly underlined. The Chairperson visited a number of well-staffed and -stocked health clinics in small communities. Traditional medicine is often combined with classical

medicine and the Chairperson witnessed the co-habitation of the two types of medicine at the Hospital Regional Mixto de Jesus Maria in Nayarit. Indigenous traditional doctors and indigenous trained nurses as well as community health promoters participate in health care. Efforts are being made to deal with the problem of malnutrition which is evident among the elders and in particular children of the more remote indigenous communities. Periodic examination of these children is scheduled to follow their development. For children needing tertiary level health care and travelling to cities where these facilities are available, there are also shelters created by the authorities in certain urban areas to receive the children who are subject to long term outpatient treatment together with a member of the child's family. The Chairperson was able to visit such a shelter in Mexico City, the Casa de los Mil Colores, established by INI and which is a most commendable effort meriting the assistance of funding by the international development community.

47. Particular difficulties faced in the health area are in part connected to lack of access to remote and thinly populated areas or to the mobility of some indigenous small communities throughout the year due to their agricultural activities, or to inadequate resources for the health clinics. Maternal mortality in indigenous areas continues to be higher than in other parts of the population. In Nayarit the Chairperson was told that medical personnel do not have access to 175 indigenous communities with fewer than 50 people each and that maternal mortality is very high. The displacement of communities due to development projects or conflict also contributes to malnutrition due to the destabilization of the indigenous traditional means of nutrition. The Chairperson heard reports that the problem of malnutrition of children persists in several areas, including in Nayarit, Guerrero and Yucatan. The problem of malnutrition thus continues to be a serious challenge to the enjoyment of the right to health by indigenous people, especially children and youth.

48. The Chairperson was particularly concerned to hear allegations from NGOs of violations of the right to reproductive health care, namely reports on sterilization, without of their consent, of indigenous women in Chiapas and Guerrero, often as a result of lack of information or misinformation by health providers. An immediate end should be put to these inhuman practices.

(b) The right to education

49. Regarding the right to education, the Chairperson notes that, despite governmental programmes, illiteracy among indigenous communities is disproportionately high. In Chiapas, for example, according to some sources, 53% of the indigenous population is illiterate. Efforts are made by the Government to improve this situation, at least for primary education. Special shelters have been established, mostly by INI but also by other initiatives, such as parents associations and the church -e.g. a shelter in Mesa del Nayar in the State of Nayarit run by the Franciscans or the shelter in Samahil in the State of Yucatan, organized by the indigenous parents' association -to host indigenous children during the week so that they can attend school. Although primary education is mandatory, fewer girls than boys attend school, often due to traditional values of their families. INI and community leaders

try to encourage attendance by more girls. The Chairperson was pleased to see some very good efforts for human rights education in Oaxaca, where the Independent State Commission on Human Rights demonstrated to her a programme in Ayutla San Pedro and San Pueblo, entitled "promotores de derechos humanos", educating and encouraging children to get involved in human rights issues in the family and in the community. This programme has apparently been applied in other States as well. The Chairperson also appreciated the achievements of the famous music school for indigenous children she visited in Tlahuiltoltepec, Oaxaca. In the same municipality, the Chairperson was pleased to see the model for alternative education of the Mixe people, combining academic education, vocational training and the learning of crafts.

50. Access to higher education for indigenous youth continues to be extremely difficult, economic reasons being the greatest obstacle, according to explanations provided to the Chairperson by indigenous leaders. The Chairperson was also told that the small number of indigenous professionals with higher education do not find access to the work market easily, not least due to stereotypes in society about the position of indigenous persons. A serious discriminatory practice.

51. Although bilingual education is provided at the primary level in some areas, the Chairperson was able to assess from her discussions that this is not systematic. Educational material in indigenous languages is inadequate. One of the weakest points in indigenous education in several States seems to be that indigenous teachers themselves lack specialized training in bilingual education. Unfortunately, the Chairperson was told, some indigenous teachers also lack respect for bilingual education, having been raised themselves in an era where prohibition and contempt for the indigenous languages used to prevail. The Chairperson was told by intellectuals she met that the low payment of indigenous teachers often obliges them to work in different jobs and to miss days of classes per week, thus undermining the education of their students. There is therefore a major challenge for the Government, at state and federal level, to address these issues systematically. Education in indigenous languages, at least at the primary level, is a fundamental demand of indigenous communities, linked to their identity and culture. Since Mexican authorities, in official statistics, define indigenous people using language as a criterion, it is all the more important to match this with a coherent policy of bilingual education.

(c) Cultural rights, language

52. The Chairperson attended a number of indigenous cultural events during her visit, with indigenous music, song and dance. She appreciated the richness of indigenous cultures in a multitude of expressions and with a very clear impact on the overall Mexican culture. She welcomes the establishment of some 20 indigenous radio stations in the country--three of which she visited--with the financial assistance of INI, fully administered by indigenous boards and run by indigenous radio producers in indigenous languages.

53. When visiting the State of Nayarit, the Chairperson was able to participate in a ceremony by traditional religious leaders of the Huichol

people honouring their most sacred site, Tatei Aramara. The Huichol expressed concern that naval exercises take place in the area of the sacred sea site and asked that the authorities stop this practice in respect to the sanctity of the area for the Huichol religion. The Chairperson fully supports this request.

54. In Yucatan the Chairperson was able to see the development of tourism around important archaeological sites of the Mayas, but heard complaints that in some cases the Mayas are reduced to servants of tourism and are excluded from administering their own archaeological zones.

(d) Economic rights

55. Economic development of indigenous communities is a great challenge of Mexico. Indigenous people often suffer from extreme poverty and marginalization. Displaced indigenous people who come to the cities struggle to survive in their new environment. Many take the way towards the north and emigrate to the United States. The enjoyment of economic rights by indigenous communities is at different stages and levels throughout the country. In some remote areas where indigenous communities are involved in subsistence agriculture, efforts are made by the Government to provide assistance for small community projects on the ground.

56. One example is the project for the production of vegetables by the women of Mesa del Nayar in Nayarit, which will also contribute to the improvement of the nutrition of the school children who live in the student shelter. In Yucatan, indigenous labour is largely employed in tourism, and the Chairperson heard complaints of lack of indigenous participation in decisions regarding the development. In Oaxaca, the Chairperson was able to visit the facilities of a plant which is the first example of a promising joint venture between indigenous agricultural communities, the state and the private sector for the production of mezcal (an alcoholic beverage). At the same time, it was encouraging to see indigenous agricultural or artisanal cooperatives organizing to maximize the benefit to indigenous communities. Seven years ago the Government launched the so-called Regional Funds administered with indigenous participation which allow the channelling of resources to indigenous communities. In Oaxaca, for example, there are 37 Regional Funds and 1,373 organizations participate in them, 131 of which are women's organizations. Indigenous representatives, however, told the Chairperson that Regional Funds are an inadequate response to the problem of underdevelopment of indigenous communities. The indigenous representatives of cooperatives that the Chairperson met in Campeche, Yucatan and Chiapas complained of the low prices of their products, coffee or corn for example, as well as of inadequate access to markets.

57. The issue of inadequate participation of women in state structures that plan and decide on development projects was raised by indigenous organizations. It was requested, in particular that indigenous women should have an appropriate representation at the National Commission for Women.



II. Civil and political rights

(a) Right to life and physical integrity, freedom from arbitrary arrest and detention

58. At meetings with indigenous individuals and non-governmental organizations, the Chairperson heard allegations and received communications on certain cases alleging arbitrary executions and enforced disappearances, arbitrary arrests, torture and threats throughout the country. A number of organizations requested that the Commission on Human Rights of the United Nations appoint a special rapporteur on Mexico. Many cases of enforced disappearances in Chiapas were reported to the Chairperson, especially regarding Palenque, Ocosingo, Sitalha and Chilon, allegedly with the involvement of the armed forces, the judicial police and other public security forces. The Chairperson expresses grave concern over these allegations, which the relevant mechanisms of the Commission on Human Rights must urgently investigate.

59. Terrorization of communities by the army and the police were also reported. In Chiapas the Chairperson was told that the police intimidates the population for allegedly belonging to the EZLN. The Chairperson was told of the case of the Loxicha community in Crucecita Hatulco, Oaxaca, where, in the last three years, threats and violence, have prevailed. Since the death of a municipal worker in a 1997 attack by the EPR (Ejercito Popular Revolucionario), the Mexican army and police have allegedly launched a campaign of repression with more than 30 persons killed, 130 imprisoned of whom 47 were freed and the rest still remain in prison accused of membership to the EPR. Prisoners are allegedly held in isolation in the prisons of Pochutla, Miahuatlan, Santa Maria Ixcote Villa de Etna, Almoloya de Juarez and Tula Hidalgo. The Community is appealing for the release of the prisoners whom it considers prisoners of conscience and the de-militarization of the area. Another case submitted is about the community of Santiago Xanica in Oaxaca which is reportedly surrounded by the army, the judicial police and the preventive police.

60. In Geneva, the Chairperson heard demands from non-governmental organizations for the immediate release of all political prisoners of the country and the safe presentation of the "disappeared" persons. A special appeal was made for the case of Gregorio Alfonso Alvarado Lopez who has been missing.

(b) Human rights in the administration of justice

61. The Chairperson was informed by representatives of indigenous communities and associations as well as by members of non-governmental organizations of problems faced in the administration of justice. Impunity of police and military committing human rights violations was a major complaint, as well as violence in detention and generally excessive use of force by the police and the army. Non-governmental organizations also underlined the poor conditions of indigenous prisoners. The use of the army for police functions, lack of transparency in the judicial processes were also underlined. A series

of difficulties faced by indigenous persons within this context was brought to the Chairperson's attention: lack of adequate number of interpreters of indigenous languages; interpreters do not receive salaries; rejection or offensive treatment of existing interpreters by judges and their staff; threats against interpreters by the judicial police; non-recognition of the legitimate presence of indigenous interpreters in the court system; lack of understanding by indigenous persons of what constitutes a crime under Mexican law.

62. The Chairperson was informed of a number of welcome initiatives of INI, some of which are in cooperation with State Commissions on Human Rights and indigenous organizations. There are programmes of legal literacy training for indigenous interpreters in Oaxaca and elsewhere. The Chairperson met with a group of indigenous interpreters and appreciated their determination to serve in the justice system, sometimes even acting as the sole advocates of the accused. INI has also launched a programme of collection and analysis of data of indigenous prisoner cases in several states in order to seek the improvement of their situation as well as to pursue their release from prison.

63. Chairperson welcomes the recognition in law or in practice of certain systems of traditional indigenous justice which appear to contribute positively in the solution of social problems that arise within communities. The Chairperson spoke with traditional judges in Nayarit, and Chiapas and in Oaxaca, at the Mixe community of Tlahuiltontepec, the traditional head of the community explained the traditional judicial system which is complemented by the Mexican legal system. In Chiapas, the Chairperson welcomed the recent recognition by law of traditional indigenous judges; the law provides for due process issues guaranteed by Mexican law will also be followed by the traditional court. The Chairperson was, however, informed by the indigenous judges that women may not sit as judges under this system, which constitutes a form of discrimination against women.

(c) Freedom of religion

64. Indigenous communities profess their profound religious beliefs in a variety of ways most of which involve combinations of Christian and indigenous traditions. The Chairperson was extremely concerned learning of problems, sometimes resulting in conflict within indigenous communities and in displacement, between indigenous Catholics and indigenous Protestants. These conflicts have complex dimensions in certain areas, namely Chiapas, which are beyond the scope of analysis of the present report. It is certain, however, that all parties concerned, including state, religious and indigenous authorities have a great responsibility to do their utmost to foster tolerance, mutual respect, peaceful coexistence and freedom of religion for all.

(d) Right to autonomy, self-administration; and participation in political life

65. The Chairperson learned from indigenous organizations that there was action in indigenous areas around the country to replace traditional

authorities by government-selected authorities. This was regretted by organizations which see such efforts as a way of weakening indigenous representation in public affairs and controlling indigenous communities. The re-municipalization process in Chiapas and Guerrero was highlighted as a negative example in that regard. The Governor of Chiapas presented the initiative of re-municipalization as positive. The Chairperson heard statements by indigenous representatives in all areas she visited that indigenous communities wanted their traditional structures respected by the authorities and in several areas she heard demands of indigenous communities for self-government and autonomy.

66. The Chairperson appreciated learning that Oaxaca had recently recognized traditional systems of self-administration by law whereby 420 of the 570 indigenous communities followed their traditional system of government instead of voting for political parties. The Chairperson saw a very interesting example of indigenous self-administration at the Mixe community of Tlahuiltoltepec in Oaxaca. The community runs the whole spectrum of public functions following its traditions; the areas of justice, police, education, health, finance and auditing are among those addressed by elected indigenous officials who perform these community duties without a salary. The Chairperson noted with satisfaction that Tlahuiltoltepec appeared to be a community where self-administration seemed to work efficiently and had given people the pride and power of dealing with their own matters, had also given rise to creative initiatives, especially in education and vocational training and in economic and social development.

67. Another case presented to the Chairperson was about the communities of San Jeronimo Tulilja, Agua Azul, Bachajon and Sitala in Chilon, Chiapas, where the will of the communities to elect their chiefs according to custom was allegedly countered by the Governor. The programme of re-municipalization would create four centers within the actual municipality. Last fall, the authorities allegedly encouraged intercommunal confrontations which led to displacement and also illegal detentions, impounding of properties, destruction of houses and cars and other violations, with the participation of paramilitary groups.

### III. The right to land and natural resources

68. Issues of land and natural resources for the indigenous peoples of Mexico, as for indigenous peoples around the world, are inextricably linked with their economic, social, cultural, civil and political rights. Indigenous representatives throughout the country presented to the Chairperson their demand for national legislation to incorporate ILO Convention 1989/169 regarding issues of land in particular. The Chairperson was able to attest from her discussions with governmental, indigenous representatives and non-governmental representatives, that land disputes and disputes over the exploitation of natural resources by state or private enterprises are at the root of human rights violations, clashes between communities, communities and authorities, the latter often supported by the police and the army. Some indigenous representatives spoke of conflicts between indigenous communities created arbitrarily by those who wished to exploit their land and resources.

Problems in Oaxaca, Chiapas and Guerrero, for example, largely have land and natural resources as their cause. The systems of land ownership, public property, private property and ejido (public trust or social property), do not always respond to the needs of indigenous communities which are based on communal ownership of the land according to their traditions. According to indigenous representatives, recent agrarian reforms took place without consultation of the indigenous people permitted the sale of indigenous lands and resulted in fragmentation of indigenous lands, something which often creates discord within and between the communities. Land disputes or land deprivation have also led to massive displacement of the indigenous population.

69. The most disconcerting complaints linked with economic activities that the Chairperson received from indigenous representatives are linked with major projects of natural resource development in indigenous community lands, without the information, adequate participation or consent or despite the will of the communities themselves. Such complaints were received in particular regarding logging and mining on indigenous lands in Oaxaca. Major problems have been created for indigenous communities by the Great Isthmus mega project in that state which has allegedly resulted in the illegal displacement of indigenous villages; however, 69 places of detonation had been identified, without informing the indigenous community. Indigenous representatives also underlined the environmental destruction created by such projects. They denounced the use of the judicial police and the army to curb indigenous resistance to those projects and presented communications on cases of violations of fundamental human rights, such as killings, disappearances, torture, arbitrary detention, extraction of coerced statements and death threats. Non-governmental organizations stressed that impunity of the perpetrators accompanies these violations and gave documentation in that regard. The Chairperson is gravely concerned about this situation which contravenes the international obligations undertaken by Mexico mainly under the International Covenants on Human Rights. The human rights problems in Oaxaca are an illustration of the vicious cycle of militarization, violence and impunity regarding indigenous areas.

70. A number of cases were submitted to the Chairperson, some of which are mentioned here as example of the kinds of problems that need to be addressed by the authorities. Oaxaca was a state about which a number of complaints were received. One of the cases involves the Chatino community where, despite a court-induced agreement to restore trees and give 40% of profits to the community, the Tachapuesa Company has allegedly not yet responded. As a result five hundred people decided to block the road around the logging area and stop the logging trucks from using the road; during this conflict the company was supported by the police, but also by tribal chiefs, which shows the complexity of the situation. Iron ore mining in the Saninissa community in Oaxaca had allegedly had grave effects and the community had not been informed of the mining plans before hand and was not being kept informed after its launch. Another case brought to the Chairperson's attention was that of the Municipality of Benito Juarez at San Salvador Tetapobampo, Sonora, where the indigenous community was allegedly been threatened in order to be forced to leave the area.

IV. Chiapas

71. According to official sources, Chiapas produces 42.6% of hydroelectric power, that is 3.3% of the country's electrical power, 1.7% of its oil and 13.5% of its natural gas. Chiapas ranks tenth in world production of coffee. 90% of the indigenous population is involved in coffee production, constituting 60% of the coffee producers of Chiapas. In spite of the rich natural resources and products, most of the indigenous population still suffers from extreme poverty and its effects. The Chairperson strongly encouraged the Governor of Chiapas to make every effort, as he promised, to eradicate, as soon as possible, poverty in this State, which is one of the richest states of Mexico.

72. The issue of the conflict in Chiapas was a special focus during the Chairperson's visit given the discussions at the Sub-Commission and the significance of Chiapas for political developments in the country overall. Although the Zapatista National Liberation Army (EZLN) and the army have a fragile peace, the atmosphere of tension in the state of Chiapas is obvious. The Chairperson realizes that the tension and overpoliticization of the situation sometimes makes it difficult to evaluate the information from all sides. In addition to violations of human rights in Chiapas that are mentioned in different parts of this report, a major issue brought to the Chairperson's attention is that of the militarization of the area resulting in further violations, maltreatment and terrorization in particular of the indigenous population.

73. Complaints and specific communications were submitted about a wide variety of practices: impounding and inversion of ejido lands for the construction of camps and bases for the army; stealing of animals and other goods for the military's own consumption; exploitation of the timber of the region; increase in prostitution and the consumption of alcohol and drugs; physical aggressions against the population; terrorization of children in order to increase the abandonment of schools - verbal and sexual assault of women; patrolling by civil and military vehicles day and night; intimidation of the population by photographing or video-taping them; searches without judicial authorization; persecution of indigenous inhabitants through the forests and mountains; economic support and projects in favour of communities linked to the Government.

74. The implementation of the San Andres accords is at a stalemate, seemingly by both sides and this prolongs the situation of tension and uncertainty for the indigenous communities in Chiapas, but also the promotion of indigenous rights and solutions of problems at the federal level. The Chairperson had important and long discussions about Chiapas with the Governor, Bishop Samuel Ruiz in San Christobal de las Casas, with indigenous representatives, Non-governmental organizations, the State Commission on Human Rights the very interesting and constructive work of which should be praised, the Government's Coordinator for the Dialogue in Chiapas, Mr. Emilio Rabasa Gamboa, federal authorities, the Parliamentary Commission on Indigenous Affairs, intellectuals and others.

75. The Chairperson took note of the good will , the dynamism and decisiveness of the Governor of Chiapas to take urgent measures in order to combat the poverty and to alleviate the suffering of the people of the State of Chiapas.

76. The Chairperson regrets that legislative reform on indigenous matters at the federal level, including the full legislative coverage of ILO Convention 1989/169, seems to be hostage of the stalemate in the San Andres accords. The Chairperson considers that immediate and creative steps should be taken by all sides to reverse this trend and to resume a constructive dialogue. The Chairperson, during her visit, publicly stated that the United Nations would be ready to facilitate this dialogue if it were asked by both parties. The San Andres accords and this dialogue have profound historic and symbolic significance for the promotion of the human rights of the indigenous peoples of Mexico and of Mexican political life overall. It is in the interest of the Mexican people as a whole that the Government, the EZLN, all political parties and others concerned demonstrate political leadership and sincere will in order to solve the pending issues peacefully within a context of respect for human rights and democratic principles and values.

V. Follow-up to the visit of the High Commissioner for Human Rights:  
Technical co-operation between the Government of Mexico and OHCHR

77. From the beginning of and throughout her mission, the Chairperson stressed to Government officials and NGOs the interest of the High Commissioner for Human Rights (hereinafter HCHR) Mrs. M. Robinson, in following up on the Memorandum of Intent (MOI) concluded in November between the Government and OHCHR. The Chairperson had specific discussions aimed at identifying broad areas of technical co-operation which could form part of a memorandum of understanding, the main goal of which could be an effective protection of human rights and fundamental freedoms of all Mexicans.

78. Meetings were held with the Minister of Foreign Affairs, the Deputy Minister of Foreign Affairs, the Director General of the Division of Human Rights and other officials of the Foreign Ministry, the Minister of the Ministry of Development, officials of the Attorney General's Office, the Director of INI and Officials of the Ministry of the Interior.

79. Regarding issues of the indigenous peoples of Mexico that could be addressed through technical co-operation, a number of suggestions surfaced during the Chairperson's visit. Among them were the problem of enforced disappearances, the issue of armed civilians or paramilitary groups , training of prison and police officials and the issues of narcotics and of corruption, especially as it affects the administration of justice. Another suggestion was that OHCHR could give expert advice on how indigenous communities could have channels of consultation and participation without intermediaries. It was clear from information gathered that indigenous persons face difficulties in the administration of justice:

- (i) Lack of interpreters of indigenous languages;

- (ii) Rejection or offensive treatment of existing interpreters by judges and their staff;
- (iii) Threats against interpreters by judicial police;
- (iv) Non-recognition of the legitimate presence of indigenous interpreters in the court system;
- (v) Interpreters do not receive salaries;
- (vi) Lack of understanding by indigenous persons of what constitutes a crime under Mexican law;
- (vii) Inhuman treatment of prisoners by the staff of the prison.

80. Although some of the above problems are addressed to a certain extent by the authorities, technical cooperation could assist in this process. Moreover, indigenous issues, ILO Convention 1989/169 and relevant provisions of human rights international and regional instruments as well as rules of international humanitarian law, should be mainstreamed in technical co-operation regarding training, especially in the area of administration of justice where lack of awareness of indigenous rights seems to permeate the system.

81. The Government is involved in an effort to revise laws or draft new laws. ILO Convention 1989/169, although ratified by Mexico, still needs to be detailed into concrete laws. This effort at the federal level now seems to be entangled in the Chiapas conflict and the stalemate of the San Andres accords. It could be useful if technical co-operation could creatively address these issues.

## VI. Conclusions and recommendations

82. The human rights situation of the indigenous peoples of Mexico follows the trends of the overall human rights situation in the country, with certain particularities, especially regarding extreme poverty and marginalization, corruption, violence, land, destruction of the environment, displacement and full participation, as equal partners, in the economic and social development.

83. The political will expressed by the Government to improve the implementation of its international human rights obligations should be generally seen as a hopeful sign for the respect of indigenous rights as well and should be commended and encouraged. It is obvious that political will cannot be translated into concrete results in people's lives overnight. The Government needs to engage all state institutions and actors in a process of long-term transformation in favour of human rights. Political will and policy initiatives, including legislative reform, must be followed by sustained concrete steps of implementation and must be monitored by the Government and accountability mechanisms must be established. In the last analysis, the evaluation of the commitment and human rights policies of the Government will be results-based.

84. The Chairperson recommends comprehensive legislative reform at the federal level regarding indigenous affairs, in order to fully incorporate and

detail into specific laws ILO Convention 1989/169. The Chairperson regrets that such legislative reform is currently hostage to the stalemate of the San Andres accords and underlines that immediate and creative steps should be taken by the Government, the Zapatista National Liberation Army (hereinafter EZLN, the Parliament and political parties to reverse this trend and to adopt this important legislation.

85. Regarding the conflict in Chiapas, the Chairperson recommends that the Government and the EZLN resume the dialogue so that the San Andres accords are implemented for the benefit of the indigenous peoples of Mexico and of all Mexicans. The parties, if they wish so, could use the good offices of appropriate United Nations experts in order to facilitate this process.

86. The Chairperson is deeply concerned over the militarization of indigenous areas, especially in Oaxaca, Chiapas and Guerrero, and the increasing use of the military for police functions. This situation creates eruptions of violence, an atmosphere of fear and violations of human rights, including the right to life and physical integrity and the right to be free from arbitrary arrest and detention. The Chairperson is convinced that social issues should be solved through a democratic and genuinely participatory dialogue, rather than through militarization.

87. The Chairperson is concerned over reports about the deprivation of indigenous communities of their traditional lands and of the fragmentation of indigenous lands, a situation that has often created tension and conflicts, including within and between indigenous communities. The Chairperson expresses the hope that the Government of Mexico will take legislative and administrative measures to recognize indigenous lands and their unhindered use by indigenous communities.

88. The Chairperson commends the good will dynamic efforts, professionalism and policy initiatives of INI for the improvement of the economic, social and educational conditions of indigenous communities and believes that many of these efforts have indeed borne fruits. At the same time the Chairperson considers that the work and resources of INI are not adequate to address the immense problems of indigenous communities and that many parts of the state structure must be fully mobilized to face these issues.

89. While economic, social and cultural rights are a matter of progressive implementation depending on the level of economic development of each country, it is clear that the Government of Mexico, like every Government, is responsible to undertake sustained and systematic efforts for the enjoyment of these rights based both on its own means or, if those are not adequate, through the assistance of the international community. The Government's priority on social development and its policy of decentralization are welcome. It is also recognized that the globalization of the world economy and the impact of internationally set prices for products, such as coffee, create difficulties for the indigenous producers.

90. The principles underlying the right to development, as proclaimed in the 1986: Declaration on the Right to Development, requires more emphasis on the



genuine participation of indigenous communities in decision-making regarding their own development, as well as equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Issues of genuine participation of indigenous communities in the development process are still a challenge for the Government of Mexico. It is recommended that the competent authorities review the process of decision-making and fully involve indigenous persons, as equal partners for action, in the planning, implementation and evaluation of development projects affecting their lives. Special measures need to be enhanced for the participation on an equal basis of women in the development processes.

91. The Chairperson welcomes the good functioning in certain areas of self-administering indigenous communities without governmental interference and their recognition de jure or de facto. She is concerned, however, over allegations of such interference in other areas, namely Chiapas and Guerrero, including the removal of indigenous authorities and their replacement by government-selected ones as well as the phenomenon of re-municipalization that appears to undercut democratic processes. The Chairperson considers genuine and full participation of indigenous communities in the political life of the country as crucial for their own development and for Mexico's development and democracy overall. Where indigenous communities express the wish to administer their own affairs, this should be allowed by the Government, provided that such self-government takes place within the framework of international human rights principles and standards. It is also recommended that the practice of re-municipalization in indigenous areas be reviewed and revised to reflect the genuine will of indigenous communities.

92. In the area of economic and social rights, efforts are being made by the Government to improve the health and education of indigenous people. However, serious challenges still exist, especially in terms of malnutrition, and, generally, more resources appear to be needed in the health area. Sterilization of indigenous women, as a result of enforced practices or due to misinformation is not only a violation of the right to health and of women's reproductive health, but also of the right to physical integrity. The Government is sincerely encouraged to investigate allegations of such practices and to eliminate them, wherever they may exist.

93. The Chairperson commends the efforts of the shelter for outpatient children in need of long-term treatment in Mexico City, Casa de los Mil Colores, and encourages its financial enhancement by national or international donors.

94. In terms of the right to education, the efforts of the Government to facilitate primary education for indigenous children, including by the establishment of centers for indigenous students are commendable. However, bilingual education is not systematically pursued by the authorities. Sustained policy efforts and resources are needed to improve this area, especially in terms of teacher training, teacher remuneration and bilingual education materials.

95. Access of indigenous youth in particular girls to secondary and tertiary education requires considerable improvement. It is recommended that the authorities consider adopting a pro-active policy in this area, including consideration of affirmative action in favour of indigenous youth in higher education.

96. The education of girls, a priority of the United Nations in the year 2000, needs further efforts. Beyond the official encouragement of the authorities, which is welcome and should continue, there is a fundamental role to be played also by indigenous community leaders, women's organizations, community workers, church representatives and others in changing traditional mentalities which result in discrimination against girls in education.

97. The Chairperson considers the use of indigenous languages in the media extremely important for the preservation and development of indigenous cultures and encourages further efforts in this area. Especially in states where the indigenous population constitutes the majority or a considerable percentage of the population, the authorities should consider, besides radio stations, the establishment of television programmes in indigenous languages. This would appear appropriate, for example, in Yucatan, where the Maya language is spoken even by the majority of the population. Mechanisms should be established for indigenous people to fully participate in the administration of cultural sites of their own cultural heritage.

98. The administration of justice, as it was already mentioned above, faces great challenges in Mexico and indigenous people are affected by its problems and view it with mistrust. The Chairperson reiterates appeals of other United Nations bodies and mechanisms regarding impunity of the police and the army, excessive use of force by the police and the army, problems related to detention procedures, and the overall lack of transparency in judicial procedures as well as the lack of adequate translation services and in certain cases lack of awareness by indigenous people of what constitutes a crime under Mexican law.

99. Religious conflicts are a reality some indigenous communities, often complicated further by political or economic considerations. State, religious and indigenous authorities and all others concerned have the responsibility to foster tolerance mutual respect, peaceful coexistence and freedom of religion or belief for all indigenous persons of any religion or any denomination.

100. The Chairperson supports the request of the Huichol people regarding the sacred site of Tatei Aramara in Nayarit so that the area will stop being used as a firing range by the navy. This request is consistent with the basic principles for the protection of indigenous cultures.

101. Regarding technical co-operation between the Government of Mexico and OHCHR, the Chairperson is convinced that the timely conclusion and implementation of a Memorandum of Understanding should be vigorously pursued. The Chairperson expresses appreciation for the openness of the Mexican Government in discussing these matters and is convinced of the significance of technical cooperation in the long-term effort to improve institutions. She

hopes that the specific areas , identified by her in certain parts of the present report and related in particular to the protection of the rights of indigenous peoples ,will constitute, among others, subjects for technical co-operation.

102. The displacement of the indigenous population appears to have multiple causes, an in-depth analysis being beyond the scope of this report. It is clear that religious conflicts, land conflicts, militarization and poverty are part of the problem and each of these areas needs to be given an appropriate policy response, in accordance with the international human rights obligations of Mexico.

103. The Chairperson commends the Government of Mexico for serving as a generous place of refuge for indigenous Guatemalans and others over the years and welcomes the granting of Mexican citizenship to the Guatemalan indigenous refugees requesting it and for facilitating the development of those indigenous communities.

#### C. ACKNOWLEDGMENT

104. The Chairperson should like to express her grateful thanks to the HCHR Mrs. M. Robinson for her valuable assistance without which this visit to Mexico could not be realized . Also, the Chairperson should like to thank warmly and express appreciation to the Deputy Director of the OHCHR in New York Mrs. E. Stamatopoulou for her substantive help throughout the visit and for her constructive participation in the meetings with the representatives of the Instituto Nacional Indigenista (INI) , Mexican Authorities, indigenous peoples and NGOs

105. The Chairperson wishes to express her gratitude and appreciation to the Instituto Nacional Indigenista (INI) and the Government of Mexico for inviting her to visit the country, for providing all the transportation means and for facilitating the work programme of the visit. In particular, the Chairperson wishes to express her gratitude to the Minister of Foreign Affairs Mrs. Rosario Green and to the Deputy Minister of Foreign Affairs Mrs. Carmen Moreno, to the Ambassador Eleazar Benjamin Ruiz y Avila Director General of the Division of Human Rights and other Officials of the Ministry of Foreign Affairs and to the Director Mrs. M. Pria and Coordinator of International Affairs Mrs. C. Diaz Carduno of the INI to the Minister of the Ministry of Development, to the Attorney General and all other Officials in Mexico D.F. and in the States visited by the Chairperson who cooperated fully and constructively with her.

106. She should like also to thank warmly the Chairman and the members of the Parliamentary Commission on Indigenous Affairs for the very important and constructive meeting they have organized in the Parliament, the remarkable exchange of views and the useful information and data they have submitted to her.

107. Further, the Chairperson should like to express her grateful thanks and appreciation to the Permanent Representative of Mexico to the International

Organizations in Geneva Ambassador A. de Icaza and to the Ambassador of Mexico to Greece Mr. Ariel Buirra for facilitating her trip to Mexico and providing useful relevant information and documents.

108. The Chairperson is very grateful to all the leaders, representatives, traditional doctors, teachers, human rights promoters and defenders and all persons of the indigenous nations, communities, villages and associations for their valuable assistance, constructive cooperation and warm welcome to her.

109. Furthermore, the Chairperson should like to express warmest thanks to the Governors of the States Nayarit, Oaxaca, Chiapas and Guerro for the ad hoc meetings they have organized, the exchange of views, and the information and data provided to the Chairperson, concerning the treatment, position and human rights of indigenous peoples as well as the situation of human rights in general in their States.

110. The Chairperson should like to thank the National Commission of Human Rights of Mexico for organizing a lecture for her, entitled: "A Concise Review of the Protection of Basic Human Rights of the World's Indigenous Peoples", and for the books and documents given to her. She would like also to express thanks and appreciation to the State Commission of Human Rights in Chiapas for all the documents and information provided to her and for the very good work, under difficult circumstances, its Chairman and members are doing in the field of defense of human rights of indigenous peoples, especially of the prisoners. She thanks further, all the other States Commission on Human Rights for the information and data they have provided concerning their support and defense of the rights of indigenous peoples.

111. The Chairperson expresses warm thanks and appreciation to the national and international Non-governmental Organizations for the communications on allegations for human rights violations, the important and useful material and information provided during the meetings they had with her.

112. The Chairperson is grateful to the journalists, for the information, articles, photos and editorial comments they published and to the mass media as whole for covering freely and fairly her visit.

113. The United Nations Development Programme and the United Nations Information Centre in Mexico City were most helpful in providing logistical and other support for which the Chairperson expresses to them thanks and appreciation.