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人权理事会  
普遍定期审议工作组  
第十七届会议  
2013年10月21日至11月1日，日内瓦

根据人权理事会第 16/21 号决议附件第 5 段提交的  
国家报告\*

墨西哥

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\* 本文件原文照发，其内容不意味着联合国秘书处对内容发表任何意见。

## 一. 方法

1. 墨西哥提交的本次报告，是外交部协调开展的广泛咨商程序的产物。行政机关、立法机关<sup>1</sup>和司法机关<sup>2</sup>的各部门和机构，以及联邦选举事务局均参与其中。通过举办两次论坛，向人权方面的学者、专家和民间社会组织进行了咨询，其中一次论坛的主题为司法与人权，另一次的主题为消除对妇女的暴力和歧视。同样，与民间社会组织共同成立了一个工作组，目的是处理扶贫工作和经济、社会、文化和环境权利事务。<sup>3</sup>此外，缔约国通过外交部的门户网站，提供了一个听取民间社会组织和一般民众的意见和建议的空间。<sup>4</sup>

## 二. 背景

2. 自初次接受机制的审议以来，墨西哥已经在人权法方面取得了重大进展。关于人权和宪法权利保护的宪法修订案的生效、其他旨在确保保护人权的修订案和法律法规的批准通过，其目的就是在国家行动中以人为本，并帮助加强国家的人权文化，民间社会组织和学术界也积极参与到了这一进程中。这使得国家自1917年批准通过《墨西哥合众国政治宪法》后，赋予了个人最大程度的保障。

3. 2012年12月2日，共和国总统与国内各主要政治力量签署了《墨西哥协定》，在《协定》中，各方同意建立巩固一个注重权利和自由的社会。在这一文书中将捍卫人权定为一项国家政策；承担起了保障墨西哥人民享有安全和公正的条件的义务；同意加强民主治理；并肯定了提高透明度和加强问责制的必要性。

4. 国家最高司法法院承担的一项基本任务，就是通过开展合宪性和合规性审查，在全国推进落实缔约国在人权方面承担的国际义务，这是近年来所取得的一项重大进步。

5. 与此同时，在充分落实人权方面仍面临一些挑战。应继续深化开展工作，努力确保国内所有当局顺利推行新的司法框架。另一方面，虽然说社会资源匮乏的状况已经有了显著下降，但是仍面临着消除贫穷的挑战。<sup>5</sup>

6. 在安全和正义问题上面临的挑战，就是减少暴力、保障依法治国并实现和谐共处。为实现这一点，已经设计并出台了一项务实的国家政策，该政策具备明确的行动方针，涉及到了所有的权力机关和各级政府，其共同目标就是打造一个和平的墨西哥，这一目标被写入到了《2013-2018年国家发展计划》中。

7. 基于上述情况，墨西哥，作为一个在增进、保护和捍卫人权方面已经取得了重大进展、且不断努力以确保不在这方面出现任何退步的国家，通过国家各权力机关、墨西哥社会与国际社会的共同努力，在此提交第二次报告，接受普遍定期审议机制的评估。同时，墨西哥将继续在联合国扮演好自己的角色，承担起自己的责任并充分落实其向全世界做出的人权承诺。

### 三. 规范和体制框架

(第 93 段中的建议<sup>6</sup>——建议 3、4、5、6、7、42)

8. 2011 年 6 月 10 日颁布了对《墨西哥合众国政治宪法》中关于人权内容的全面修订案，共修改了 11 条内容。<sup>7</sup> 据此将人权的概念全面纳入到了大宪章(《宪法》)中，并将墨西哥作为缔约国加入的各项国际条约中所包含的人权提升到了宪法权利的级别。这反映了国家在预防、调查、惩治侵犯人权并做出赔偿方面的义务，并规定当局应当按照普遍性、相互依存、不可分割以及循序渐进的原则，增进、尊重、保护和保障人权。<sup>8</sup>

9. 修订案中规定有必要针对第 1 条(对侵犯人权做出赔偿)；第 11 条(庇护和避难)；第 29 条(暂停行使权利和保障)及第 33 条(确保通过听证会和正当程序决定对外国人的驱逐)颁布实施细则法律。在赔偿问题上，在 2013 年 1 月颁布了《受害者法》。同时，联邦行政机关针对上面提到的第 29 条和第 33 条制定了相应的实施条例草案，这些草案与其他法律制度一样，需要得到国会的审议通过。

10. 2011 年 6 月 6 日，发布了关于宪法权利保护的宪法修订案，作为在权利体系和对个人的司法保护方面的一项史无前例的扩展，加强了联邦司法机关的机构能力，并将国家最高司法法院定性为宪法法院。

11. 在修宪方面的另一项进步就是引入了正当利益的概念，据此，任何人只要认为其权利受到了影响，无需证明是否属于法定利益，即可申请宪法保护和联邦司法保护。还规定了针对当局的不作为或者集体权益受到影响而提起的宪法保护程序，并赋予国家最高司法法院遵照类似判例法宣布一则法规违宪的权限。<sup>9</sup>

12. 2013 年 4 月 2 日，颁布了新的《宪法权利保护法》，即《墨西哥合众国政治宪法》第 103 条和第 107 条的实施细则，该法允许对宪法进行相应修改，并强化了有助于切实保护人权的宪法权利保护机制。通过该法开启了宪法权利保护诉讼的新阶段，与墨西哥所采用在关于司法救助和正当程序保障相关的国际标准和国际义务相一致。<sup>10</sup>

13. 立法机关已经成为了取得上述进步的关键行为方。政务委员会、司法委员会和人权委员会等各类委员会已经研究并出台了各类改革措施，以落实宪法改革。

#### 体制强化

14. 对宪法中的人权内容的修改，强化了国家人权委员会的能力，使其有权对严重违反此类权利的行为进行调查。<sup>11</sup> 同时还强化了国内人权公共自治机构的能力，其中包括规定当局应当在驳回或者不遵守一项建议时说明正当依据和理由。

15. 2013 年 5 月 20 日颁布了《2013-2018 年国家发展计划》，其目的是通过实现五大国家目标：使墨西哥成为一个和平、兼收并蓄、具备素质教育、繁荣和承

担起全球责任的国家，最大程度上发挥墨西哥的潜能。<sup>12</sup>《国家发展计划》是在共和国总统的牵头下，通过一个兼收并蓄、多元化的国家程序制定的。<sup>13</sup>

#### (第 93 段中的建议 — 建议 9、82、83)

16. 《2008-2012 年国家人权方案》确立了国家在保障尊重人权、增进和捍卫人权方面的承诺。为监督其落实情况，在政府人权政策委员会的框架内，设立了国家人权方案监测和评估小组委员会，将民间社会也吸纳为小组委员会成员。<sup>14</sup>在该小组委员会中，墨西哥针对在第一次普遍定期审议中收到的建议采取了后续行动。

17. 墨西哥政府的一项首要任务就是制定《2013-2018 年国家人权方案》，作为用于定义各项战略和行动方针，以确保遵守各项宪法原则和国际人权标准的工具，并对其影响进行衡量。

18. 2013 年 5 月 27 日，在政府人权政策委员会的框架内，内政部长批准开始着手制定新的《方案》。其筹备工作将由内政部负责；<sup>15</sup>参与部门包括合众国三大权力机关、政府三级部门以及民间社会组织。这一进程将以普遍定期审议的建议以及相关国家机构和国际机构的建议为基础，对联合国人权事务高级专员办事处在 2003 年编制的分析报告进行更新。

## 四. 经济、社会和文化权利

### A. 消除贫穷

#### (第 93 段中的建议 — 建议 10、65、66、67)

19. 消除贫穷和饥饿是政府议程中的一项优先工作，正如在《国家发展计划》中所规定的那样。为应对这一挑战，国家出台了一项新一代的社会发展政策，旨在确保进入一个基础性的权利行使社会平台，并制定一项针对贫困人口，特别是男童和女童、妇女、土著居民、残疾人和老龄人口的积极行动战略。

20. 国家社会发展政策评估理事会<sup>16</sup>根据 8 项指标开展了多维贫困测量。<sup>17</sup>2008-2010 年期间，贫困人口比例有所增加，从 44.5%增至 46.2%(从 4,800 万人增加到 5,200 万人)。<sup>18</sup>极端贫困人口所占比例在 2008 年至 2010 年期间大致维持不变，分别为 10.6%和 10.4%，即 1,170 万人。

21. 为扭转这一局势，联邦政府近年来一直维持着用于社会方案的公共支出的正增长。<sup>19</sup>在 2013 年，社会发展支出占预算总支出的比例为 58%。

22. 值得强调的是，在 2008 年至 2010 年期间，六类社会资源匮乏状况中有五类得以减轻：获得医疗卫生服务、获得社会保障、住房基本服务、住房质量和居住空间、以及教育落后。<sup>20</sup>只有食品匮乏的状况有所加剧。<sup>21</sup>

23. 《机会方案》等各项行动有助于打破贫穷的恶性循环，因为这些行动有助于发展受益家庭在食品、卫生和教育方面的能力。<sup>22</sup>

24. 为关爱土著人口，国家土著人民发展委员会<sup>23</sup>已经开展了多项旨在扶持土著生产和土著经济的方案，例如《土著地区基金方案》、《扶持土著生产协调方案》、《土著妇女生产组织方案》及《土著地区替代性旅游方案》。自 2009 年至 2012 年，划拨了大约 29.3 亿比索的资金<sup>24</sup>，其受益人群为土著生产者、土著妇女、土著组织及土著旅游企业。

## B. 健康权

### (第 93 段中的建议——建议 68、69、70 点)

25. 《墨西哥合众国政治宪法》第 4 条和《保健法》保障健康权。国家保健体系提供了两种健康服务模式：社会保障体系，<sup>25</sup>可以通过劳动权等参加这一体系；和社会医疗保障体系，可通过人民保险参保。<sup>26</sup>

26. 到 2012 年，墨西哥人民保险<sup>27</sup>的参保人数超过 5,200 万墨西哥人，这些人由于其工作条件原因，无法向社会保障机构参保。<sup>28</sup>这样，到 2012 年 3 月，医疗保健的覆盖人口超过 1.06 亿人，约占总人口数的 94.36%。

27. 为强化农村偏远地区的医疗卫生服务，在 2009 年将《墨西哥社会保险局机会方案》的预算金额提高了 15 亿比索<sup>29</sup>，用于基础设施的扩建工作。到 2012 年底，有将近 1,200 万人受益。《健康大篷车方案》<sup>30</sup>在边缘化程度较高和极高的地区开展；在 2012 年，通过 1,448 个流动单位使超过 380 万人受益。在 2012 年中期，这些单位已经吸收了跨文化元素，扎根到了土著地区。

28. 与 2012 年相比，2013 年用于促进产妇保健的预算金额提高了 100%。<sup>31</sup>通过《健康怀孕战略》<sup>32</sup>等行动以及在 2011 年设立的多家农村产科护理中心<sup>33</sup>，在极为偏远和交通不便的地区提供产妇护理服务。

29. 在减少五岁以下儿童的死亡率方面<sup>34</sup>，到 2012 年 12 月，《二十一世纪医疗保险计划》<sup>35</sup>已经惠及到 680 万男童和女童。

30. 另一方面，虽然在社会保障机构的参保人数上有了显著提高，但是要实现到 2015 年将艾滋病毒/艾滋病的致死率降低到每 100,000 名居民死亡 3.5 人这一目标，<sup>36</sup>仍需再接再厉。<sup>37</sup>

## C. 住房权

### (第 93 段中的建议——建议 72)

31. 《宪法》第 4 条规定了这一权利。国家住房委员会负责协调这方面的政策，且随着 2013 年农业、土地和城市发展部的成立，加大了在提供体面住房方面的协调力度。

32. 在 2008-2012 年期间，划拨了 880 万资助金，其中 39.3%用于购买新的住房。在新房资助金中，52%作为社会发展部人民安居国家信托基金<sup>38</sup>的“这就是你的家”方案的补贴，其补贴对象为低收入家庭；其余 48%为住房信贷。在这一时期，资助金的发放数额达到了历史最高记录。

33. 在农村和土著地区，挑战在于住房材料、居住空间和住房服务的质量问题。存在一些旨在照顾最贫困阶层的方案，但是，需要设计一些资助计划，以便能够照顾到在非正规经济市场中的人口。

## D. 食品权

(第 93 段中的建议——建议 68、70、71)

34. 在 2011 年 10 月，对《宪法》对 4 条和第 27 条的修订生效，目的是确立营养、充足和优质的食品权，并将保障充分和及时的基本食品供应定为一项国家义务。

35. 在 2013 年 1 月，联邦政府推出了《国家消除贫穷战略》，这是一项包容性的社会福利战略，旨在保障处于极端贫困和食品匮乏状况的 740 万人口的粮食安全和营养，<sup>39</sup> 并帮助全面落实其食品权。<sup>40</sup>

36. 此外，《机会方案》每月向受益家庭提供直接的货币补贴，以帮助提高其食品数量、质量和多样性。此外还提供从母亲怀孕到孩子五岁这段期间的食品和营养福利。

37. 针对《机会方案》没有照顾到的家庭，还出台了其他方案，<sup>41</sup> 例如《食品补贴方案》，通过向由于社会经济条件的限制，阻碍了家庭成员在教育、食品和/或健康方面的能力发展的城乡家庭发放货币补贴，提高其食品权。在 2012 年，该方案惠及 673,092 户家庭，<sup>42</sup> 其中有 70,073 户居住在土著地区。

## E. 教育权

(第 93 段中的建议——建议 64、70、73、74)

38. 《墨西哥合众国政治宪法》在第 3 条中，通过世俗性的免费义务学前教育，奠定了国家教育体系的基础，且自 2012 年起将义务教育推广到中高等教育阶段，<sup>43</sup> 并保障学术自由。《教育法》规定了义务教育体系的组织和运作。在 2011-2012 学年，实现了小学教育的普及。<sup>44</sup>

39. 在 2013 年 2 月，批准了一项宪法改革案，目的是改善义务教育的质量，通过教材、教育方法、学校组织、教育基础设施、合适的教师和领导，为学生创造最好的学习条件。规定教育应当促进文化多样性、权利平等、重视家庭观念和个人尊严。

40. 据此设立了教师职业服务局，目的是通过由国家教育评估体系开展的竞聘考核，确保教师的专业素质，并将国家教育评估研究所提升到宪制级别。<sup>45</sup> 同时，全日制学校的数量也有了显著增加，将每天的课时量定为 6 至 8 小时，目的就是加强学生的学习进程。<sup>46</sup>

41. 《机会方案》向低收入家庭的男童、女童和青少年提供基础教育和中高等教育阶段的支持，鼓励他们注册入学和正常上学受教育。<sup>47</sup> 在 2011-2012 学年，5,982,700 名学生获得了奖学金，比上一学年高出 15.2%。<sup>48</sup> 在 2007-2008 学年和 2012-2013 学年，基础教育和中高等教育阶段的奖学金获得者数量增幅达到了 18%，总计 6,046,800 人。同期女性奖学金获得者的数量增加了 16.5%。

42. 为照顾土著人口，《土著学生校舍方案》有助于确保各级教育的入学和受教育率，加强跨文化交流并改善较为边缘化和教育落后的市镇中的土著学生的营养。每学年约有 60,000 名来自各土著民族的学生受到照顾。<sup>49</sup> 与此同时，《高等教育土著学生奖学金项目》在 2009 年至 2012 年期间，共向 800 名土著学生发放了奖学金。

## F. 工作权和在工作场所保护人权

(第 93 段中的建议 — 建议 30、62、64)

43. 在 2012 年 11 月颁布了一则《联邦劳动法》的修订案，规定通过各种新的聘用模式促进就业，促进劳动安全和健康，促进工会权利，提高透明度和改善问责制。促进残疾人的无障碍并加强移民权利，特别是农牧业部门的移民权利，扩大医疗服务的覆盖面和社会保障的经济福利，并明令禁止可能导致歧视的劳动条件。

44. 在女工权利方面，<sup>50</sup> 法律禁止以怀孕、婚姻状况变更或有未成年子女需要照顾为由辞退女工，并禁止要求在入职、转正或者晋升时要求出具未怀孕的体检证明。

45. 该法还对童工劳动进行惩治。消除这一问题并保护青少年的权利是劳动政策的一个优先事项，这符合劳工组织《第 182 号公约》。2013 年 6 月成立了墨西哥预防和消除童工劳动及保护适龄青少年劳工跨部门委员会，其目的是在设计、实施和评估这方面的行动上开展机构间协调。

46. 计划在 2013-2018 年期间将巡查范围再提高 72%，以覆盖近 42 万个工作场所，并检查其经营运作是否符合法律。

47. 国家就业服务局，通过《扶持就业方案》<sup>51</sup>、劳动关系服务以及《劳动紧急状况处理方案》，开展了各类行动来支持失业人口和就业不足人口。在 2008 年 1 月至 2012 年 12 月，通过国家就业服务局，<sup>52</sup> 惠及 5,062,708 人，通过临时就业岗位、就业安置和/或保留就业岗位等举措，使得就业安置率达到 25.4%。

## G. 健康环境权

48. 一项关于《墨西哥合众国政治宪法》第 4 条的修订案在 2012 年 2 月生效，目的是确立健康环境权，并规定因破坏和毁坏环境所产生的责任。同样，将获得和享有充足、健康、可接受和可负担的个人和家庭消费用水和卫生设施的权利规定为一项宪法权利。<sup>53</sup>

49. 《联邦环境责任法》自 2013 年 7 月起生效，规定了设立地方专门法院等举措，有助于保障享有健康环境这项人权。

50. 另一方面，在 2011 年 8 月颁布了一项关于《宪法》第 17 条、《联邦民事诉讼法》和《生态平衡和环境保护法》的修订案，目的是强化开展环境类集体行动并加强个人对违反环境法规条例的过程或活动进行检举揭发的权利。<sup>54</sup>

## 五. 公民权利和政治权利

### A. 政治权利

51. 联邦司法选举法院负责保护公民的政治一选举权利。自 2009 年至 2012 年，受理了 76,000 多例关于保护政治一选举权利的案件。<sup>55</sup> 根据 2011 年关于人权的修订案，在其决议中援引并使用了墨西哥的国际义务，以及国际机构的相关指导准则。<sup>56</sup>

52. 2012 年 8 月，通过修改和补充若干政策规定，例如《墨西哥合众国政治宪法》第 35 条第二小节的规定，承认公民有权申请进行独立候选人登记。

53. 在这方面的一个基本挑战，就是要根据墨西哥宪法制度和司法选举制度的要求，在承认土著人民和土著社区的风俗习惯的前提下，促进其参与国家政治生活。<sup>57</sup>

### B. 强化司法体系的措施

(第 93 段中的建议——建议 34、35、37、38、40、41、42、45、47、51、64)

54. 在 2008 年成立了刑事司法体系实施协调委员会，目的是推进落实合众国三大权力机关及三级政府的承诺，即实施新的抗辩制度。同时，设立了刑事司法体系实施协调委员会的技术秘书处，目的是通过设计和实施各项协调政策、战略和行动，支持在全国范围内落实这一制度。

55. 为了调整联邦司法机关的组织结构，使之符合对刑法、宪法权利保护和人权的修订，在 2012 年设立了一个执行股<sup>58</sup>，负责与行政机关和立法机关、联邦实体和联邦特区的相关部门合作，基于这一目的，视需要对相关计划、方案和行动开展相关分析、规划、实施和评估活动。



56. 截至 2013 年 5 月，已经有三个州完全推行了抗辩式刑事制度，<sup>59</sup> 十个州部分推行了这一制度，<sup>60</sup> 六个州处于筹备生效阶段，<sup>61</sup> 还有十三个州处于规划阶段。<sup>62</sup>

57. 在 2010 年 7 月批准了《宪法》第 17 条的修订案，规定了针对权利主体为一类群体的情况所采取的集体行动。

58. 《墨西哥协定》和《国家发展计划》规定了为具备高效、速审、公平和透明的刑事司法体系而需要开展的行动。2013 年 7 月 17 日，国会批准并颁布了各地的宪法修订案，将据以颁布一部统一的《刑事诉讼法》；这一法律以及《刑事诉讼法律依据法》的颁布将促进向抗辩式刑事司法体系的过渡，建立起一个符合墨西哥的法律和社会现实情况的统一的司法模式。

59. 关于在司法系统内部反腐败的问题，联邦司法委员会承担对司法机关的公职人员实施纪律监察的职责。<sup>63</sup>

60. 自 2008 年至 2012 年，各法院在宪法权利保护和刑事司法领域做出了若干旨在保护人权的重要判决。<sup>64</sup>

61. 自批准了关于人权的宪法修订案以来，国家最高司法法院、国家司法委员会和国家高等司法法院委员会均面向联邦和地方法官和审判官开办了培训课程，目的是在司法程序中推广使用国际人权文书。

## 军事司法

(第 93 段中的建议 — 建议 7、36、43，第 94 段中的建议<sup>65</sup> — 建议 3、4、6)

62. 国会接到了若干关于修改《军事司法法典》第 57 条的提案，目的是由民事法院审理由武装部队人员针对平民所犯的侵犯人权罪。参议院的司法委员会已经对这些提案进行了讨论并将与有关专家、当局和民间社会组织开办一系列的论坛，以形成一项最终提案，在下届会议期间提交立法机关审批。<sup>66</sup> 这一修订案的核准是在权利的管辖权问题上所面临的主要挑战之一。

63. 国家最高司法法院在 2012 年判定《军事司法法典》第 57 条违宪，并确认了受害者及其家人的合法权利，以促进保护宪法权利。

64. 因此，需要着重强调的是，在实践中，在 2012 年中期至 2013 年 7 月期间，军事司法总检察长办公室和各军事法庭已经向民事当局移交了 231 宗预审案件以及 180 宗刑事诉讼案件，其案情都涉及到了侵犯平民的人权。共和国总检察长办公室正在依职责对相关文件进行审查，以便使受害者诉诸司法。

## 软禁

(第 93 段中的建议 — 建议 39)

65. 国会正在研究一项关于修改《宪法》第 16 条关于软禁的提案。该提案的提出是源于认识到这一措施可能会在不适用的特殊情况下被滥用。<sup>67</sup> 人们认为应将

这一措施仅限定在真正特殊的情况下方可使用，使之作为一项预防性措施来保护生命权这一最高利益，并认为让国内的人权自治组织对这一措施的适用情况进行审查至关重要。

66. 值得一提的是，恰帕斯州、瓦哈卡州和联邦区已经在其各自的《刑事诉讼法》中废除了这一措施。

### C. 公民安全和人权

(第 93 段中的建议——建议 37、47、50、51、61，第 94 段中的建议——建议 1、8<sup>68</sup>)

67. 在 2009 年 6 月颁布了《联邦警察法》，作为《宪法》第 21 条的实施条例，规定尊重人权是预防和打击犯罪的指导原则之一。

68. 在 2010 年成立了国防部的市民关系股，负责解决武装部队与平民社会之间由于在街道上的军事戒严而引发的纠纷，并向因打击有组织犯罪而受到影响的平民提供帮助。<sup>69</sup>

69. 在 2012 年 4 月颁布了两则非常重要的文书：《关于规范警察机关使用武力的总体方针》，旨在根据国际人权标准来监督联邦警察的行动，并将成为《合法使用公共武装力量法》的基础；和《在尊重人权框架内的合作协议》，旨在强制性要求使用武装力量的当局<sup>70</sup>在其职权范围内，根据普遍性、相互依存、不可分割和循序渐进的原则增进、尊重、保护和保障人权。《协议》中包含了关于合法使用武力、拘留和羁押、以及监管链条的议定书。

70. 自 2009 年至今，红十字国际委员会(红十字会)已经认证了 200 多名负责公共安全的公务员的人权督导员资格。在 2013 年 2 月，内政部与红十字会签署了一份合作协议，目的是在编制关于合法使用公共武装力量的法律方面提供技术咨询，并合作编制与寻找和定位失踪人员、向失踪人员的家人提供心理辅导和帮助有关的研究报告、议定书和技术咨询报告。

71. 同时，鉴于刑事司法体系改革赋予警察更大的调查权限，开办了一门“提高对刑事抗辩司法制度和人权的认识”的培训课，惠及 1,300 名联邦警察。

72. 随着《受害者法》在 2013 年 1 月的颁布，落实了《宪法》第 1 条关于国家有义务对侵犯人权的行为做出赔偿的规定。<sup>71</sup>这将推动恢复墨西哥的司法赔偿制度。

73. 根据该法将创建一个全国受害者关爱体系，以监督相关方案的落实情况；组建由相关专家、各所公立大学提名的受害者代表和人权事务民间社会组织代表组成的关爱受害者执行委员会，负责监督落实法律的规定；联邦关爱受害者法律咨询机构，旨在为受害者提供法律代表和法律辩护服务；全国受害者登记处，包含由国家受害者关爱体系采集的受害者资料；全面帮助、救济和赔偿基金，目的

是配备必要资源来帮助受害者。该法的全面实施是一项挑战，应当在今后的几个月乃至几年内作为一项优先工作处理。

74. 在消除腐败的措施方面，自 2009 年至 2012 年，有 2,908 人因涉嫌犯有滥用职权罪、渎职罪和不当行使公共职务罪而被起诉。<sup>72</sup>

75. 宪法修订案中的人权包含了作为监狱体系组织基础的各项权利。为了改善其运作，已经通过公共治安扶持基金，提高了对地方监狱体系的预算拨款额，在 2012 年，向该基金拨款超过 73.7 亿比索。<sup>73</sup> 向联邦监狱体系的预算拨款也大幅增加，在 2011 年超过了 108 亿比索。<sup>74</sup>

76. 从颁布各类修订案入手，使《联邦打击有组织犯罪法》中对有组织犯罪的定义与《联合国打击跨国组织犯罪公约》的规定相一致。

## D. 努力打击各类特定犯罪

### 贩运人口

#### (第 93 段中的建议——建议 32)

77. 为全面有效地应对人口贩运问题，在 2012 年 6 月 14 日颁布了《预防、惩治和根除人口贩运罪并保护和关爱人口贩运罪受害者法》。<sup>75</sup> 在该法中规定了政府三级部门预防、调查、起诉和惩治此类犯罪的职权和协作方式，以及此类犯罪的刑事类别、相应的刑事诉讼程序和惩治办法。此外，该法还规定对犯罪受害人进行全面、适当、切实和有效的赔偿。

78. 该法强制性要求墨西哥的 32 个联邦实体调整地方立法，尽管有 24 个实体<sup>76</sup>已经出台了专门立法来预防、打击和惩治人口贩运，科阿韦拉州、克雷塔罗州、普埃布拉州和韦拉克鲁斯州也出台了与该法对应的法律，还有 7 个联邦实体向其地方议会提交了《人口贩运法》提案，但是立法调整仍是一项挑战。<sup>77</sup>

79. 通过在 2012 年 9 月颁布的协议，确立了共和国总检察长办公室下设的人口贩运罪调查起诉协调总局的组织机构和运作模式。<sup>78</sup>

80. 为保护此类犯罪的受害者并为其提供多学科的全面关爱，共和国总检察长办公室通过暴力侵害妇女罪和贩运人口特设检察署，<sup>79</sup> 设立了一个安全度极高的庇护所，为用户提供临时居住的场所，让她们能够享有远离暴力的体面生活；对调查和司法程序提供支持；并提供有针对性的心理关爱；此外还帮助其重新融入社会。<sup>80</sup>

81. 与之相呼应的是，在 2011 年 10 月，墨西哥政府与联合国毒品和犯罪问题办公室签署了一份合作协议，目的是编制一份关于墨西哥人口贩运状况的国家评估报告。<sup>81</sup> 还与联合国毒品和犯罪问题办公室在 2010 年 4 月发起了旨在打击人口贩运的“蓝心”运动。

## 酷刑和人员强迫失踪

(第 93 段中的建议 — 建议 24、25、26、27、28、40、46)

82. 《墨西哥合众国政治宪法》第 19、20 和 22 条明文禁止酷刑和虐待。为规范这项任务，墨西哥出台了《联邦预防和惩治酷刑法》，<sup>82</sup>国会正根据联合国禁止酷刑委员会的建议对该法进行审议和修改。<sup>83</sup>在州一级，所有联邦实体均在其专门法律或者《刑法典》中针对这一罪行做出了规定；16 个州专门出台了针对酷刑的专项立法。<sup>84</sup>

83. 自 2007 年至 2012 年，国家人权委员会<sup>85</sup>就酷刑问题向国家参议院提出了 51 条意见，向海军部提出了 8 条意见，向当时的联邦公共安全部提出了 5 条意见，并向共和国总检察长办公室提出了 1 条意见。这 65 条意见全部被采纳并已经在其落实工作上取得了进展。在 2013 年 2 月至 7 月期间，共和国总检察长办公室针对联邦审判机关受理的指控涉嫌酷刑罪行的 99 宗案件进行了立案调查。

84. 作为重申禁止这一罪行的措施，在 2012 年 12 月 1 日，共和国总统向陆军和空军所有部门、机关和单位发布了一项指令，要求禁止在任何工作和行动中使用酷刑及残忍、不人道和/或忍辱人格的待遇，并重申应从人权角度行事。

85. 在 2013 年 5 月，国家公共安全体系<sup>86</sup>的全国检察机关研讨会<sup>87</sup>决定，让各联邦实体的所有检察机关统一实施《伊斯坦布尔议定书》，并开展一项《国家培训方案》，当前这一方案正在执行中。

86. 在《联邦刑法典》第 215A 条中，通过对“合法或非法拘留某人”的刑事认定，对强迫失踪罪做出了规定，明确了合法拘留和非法拘留之间的区别。<sup>88</sup>目前在 15 个联邦实体中将强迫失踪确定为犯罪行为。<sup>89</sup>在国会中有一些改革提案，旨在使对强迫失踪的刑事认定符合这方面的国际公约所设定的标准，这些提案不久将由参议院的司法事务委员会、国防委员会和立法研究委员会进行研究。

87. 为关爱失踪和下落不明的受害者及其家人，在 2011 年 9 月设立了关爱犯罪受害者社会检察署，作为联邦公共行政机关的下属机构。在 2012 年 11 月，关爱受害者社会检察署提出了《失踪人员和下落不明人员即时搜寻议定书》。<sup>90</sup>

88. 《全国失踪人员资料登记法》于 2012 年 4 月生效。其主旨是设立全国失踪人员资料登记处，作为国家公共安全体系的一种手段，用于整理在收容机构、看守机构、拘留或监禁机构中的失踪人员，以及资料不明的失踪人员的信息，目的就是在搜索人员下落或找到其家庭或住所的调查中提供支持。<sup>91</sup>该登记处将在其实施条例出台后全面运作。

89. 在 2012 年 7 月，签署了关于开始实施《联邦、州和市镇当局就华雷斯市妇女和女童失踪案开展协调联动的议定书》的协议，这是几项重要的寻找失踪人员议定书之一，又称为《阿尔巴议定书》。<sup>92</sup>

90. 全国检察机关研讨会自 2012 年 11 月起对《法医鉴定协议》的实施情况进行监督，该协议是基于所有联邦实体的法医专业服务部门的工作，在红十字会的顾问指导下制定的。

91. 遵照关于应对人员失踪情况国家政策，在共和国总检察长办公室中设立了失踪人员搜寻股，<sup>93</sup> 其成员包括检察机关的工作人员以及负责关爱失踪受害者的专业人员。<sup>94</sup>

## E. 表达自由、人权维护者和新闻工作者

(第 93 段中的建议 — 建议 23、52、53、54、56、57、58、59、60、61)

92. 2010 年 7 月，设立了危害表达自由罪特设检察官办公室，以授权检察机关指导、协调、监督、调查和起诉针对以任何方式从事新闻活动的人士所犯的罪行。

93. 《人权维护者和新闻工作者保护法》于 2012 年 6 月生效，目的是使联邦与各州建立起合作关系，以实施预防和保护机制，保障由于捍卫人权和从事新闻活动而面临风险的人士的生命、自由、安全和人身完整性。

94. 该法创建了人权维护者和新闻工作者保护机制。<sup>95</sup> 2012 年 7 月，向全国发起号召，呼吁成立咨商委员会，2012 年 11 月，成立了机制管理委员会。<sup>96</sup> 这两个机构中均有由民间社会提名的新闻工作者和人权维护者的代表参与。

95. 还在 2012 年 6 月对《墨西哥合众国政治宪法》进行了修订，以使联邦当局有权审理在联邦范围内涉及到危害新闻工作者安全，或者出于妨碍表达自由和知情权目的而危害人员或设施安全的罪行。<sup>97</sup>

96. 危害表达自由罪特设检察官办公室在 2012 年 11 月启用了早期预警系统，目的是通过各种预防和保护行动，确保随时关注这一罪行的受害对象群体，即人权维护者和新闻工作者，以避免他们遭受此类威胁的可能性。

97. 自 2012 年 11 月投入使用以来，截至 2013 年 6 月，该机制收到了 87 份庇护申请；其中 35 份来自新闻工作者，52 份来自人权维护者。机制管理委员会已经召开了 12 次会议，会上批准了联邦实体与机制之间的合作协议样本，<sup>98</sup> 多项保护措施和风险评估协议，以及《人权维护者和新闻工作者保护机制基金》运作规则。

(第 93 段中的建议 — 建议 55)

98. 在 2013 年 6 月 11 日颁布了关于电信问题的宪法修订案，<sup>99</sup> 以促进广播、电视和电话领域的竞争。创立了联邦电信管理局，其职能是调查垄断行为，判断企业操控市场行为并实施制裁，监督服务质量和价格，授予特许经营权，等等。<sup>100</sup> 同时，决定通过招标创办新的电视台，并创设专门法院。

## 六. 平等和不歧视的权利及特定群体的权利

99. 根据《墨西哥合众国政治宪法》第 1 条，在墨西哥明文禁止一切形式的歧视。<sup>101</sup> 此外，《联邦预防和消除歧视法》规定了公共机关和联邦当局应通过采取哪些积极措施和补充措施，促进在历史上一直处于弱势的群体的机会平等。2012 年 4 月，在联邦层面上将歧视定为犯罪。

100. 一些联邦实体已经根据《宪法》第 1 条，在其当地法律框架内加入了反歧视条款。截至目前，19 个州的宪法明文禁止歧视，<sup>102</sup> 已经批准了 21 部州一级的反歧视法。<sup>103</sup>

101. 为促进调整州一级的立法，使之与联邦立法和国际条约保持一致，全国预防歧视委员会编制了一部《预防和消除歧视示范法》，目的是在联邦各州推动设立这方面的领导机构。自 2012 年以来，还推行了《预防和消除歧视国家方案》，旨在推广不歧视文化，将这一原则纳入到联邦公共行政机关的行动中。

102. 全国预防歧视委员会在 2010 年编制了一份《墨西哥歧视问题调查问卷》，通过对各地域、大都市地区和边境地区的分析，对各类歧视有了一个更为广泛的定性和定量认识。<sup>104</sup> 通过这方面的努力，提供了按性别、年龄、经济社会地位和受教育程度分列的信息，帮助我们对社会分化情况、经济不平等程度、肤色的重要性、社会上对很多方面的不容忍以及政党的意见有所了解。

### A. 移民权利

(第 93 段中的建议 — 建议 63、75、79、80、81)

103. 墨西哥在这方面已经取得了一系列的显著进步，这源自于观点模式的重大转变，从人权角度完全接纳了移民。

104. 这样，《移民法》作为一个特定的法律框架在 2011 年 5 月生效，并对《人口法》、《联邦刑法典》、《联邦刑事诉讼法》以及其他法律法规中的若干规定进行了修改，以确保尊重移民权利。

105. 《移民法》取消了将无证移民视为犯罪的规定，并保障对外国移民的权利和安全的保护，保障他们获得司法帮助、接受教育、享有医疗服务并进行民事登记，加入了儿童的最高利益和家庭团聚的最高利益这两项指导原则，无论其是否是移民。

106. 在 2010 年颁布了国家移民局的《移民原则和移民手续指导手册》，用于移民身份合法化和出于人道主义原因让具有犯罪受害者或证人身份的外国人在国内居留。同样，手册中包含了一些规定，帮助危地马拉和伯利兹的边境劳动者和游客通过边境劳工暂住证<sup>105</sup> 和区域暂住证<sup>106</sup>，在墨西哥南部边境各州办理居留证件。

107. 在 2008 年至 2011 年期间，开展了第六期移民身份合法化方案，使得 10,000 余名在墨西哥境内居留的没有合法证件的外国人受益。

108. 《遣返人员安置方案》和《墨西哥安置被遣返人员程序》帮助被美国遣返的墨西哥人重新融入墨西哥社会，维护其尊严并为其提供全面发展的条件。当前在墨西哥北部边境实施了九类遣返人员安置模式。

109. 《同胞计划》是一项长期性手段，规定了针对定居国外的墨西哥人的政策、战略和预防性措施，并为这些人提供指导，通过这一文件，确保此类群体在其权利、人身和财产安全完全得到尊重，并充分了解自己的义务的前提下出入境和过境。<sup>107</sup>

110. 《农业劳工关爱计划》通过经济扶持，改善饮食、保健、教育服务和完善基础措施来为劳工及其家庭提供支持。该计划在 2012 年惠及到从事农业劳动的移民劳工家庭中的 700,000 余名成员。

111. 《移民法》规定设立移民保护工作组，又称为贝塔工作组，旨在通过提供指导、人道主义帮助、救援和法律援助，保护和捍卫墨西哥过境移民的权利，无论其移民状况为何。<sup>108</sup> 在 2009 年至 2013 年 1 月期间，这些工作者帮助的移民数量超过 250 万人。<sup>109</sup>

112. 专门负责保障尊重移民儿童，特别是无人陪同的儿童的权利的联邦移民事务官员，即“儿童保护官员”，旨在保护这些儿童的身心完整性，提供即时服务并帮助其联系到家人。<sup>110</sup> 由于这一关爱模式的出色表现，墨西哥与中美洲各国分享了这一经验。

113. 在 2009 至 2012 年期间，州一级和/或市一级的家庭全面发展体系，还有民间社会组织通过合作协议实施运作的其他体系，采用过境收容模式网络来提供社会救助服务<sup>111</sup>，年均救助 16,650 名外籍和墨西哥移民儿童和青少年。同样，推行各类举措来使他们重新融入家庭和社区。

114. 2010 年出台了《预防和打击绑架移民综合战略》，并由联邦政府各机关<sup>112</sup>与国家人权委员会签署了《预防和打击绑架移民合作框架协议》，旨在通过与利益攸关方之间的特定协议、培训、信息传播、预防和救援活动，打击墨西哥境内针对移民的犯罪。

115. 2011 年 9 月，成立了一个预防和打击非法偷运移民战略联盟，在联合国毒品和犯罪问题办公室和墨西哥政府的共同努力下，在全国和地区范围内消除这一犯罪。同时，在 2009-2012 年期间，以偷运移民罪对 3,793 人进行了起诉。同期，对 1,367 起偷运移民罪案件做出了判决，其中 1,201 起案件的责任人被定罪，166 起案件的被告被判定无罪。

## B. 难民

116. 《难民和补充保护法》于 2011 年 1 月生效，该法奠定了在墨西哥保护和救助难民的基础，保障尊重难民人权。奉行的原则有不驱逐、保密、家庭团聚、不歧视、儿童的最高利益和不制裁非法入境。<sup>113</sup> 联合国难民事务高级专员公署(难民署)认可了该法在这方面的一些好做法。<sup>114</sup>

117. 该法规定的补充性保护措施，扩展了使不符合难民认定资格的外国人得到保护的可能性，但是其针对的对象是如果被遣返回原籍国，就可能会遭遇酷刑或不人道待遇的外籍人士。

118. 2013 年 4 月，恰帕斯州与难民署签署了一份合作框架协议，旨在针对关爱南部边境的寻求庇护者和难民的工作进行协调。同年 5 月，墨西哥政府与难民署共同编制了一份关于社会人口概况和社会融合的报告，旨在进一步了解难民的处境和需要。<sup>115</sup> 同时，在 2013 年 6 月，内政部和联邦区签署了一份合作协议，旨在关爱在墨西哥的难民，该协议奠定了机构间协调的基础，并将促进发展旨在支持国内的难民救助事业的公共政策。

## C. 土著人民和非裔人口的权利

(第 93 段中的建议 — 建议 8、49、75、76、77、78)

119. 墨西哥估计有 1,570 万土著人，<sup>116</sup> 分属于 68 个土著民族。大多数土著人居住在农村地区，但是每四名土著人中就有一人居住在大都市中。土著人口占全国人口总数的 14.86%，他们分布在 64,000 多个地区。土著人口构成了一个在食品、卫生、教育和诉诸司法的权利上严重滞后的群体。

120. 在《墨西哥协定》中提出，应承诺采取政策，使土著人民按照他们的习俗享有与其余人口相同的权利和机会。

121. 联邦监察员协会、联邦司法委员会以及国家土著语言研究所已经签订了若干培训协议和培训方案，以便对双语监察员和土著语言翻译专家进行资格认证，并成立了土著语言口译和笔译人员登记库。

122. 国家土著人民发展委员会出台了《司法协议推广方案》，目的是通过对社区项目以及土著或非土著民间社会组织开展的项目进行经济扶持，创造条件促进土著民族及其成员以个人和集体方式诉诸司法。

123. 2013 年 2 月，成立了与墨西哥土著人民对话委员会，旨在保障尊重土著人民的人权、自决权和自主权。同时，自然资源和环境部制定了一项工作计划，旨在根据劳工组织第 169 号公约所规定的原则，落实土著人民和土著社区在环境领域的咨商权和知情同意权。该工作计划的重点是对公务员的培训和开发专门机制来保障正当实施和落实协商工作。<sup>117</sup>



124. 尽管在这方面取得了许多进展并实施了许多计划，但仍面临着深化调整国内土著权利问题法律框架的挑战，以确保土著人民和社区在国家政治、社会和经济生活的方方面面行使其权利。<sup>118</sup>

#### 非裔人口的权利

125. 墨西哥在承认并正视其非裔人口方面的工作比较滞后，因为尚未具备包含非裔人口的统计计量工具。为应对这一挑战，全国预防歧视委员会与国家统计和地理局已经设计了一个专门的项目，以便将非裔人口纳入到 2015 年人口和住房普查的内容中。

126. 2012 年举办了国家非裔人口论坛，在论坛上承认这一群体是种族歧视、形式主义歧视和结构性歧视的受害者，并在论坛上提议制定一项工作议程来应对这些挑战。<sup>119</sup>

127. 此外，在全国预防歧视委员会的《针对墨西哥非裔人口的公共行动指南》以及墨西哥全国文化多样性运动中，建议针对非裔人口制订相应的公共政策。<sup>120</sup>

#### D. 妇女权利

(第 93 段中的建议——建议 8、11、12、13、14、15、16、17、18、19、20、21、22、23、48)

128. 墨西哥在《男女平等法》和《妇女享有无暴力生活法》中确立了执行《消除对妇女一切形式歧视公约》和《美洲防止、惩罚和根除对妇女暴力行为公约》的法律框架。在这一框架中制订了这方面的方案、政策和战略。<sup>121</sup> 全国妇女协会与 32 个州一级的协会对国家和地方政策进行了协调，以实现男女完全平等。

129. 当前，32 个州中有 30 个已经出台了《男女平等法》，所有的州都出台了《妇女享有无暴力生活法》。此外，在州一级中建立了 17 个男女平等体系和 32 个预防、处理、惩治和根除暴力体系。还设立了 1,250 个市级妇女机构，占到国内所有市镇的半数以上。

130. 在刑事认定方面，有 27 个联邦实体<sup>122</sup> 已经将杀戮妇女罪写入了其《刑法典》中，2012 年 6 月在《联邦刑法典》中将杀戮妇女定为犯罪。

131. 三大权力机关以及地方自治机关内部各机构所采取的措施，有助于增进和保护妇女权利并促进男女之间的实质性平等。国家三个主要的司法机构，即国家最高司法法院、联邦司法委员会和联邦司法选举法院都设有负责两性平等与公正事务的专门机构。在 2009 年至 2012 年期间，17 个国家部委和共和国总检察长办公室设立了多项方案，整合了各项目标和指标以落实关于妇女权利的国际文书，并在其政策中加入了性别观点。联邦选举事务局推动了这方面的培训工作，并开展宣传运动来提高妇女的政治领导能力。

132. 在 2011 年和 2012 年根据男女平等原则制定了一项国家计划，并在预算支出中加入了性别观点。2013 年为性别平等工作划拨的预算额为 187.6 亿比索，<sup>123</sup>与 2008 年的水平相比提高了 157%。<sup>124</sup>

133. 在政治参与方面，性别配额得以真正落实是法院和选举当局坚决贯彻执行的结果。<sup>125</sup>当前，众议院中的女议员有 189 人，占 37.8%；达到历史最高值。在参议院的 128 个议席中，女议员占了 44 个议席数，相当于 34.4%。同时，各政党应当至少拿出 2% 的预算来促进培养、提高和发展妇女的政治领导能力。

134. 2011 年，在 15 岁以上的女性中，在最新维持的伴侣关系中遭受暴力的比例为 47%。从暴力类型看，这一群体所遭受的暴力主要有：情感暴力，43.1%；经济暴力，24.5%；身体暴力，14%，和性暴力，7.3%。值得注意的是，在伴侣关系中，暴力侵害的总体发生率从 2006 年的 43.2% 提高到 2011 年的 46.1%。这体现在情感暴力和经济暴力发生率的提高上，尽管需要重点指出，身体暴力发生率(-5.7%)和性暴力发生率(-1.6%)均有所下降。

135. 暴力侵害妇女罪和贩运人口特设检察署、全国预防和消除暴力侵害妇女委员会和关爱犯罪受害者社会检察署等一些专门机构，均为预防和消除针对妇女的暴力侵害做出了贡献。同时还在全国范围内设立了 166 个专门的司法执法机构，为了关爱暴力受害者，在墨西哥设立了 66 个庇护所；其中 34 个由民间社会组织开办，还有 32 个由州政府和市政府开办。<sup>126</sup>

136. 全国性别平等与性健康和生殖健康中心<sup>127</sup>继续为妇女提供专业的保健服务，包括预防和处理家庭暴力和性暴力。<sup>128</sup>在 2013 年，提高了该中心的预算，<sup>129</sup>并在卫生保健部门的框架内向 189,000 名妇女提供了有针对性的照顾。

137. 2009 年出台了《预防、处理、惩治和根除对妇女的暴力行为综合方案》，作为针对暴力侵害妇女行为的公共政策的指导方针。

138. 2011 年，开发了“妇女司法中心”模式，通过这一模式努力使政府机构、司法机关和民间社会组织团结起来，为暴力受害妇女提供关爱。已经开办了五个中心，还有四个即将开办运营。

139. 深化落实法律实施工作以及在地方层面，特别是市镇一级的不断协调，是一项持久任务。为了根除此类暴力，有必要从人权和跨文化角度开发一个针对暴力侵害妇女和女童的关爱模式，特别照顾土著人口，以便使土著妇女能够享受此类服务。

## E. 儿童和青少年权利

(第 93 段中的建议 — 建议 30、31、33)

140. 2011 年 10 月颁布了对《墨西哥合众国政治宪法》第 4 条的修订案，借此加强了儿童权利，承认儿童是权利的主体，并规定国家有义务确保在其决议和行动中落实儿童的最高利益原则。<sup>130</sup>

141. 2012 年 12 月颁布了《联邦青少年司法事务法》，旨在保障涉嫌或被指控犯罪的青少年享有在《宪法》和国际条约中规定的权利。

142. 全国家庭综合发展体系在组建各州的《儿童权利公约》执行情况监督和监测委员会的工作上取得了进展，<sup>131</sup> 通过和平解决家庭冲突模式来促进没有暴力的家庭氛围，并通过《保护儿童和促进儿童全面发展方案》，促进儿童和青少年积极参与到其权利的宣传和推广活动中。

143. 为加强儿童获得姓名和国籍的权利，建立起家庭、文化和国民关系并获得身份认同，2013 年 4 月，全国家庭综合发展体系，在内政部、儿基会和各州的民事登记处的配合下，签署了《合作协议》，目的是实施未成年人出生及时统一登记全国运动。

144. 为保护街头流浪儿童，全国家庭综合发展体系资助并全程跟进各类有针对性的关爱项目和奖学金计划，以鼓励他们学习和重返校园，树立健康情绪，恢复家庭关系，并关注犯罪和吸毒行为。每年平均有 14,900 名男童、女童和青少年从中受益。<sup>132</sup>

145. 针对 25 个在这种现象上处于比较弱势状况的联邦州，全国家庭综合发展体系开展了旨在预防对儿童的性剥削的活动，帮助 649,409 名男童、女童和青少年提高了自我保护能力。为 2,627 名遭受性剥削的男童和女童，以及 90,072 名面临性剥削风险的男童和女童提供了关爱。

146. 2012 年 7 月，在暴力侵害妇女罪和贩运人口特设检察署中设立了一个专门负责调查和根除通过电子手段进行儿童色情制品、性旅游和诱拐儿童等犯罪的机构。<sup>133</sup>

147. 墨西哥黄色预警机制促进了联邦、各州、各市、媒体、私营部门和民间社会组织之间的合作，以便宣传各州、国家和国际上的预警信息，帮助寻找、定位和找回由于绑架、失踪、走失、非法剥夺自由而处于严重伤害其人身完整性的危难情况，或者其他涉嫌犯罪的情况的男童、女童和青少年。在全国范围内，已经启动了 88 次警报<sup>134</sup>，且截至 2013 年 6 月，有 26 个州实施了这一方案。

148. 在 2012 年 2 月签订了《关于对卷入有组织犯罪案件中的儿童和青少年实施关爱的机构间协议》，借此开发了旨在关爱卷入有组织犯罪案件中的儿童和青少年权利的若干议定书。<sup>135</sup>

## F. 残疾人权利

149. 根据 2010 年人口和住房普查，共有 4,527,784 名残疾人生活在墨西哥，占墨西哥总人口的 5.08%。通过普查已经发现了这类群体为在平等条件下改善各方面的生活质量所面临障碍。

150. 《残疾人包容法》于 2011 年 5 月生效，<sup>136</sup> 其核心目的就是在平等和机会平等框架内实现对残疾人的完全包容。通过这部法律成立了全国残疾人发展和包容委员会<sup>137</sup>，并努力调整国内法律框架，使之与《残疾人权利公约》相一致。

151. 全国残疾人发展和包容委员会负责监督《公约》在国内的执行情况，并在 2011 年 2 月设立了《公约》执行情况的监管框架，成员单位包括国家人权委员会以及全国 33 个负责保护和捍卫人权的公共机构。

152. 除南下加利福尼亚州和墨西哥州只有相关条例外，其他所有联邦州都出台了当地的残疾人法。

153. 另一方面，为根除国家所提供的服务中的歧视性做法，全国预防歧视委员会发布了《措施决议》，通过这些决议，提出了旨在提高当局认识和确保歧视性行为不再发生的各项措施。在托儿机构不接纳残疾儿童的歧视案件、对作为航空服务用户的残疾人的歧视案件中都采纳了上述决议。

154. 尽管取得了这些进步，但是为了确保残疾人享有同等的生活条件和发展机会，仍需要全面执行相关公共政策，以满足残疾人的特殊需求。

## G. 老年人权利

155. 老龄人口占墨西哥总人口的 8.95%。<sup>138</sup> 全国老龄人口协会负责协调针对 60 岁以上人口的关爱政策，并促进在对此类群体的关爱工作中加入生命周期、性别、种族和人权观点。<sup>139</sup>

156. 当前，通过《老龄人口养恤金方案》，联邦政府为所有由于未参保而没有养老金或退休金收入的 65 岁以上老人提供经济支持和社会保护。方案的受益者人数已有大幅增加，截至 2012 年这类福利已经覆盖了 70 岁以上的老年人。

## 七. 与国际体系的关系

### (第 93 段中的建议——建议 1、2)

157. 近年来，重申了对《残疾人权利公约》以及《儿童权利公约关于儿童卷入武装冲突问题的任择议定书》的解释性声明。尽管承诺将对其他国际文书的保留进行审议，以确定是否有可能废除这些保留，但是撤回这些保留仍是一项挑战。

158. 墨西哥继续通过向人权理事会、联合会大会以及区域论坛提出倡议来增进移民权利。同样也努力增进妇女权利、土著人民权利和残疾人权利。同时，还推动了从人权角度开展安全理事会的工作。<sup>140</sup>

159. 在区域层面上，墨西哥承认美洲人权体系的管辖权。已经采取各项举措来充分落实美洲人权法院针对墨西哥所作的六项判决。<sup>141</sup> 此外，还推行了各类行动来加强其政治、法律和金融实力。墨西哥始终牢记其向国际社会做出的关于创造条件落实诉诸司法的权利这一庄严承诺。

160. 在发扬民主方面，墨西哥向国际呼吁，应在国际民主和选举援助学会、民主社会和开明民主联盟的框架内倡导民主价值观。

#### 注

- <sup>1</sup> Through the Human Rights Commissions within the Senate and the Chamber of Deputies.
- <sup>2</sup> Through the Supreme Court of Justice, the Federal Judiciary Council, and the Federal Electoral Tribunal.
- <sup>3</sup> The subjects of these forums were chosen, taking into account the recommendations received by Mexico in 2009.
- <sup>4</sup> 12 networks and non-governmental organizations sent contributions for the report through the email address [mepu\\_dgdh@sre.gob.mx](mailto:mepu_dgdh@sre.gob.mx) enabled for such purpose. For further information on the drafting process, see: <http://www.sre.gob.mx/index.php/dgdhd/>
- <sup>5</sup> A multidimensional measurement indicates that, currently, 52 million people live in poverty. According to the 2010 Census carried out by the National Institute of Statistics and Geography, the total population of Mexico is 112,336,538 people.
- <sup>6</sup> From the Report on Mexico of the Working Group on the Universal Periodic Review (A/HRC/11/27).
- <sup>7</sup> Articles 1, 3, 11, 15, 18, 29, 33, 89, 97, 102 and 105 of the Constitution, reform available in: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5194486&fecha=10/06/2011](http://www.dof.gob.mx/nota_detalle.php?codigo=5194486&fecha=10/06/2011)
- <sup>8</sup> Other relevant aspects of the reform include: the interpretation of human rights norms in accordance with the Constitution and international treaties, favoring the widest possible protection for the human person (*pro personae* principle); the prohibition of discrimination based on “sexual preferences”; the respect for human rights as a basic principle of public education, and as the basis of the organization of the penitentiary system; the right of every person to seek asylum for political motives and to seek refuge for humanitarian reasons; the prohibition of the suspension of a human rights catalogue in a state of emergency, in conformity with Mexico’s international obligations; the respect of the right of foreigners to a hearing and to guarantees against their arbitrary expulsion; and the promotion and protection of human rights as a guiding principle of foreign policy.
- <sup>9</sup> Additionally, provisions were included to improve procedural celerity and judicial efficiency, as well as to ensure the uniformity and consistency of judicial criteria. The reform also includes different measures to avoid non-compliance with judicial decisions resulting from *amparo* trials (judicial appeals for constitutional protection) and the repetition of challenged acts of authority.
- <sup>10</sup> The Law provides for a priority procedure when the challenged acts could imply the deprivation of life, attacks against personal liberty, incommunicado detention, deportation, repatriation or expulsion, banishment or extradition. In such cases where there is suspicion that an enforced disappearance has occurred, a special 24 hour term is established for granting legal protection, ordering the suspension of challenged acts of authority, and ordering authorities to provide any information that could prove useful to search, locate, and rescue the probable victim.
- <sup>11</sup> In December 2011, the Law of the CNDH was amended to include means to protect claimants’ procedural rights.
- <sup>12</sup> In the fulfillment of its objectives, the PND contemplates three cross-cutting priorities: the democratization of productivity; a modern and approachable government; and gender perspective.
- <sup>13</sup> Consultations took place from February 28 until May 9th, 2013, with input from 228,949 sources. The process took place through 4 modalities: i) an internet poll, in which 129,299 citizens participated; ii) polling stations set up physically and electronically, which received 37,871 documents; iii) 44 forums, that, along with 231 discussion panels, made up 275 consultative actions in which 48,527 people participated; and iv) thematic discussion tables in which 13,252 people participated, whose input was used not only for the preparation of the National Development Plan, but also contributes to the elaboration of Sector-specific, Institutional and Special Programs. Further information about this process can be found in: <http://pnd.gob.mx/>
- <sup>14</sup> The Sub-commission included a Technical Committee for the Follow-up of Public Policy and the Definition of Additional Indicators. The PNDH’s objectives were: i) the strengthening of a human rights perspective within public policy making; ii) the strengthening and creation of judicial and administrative human rights protection mechanisms; iii) the consolidation of a human rights culture; and iv) the strengthening of Mexico’s compliance with its international human rights obligations, and the promotion of such compliance within the three branches and levels of government.

- <sup>15</sup> Through the General Direction for Human Rights Public Policy, that was expressly created for the definition of this State policy.
- <sup>16</sup> The General Law on Social Development confers to the Council two main functions: coordination of the evaluation of social development public policy, and the creation of indicators and criteria for the definition, identification and measurement of poverty under a multidimensional perspective. A person is in a situation of multidimensional poverty when he or she does not have guaranteed access to at least one of the social development rights, and if income is insufficient to acquire such goods and services required to satisfy basic needs. A person is in a situation of extreme poverty when he or she has three or more social deprivations and an income lower than the value of basic foodstuffs.
- <sup>17</sup> i) Per capita income; ii) average educational lag per household; iii) access to health services; iv) access to social security; v) quality and spaciousness of households; vi) access to basic household services; vii) access to food; and viii) degree of social cohesion. Further information can be found in the 2012 “Report on Poverty in Mexico. Country, State and Municipal Levels”, by the National Council for the Evaluation of Social Development Policy.
- <sup>18</sup> Population in rural areas presents higher proportions of poverty, increasing from 62.4% to 64.9%; while in urban areas, the increase was from 39.1% to 40.5%. For population that speaks an indigenous language, poverty increased from 75.9% to 79.3%; poverty for non-indigenous language speakers increased from 42.4% to 44.1%.
- <sup>19</sup> In accordance with the General Law on Social Development, the federal budget for social spending cannot be lower than that for the previous year, and it must increase proportionally to the expected growth in the internal gross product. The budget for the reduction of poverty totaled, in 2012, 317,076.8 million pesos, approximately 23,948.4 million United States dollars (USD), which represented an 8.9% increase from 2011.
- <sup>20</sup> The lack of access to health services decreased from 40.8% to 31.8%; the lack of access to social security decreased from 65.0% to 60.7%; lack of basic housing services decreased from 19.2% to 16.5%; the percentage of the population with needs related to the quality and spaciousness of housing diminished from 17.7% to 15.2%; and academic lag decreased from 21.9% to 20.6%.
- <sup>21</sup> The lack of access to food increased from 21.7% to 24.9%.
- <sup>22</sup> By the end of 2012, the Program served 5,845,056 families, distributed throughout the entire country. 60.6% of these families live in rural areas, 18.8% in semi-urban areas and 20.6% in urban areas.
- <sup>23</sup> CDI is a decentralized federal organ in charge of promoting and coordinating the actions undertaken by public institutions to foster the integral and sustainable development of indigenous peoples and communities. The CDI operates an Indigenous Information System which supports the definition, creation, execution and evaluation of governmental programs, projects and actions, and includes specific indicators for indigenous population.
- <sup>24</sup> Approximately 221.3 million USD, exchange rate of 26 June 2013.
- <sup>25</sup> Through the Mexican Institute for Social Security (IMSS) and the Institute for Social Security and Services of State Workers.
- <sup>26</sup> The *People’s Health Insurance (Seguro Popular)* is part of the Social Health Protection System, and, through a public and voluntary insurance, grants access to health services to those people who are not employed or are self-employed, and thus lack access to social security institutions.
- <sup>27</sup> The *People’s Health Insurance* has a *Universal Health Catalogue* which includes 284 medical and surgical interventions and covers 95% of the main health ailments. The remaining 5% corresponds to low-incidence and high-complexity diseases and ailments, that are financed through a *Protection Fund against Catastrophic Expenditures*. Those affiliated to the *People’s Health Insurance* receive the medication they require without cost.
- <sup>28</sup> By December 2012, 13.9 million people who were in the *Opportunities Program* were also incorporated into the *People’s Health Insurance*. Additionally, affiliation in those places where the indigenous language-speaking population supersedes 40% increased to 4,588,655 people. With regard to older persons, by December 2012, 3,181,770 people 65 years of age, or older, were affiliated.
- <sup>29</sup> Approximately 113.3 million USD.
- <sup>30</sup> The *Health Caravans* program provides health services to the population living in highly impoverished regions, with a high geographic dispersion rate and a low human development index, through itinerant medical teams.
- <sup>31</sup> Maternal mortality in Mexico diminished from 1990 to 2011 in 51.3%, since it decreased from 89 to 42.2 deaths per 100,000 births, which does not reflect the expected rate.
- <sup>32</sup> This strategy enabled the affiliation of more than 1.8 million pregnant women to the *People’s Health Insurance*.

- <sup>33</sup> The *Centers* are part of the *IMSS-Opportunities* program; 39 centers are operating in 2013. Between 2008 and 2012, the program provided training regarding prenatal care, identification of alarm signs and clean births, to 7,026 midwives who volunteer in rural areas of difficult access.
- <sup>34</sup> Between 2006 and 2012, mortality for children under five years of age decreased from 19.2 to 15.7.
- <sup>35</sup> The *21<sup>st</sup> Century Healthcare Program* is part of the *People's Health Insurance*, and its goal is to afford comprehensive medical attention to children born since December 1<sup>st</sup>, 2006, who do not have access to any other kind of social security.
- <sup>36</sup> The IMSS attained this goal since 2005, registering a mortality rate of 3.34 deaths per 100,000 social security right-holders, a tendency that has been maintained in subsequent years.
- <sup>37</sup> With regard to access to antiretroviral medication, access has been at around 80% since 2008. The number of people who require such treatment and do not have access to it is expected to diminish, since the *People's Health Insurance* offers free antiretroviral medication.
- <sup>38</sup> The National Trust for Public Housing Projects granted 823 thousand subsidies in this period through programs such as *Your House* and *Rural Housing*, mainly for the improvement and enlargement of homes, both in rural and urban areas.
- <sup>39</sup> In its first stage, this strategy will focus on those counties and districts that have the highest poverty index in the country, 212 of which are considered indigenous, and highly marginalized, in order to benefit more than 3,410,598 indigenous persons, who represent 46% of beneficiaries. For further information, the *National Crusade Against Hunger* webpage can be consulted: <http://cruzadacontraelhambre.gob.mx/#cruzada>
- <sup>40</sup> The *Crusade's* objectives are: i) to guarantee zero hunger for the target population through adequate food and nutrition ii) to eliminate acute malnutrition among children and the improvement of growth indicators in early childhood; iii) to increase the production and income of agricultural workers and small agricultural producers; iv) to minimize post-crop loss and food loss during storage, transportation, distribution and commercialization; and v) to promote community participation against hunger.
- <sup>41</sup> By 2012, the *Rural Supply Program* had a network of 25,121 rural shops where basic products are offered at lowered prices, and the *Social Milk Supply Program LICONSA* provided subsidized and enriched milk to nearly 6 million people.
- <sup>42</sup> 29.4% of families who are part of the program live in rural areas, 17.2% in semi urban areas and 53.4% in urban areas.
- <sup>43</sup> As regards mandatory upper-secondary education (high school and professional technical education), its achievement will be approached gradually starting from 2012-2013 until full coverage in all modalities is attained by 2021-2022.
- <sup>44</sup> As a basis for comparison, primary school attendance (6 to 11 years old) in 2010 was 96.9% among girls and 96.5% among boys.
- <sup>45</sup> As an autonomous, public organ, with legal personality and its own assets.
- <sup>46</sup> The reform also establishes an Education Information and Management System with the objective of having organized data for the planning and operation of the education system; it strengthens the managerial autonomy of schools in order to improve their infrastructure; and the supply of nutritious food is boosted in order to improve the health of students.
- <sup>47</sup> Scholarship holders are given a monthly stipend that varies from 165 to 1,055 pesos (approximately 12.5 to 79.7 USD) according to the grade they are enrolled in. Once they reach secondary education, the stipend depends on grade, as well as gender (since women tend to leave school at a younger age than men, their stipend is slightly larger).
- <sup>48</sup> 83.6% of these scholarships are for basic education and 16.4% for upper-secondary education; 49.8% were granted to women and 50.2% were granted to men.
- <sup>49</sup> This Program has 1,066 boardinghouses in 21 states within the country.
- <sup>50</sup> Additionally, in order to improve labor practices with regard to men and women, the *Official Mexican Norm for Employment Equality between Men and Women* was published in 2009. By 2012, 1,081 labor centers and 139 government offices had been certified in accordance with the *Norm*.
- <sup>51</sup> The PAE operates through four subprograms that registered the following progress between 2008 and 2012: i) *Scholarship Subprogram*, which supports further education and training of job-seekers or people already employed (it benefitted 1,171,313 people, and contributed to allocating and maintaining employment for 805,031 workers); ii) *Fostering Self-employment*, which provides furnishing, machinery, material, tools or a stipend to jobseekers (this subprogram helped 57,825 people); iii) *Employment Mobility*, which operates in the agricultural or industrial and services sectors (341,829 y 22,161 people were granted jobs, respectively); and iv) *Repatriates Working*, a

- subprogram directed to helping repatriated Mexicans who do not intend to cross the border into the United States again (jobs were found for 13,732 people, out of a total 121,022 who were given assistance).
- <sup>52</sup> The SNE includes actions taken by the Formal Employment Subprogram, the Subprogram for the Compensation of Temporary Work, the Subprogram for Temporarily Suspended Workers, the Program for the Support of Former Workers of the extinct decentralized organ Central Light and Power Company, and the Program of Emergent Support for Workers in the Service Sector.
- <sup>53</sup> Mexico has surpassed the Millennium Development Goals for access to sustainable water and sanitation, and significant advances have been made in the rehabilitation of sites that pose a high health risk.
- <sup>54</sup> Article 180 of the General Law on Ecological Balance and Environment Protection. It incorporates the right to challenge administrative acts, as well as to demand that necessary actions be taken to ensure full respect of the legal provisions on the subject.
- <sup>55</sup> This represents nearly 84% of all cases that reach the Federal Electoral Tribunal (TEPJF).
- <sup>56</sup> During the term 2010-2011, 17 international instruments were quoted in 115 judicial decisions; and in the 2011-2012 tenure, 22 international instruments were referred to in 811 judicial decisions.
- <sup>57</sup> Between 2009 and 2012, the High Chamber of the TEPJF has issued five jurisprudential theses and 12 relevant criteria related to the usages and customs of indigenous communities, which are found in at least 40 judicial decisions.
- <sup>58</sup> It is part of the Federal Judiciary Council, and its work also comprises the training of public servants and activities of dissemination of information on the reforms. As part of the efforts towards the implementation of the reforms, within the Judicial Branch, more than 5,781 public servants have been trained, and more than 3,500 public servants were certified in the *Human Rights in the Federal Judiciary* program. Further information can be found in the webpage [www.cjf.gob.mx/Reformas](http://www.cjf.gob.mx/Reformas).
- <sup>59</sup> Chihuahua, Estado de México and Morelos.
- <sup>60</sup> Baja California, Chiapas, Durango, Guanajuato, Nuevo León, Oaxaca, Puebla, Tabasco, Yucatán and Zacatecas.
- <sup>61</sup> Coahuila, Michoacán, San Luis Potosí, Tamaulipas, Tlaxcala and Veracruz.
- <sup>62</sup> Aguascalientes, Baja California Sur, Campeche, Colima, Distrito Federal (Federal District), Guerrero, Hidalgo, Jalisco, Nayarit, Querétaro, Quintana Roo, Sinaloa and Sonora.
- <sup>63</sup> In November 2012, the CJF and the National Banking and Trade Commission signed a collaboration agreement in order to Exchange information regarding the bank accounts and financial activity of judges and public servants working in the judicial branch.
- <sup>64</sup> *Amparo* trial (appeal for constitutional protection) 806/2011-I (Access to justice for persons with disabilities); *Amparo* trial 1196/2011 (Provisional alimony and child support); *Amparo* trial 352/2011 (*pro personae* and equality principles); *Amparo* trial 601/2011 (human right to health); *Amparo* trial 21/2011 (noncompliance with child support); Revision appeal 435/2011 (human right to health); Complaint 4/2012 (entry into force of the new criminal system); *Amparo* trial 67/2012 (right to due process); *Amparo* trial 1278/2011 (fundamental right to equality, non-discrimination and social security); *Amparo* trial 1157/2007 (human right to health); *Amparo* trial 181/2011 (principle of the best interest of the child and a minor's right to be defended at court); *Amparo* trial 237/2012 (right of access to justice); *Amparo* trial 526/2011 (human right to a simple, effective and speedy remedy); *Amparo* trial 1060/2008 (control of conventionality); *Amparo* trial 1138/2012 (preventive imprisonment of minors in the new criminal system and the fundamental right of legality); *Amparo* trial 742/2012 (ex officio control of conventionality concerning *arraigo*; the right to personal freedom, judicial guarantees and freedom of movement); Revision appeal 743/2011 (legitimate interest and the rights to human dignity, to life, adequate housing and personal integrity); Criminal case 48/2011 (right to the presumption of innocence); *Amparo* trial 1494/2011 (justiciability of economic, social and cultural rights); *Amparo* trial 895/2011 (human right to honor, dignity, privacy and protection of personal data); *Amparo* trial 76/2012-III (collision of rights: freedom of expression vs. non-discrimination and honor); *Amparo* trial 614/2012 (equality, legality certainty and *pro personae* principles); *Amparo* trial 377/2012 (control of conventionality); *Amparo* trial 736/2012 (right to consular assistance, notification and communication); Appeal 215/2012 (human right to personal freedom).
- <sup>65</sup> From the Report on Mexico of the Working Group on the Universal Periodic Review (A/HRC/11/27).
- <sup>66</sup> September 1<sup>st</sup> to December 15, 2013.
- <sup>67</sup> The proposed reform intends to reduce the permitted time frame for the use of this figure, and to establish further requisites for its application.



- <sup>68</sup> As Mexico reported in its June 2009 complementary response to the Universal Periodic Review, the General Investigation Coordination within the PGR has continued the investigations and processes related to social and political movements of the past. At the same time, SEGOB launched a program designed to provide attention to the individuals referred to in recommendation 026/2001 issued by the CNDH, regarding specific facts concerning human rights violations that took place during the sixties, seventies and early eighties. This program includes the payment of compensation, guarantees of non-repetition, the acknowledgement of State responsibility, as well as comprehensive attention for victims and their families.
- <sup>69</sup> The Unit was created in June 2010, and is comprised of military personnel with knowledge and experience in the field of human rights, public policy and community outreach, and of civilian personnel with the same set of skills, to collaborate in the furtherance of its functions.
- <sup>70</sup> Celebrated between SEGOB, SEDENA, SEMAR, the former Ministry of Public Security (SSP) and PGR.
- <sup>71</sup> The General Law of Victims establishes that comprehensive reparation includes restitution, rehabilitation, compensation, satisfaction, and guarantees of non-repetition both for victims of crimes and of human rights violations.
- <sup>72</sup> From 2009 to 2012, 149 judgments were issued regarding the crimes of abuse of authority, abusive use of public functions and irregular use of public functions; 116 of those judgments were condemnatory, while 33 were acquittals.
- <sup>73</sup> Approximately 556.65 million USD.
- <sup>74</sup> Approximately 815.7 million USD; in 2006 it was of 1,100 million pesos (approximately 83.08 million USD).
- <sup>75</sup> SEGOB is currently working in the corresponding regulatory legislation.
- <sup>76</sup> Baja California, Chiapas, Coahuila, Colima, Distrito Federal (Federal District), Durango, Guerrero, Hidalgo, Jalisco, Michoacán, Nayarit, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz and Yucatán.
- <sup>77</sup> Baja California Sur, Campeche, Chihuahua, Guanajuato, Estado de México, Morelos and Quintana Roo.
- <sup>78</sup> From 2011 to 2012, the PGR began 141 investigations, and it has arrested 35 people related to the crime of human trafficking.
- <sup>79</sup> During 2012, FEVIMTRA undertook 69 academic activities to promote education and the open exchange of experiences regarding violence against women, to consolidate cooperation and collaboration mechanisms in the area of attention to victims of violence and trafficking, and to facilitate access to various tools that contribute to the prevention and investigation of such crimes, taking into account a gender and human rights perspective and the comprehensive protection of the rights of the child. These activities benefited 5,114 people working in the justice system, in specialized institutions for the attention and assistance of victims of crime, in organizations dedicated to the empowerment of women, academic institutions and non-governmental organizations.
- <sup>80</sup> In 2012, nearly 8,978 services were provided, 7,613 of which correspond to the Specialized Shelter, including: legal support, emotional support, social work, social anthropology, workshops, health services and child services.
- <sup>81</sup> The main objective of this study is to contribute to the knowledge on how human trafficking operates in Mexico, where and through which main corridors it takes place, as well as the identification of particularly vulnerable sectors of the population, and possible causes and means of exploitation, in order to strengthen public policy for the prevention and elimination of human trafficking. The study is currently under review.
- <sup>82</sup> The Federal Act specifies in its article 3 that “*torture is committed by the public servant that, on account of his or her attributions, inflicts grave pain or suffering against a person, whether physical or psychological, in order to obtain, either from the person being tortured or from a third party, information or a confession, or to punish such person for an act committed or suspected to have been committed, or to coerce such person into doing or refraining from doing something.*” Additionally, this Act establishes that the crime of torture must be enshrined in the law of all federal entities, either by the enactment of particular laws or through their criminal codes.
- <sup>83</sup> The proposed reform intends to broaden the denomination of the Act, to Federal Act to Prevent, Punish and Eradicate Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; to empower the CNDH to undertake visits to and monitor the penitentiary system in order to prevent and denounce any acts of torture therein; to define as torture the application of methods destined to affect the victim’s personality, diminish their physical or mental capacity, even if they do not cause physical

- pain or psychological anguish; and to sanction any public servant who inflicts grave pain or suffering, whether physical or mental, against any person, in the process of a criminal investigation, as a means of intimidation, as personal punishment, as a preventative measure, or with any other purpose.
- <sup>84</sup> Aguascalientes, Campeche, Chihuahua, Coahuila, Colima, Chiapas, Estado de México, Guerrero, Jalisco, Morelos, Nayarit, Oaxaca, Quintana Roo, Tlaxcala, Veracruz and Yucatán.
- <sup>85</sup> The CNDH is the National Mechanism for the Prevention of Torture, and is entitled to receive any complaints regarding torture, as well as to give the victim comprehensive attention through a specialized team, with the capability to properly apply the Istanbul Protocol.
- <sup>86</sup> The CNPJ is an organ for the promotion and coordination of all state prosecutor offices. It is made up by all state prosecutors and is chaired by the Attorney General; its objective is the formulation of general and coordinated policies within the justice system. The most recent meeting of the National Conference took place on May 30, 2013, and was inaugurated by the President, the Attorney General and the Chief of Government of the Federal District.
- <sup>87</sup> The SNSP is in charge of establishing the bases for coordination and distribution of functions on public security, among the Federation, the states, the Federal District and all municipalities. It operates under the direction of the National Conference for Public Safety, which is the authority in charge of the coordination and definition of public policy on the subject.
- <sup>88</sup> Article 215 A of the Federal Criminal Code states that “*the crime of enforced disappearance of persons is committed by the public servant who, regardless of whether he or she participated in the legal or illegal detention of one or several persons, knowingly keeps such persons hidden under any form of detention.*”
- <sup>89</sup> The states that have codified this crime in their respective Criminal Codes are: Aguascalientes, Baja California, Campeche, Chihuahua, Coahuila, Colima, Distrito Federal (Mexico City), Durango, Oaxaca, Nayarit, Nuevo León, Puebla and Zacatecas. The states of Chiapas and Guerrero have enacted a special law dealing with the matter. Additionally, some states such as Chiapas, Durango, Guerrero, Puebla and Distrito Federal (Federal District) have determined the non-applicability of statutory limitations to the crime of enforced disappearance. The two special state laws on enforced disappearance, in Guerrero and Chiapas, establish the continuous or permanent nature of the crime. Finally, Aguascalientes specifies the gravity of the crime in its criminal code.
- <sup>90</sup> The *Protocol* intends to ensure the consistency of best practices related to investigation and information analysis for locating missing persons. It is implemented through 4 main efforts: i) a broad, immediate and single interview in order to act quickly and not re-victimize; ii) sources for obtaining information; iii) the definition of strategic elements to conduct a search; and, iv) the analysis of available information. Through the application of this protocol, PROVICTIMA contributed to the location of 128 persons who had been reported missing by the end of 2012.
- <sup>91</sup> The collected data includes: age, nationality, habitual residence, ethnic origin, disability and other relevant data. It will operate 24 hours a day, 365 days a year, and will have a special section dedicated to the general public that wishes to consult it, as well as a mailbox for receiving information. In addition, the Act establishes the obligation of administrative or judicial authorities that may have knowledge of a missing person or who receive any reports regarding disappearance, to provide all pertinent information to the National Registry. The Act establishes sanctions and penalties for any public servant or any other person who has access to the Registry and misuses the information contained therein.
- <sup>92</sup> The protocol was amended to comply with international standards on the subject, facilitating coordination among all levels of government, media, and the families of disappeared persons in order to initiate the urgent searching process in Ciudad Juárez, Chihuahua. Further, assistance provided to victims, once they are located, was strengthened, and includes medical, psychological and legal services.
- <sup>93</sup> Agreement A/066/13 that provides for the establishment of the Unit, was published on June 21, 2013.
- <sup>94</sup> Additionally, in order to strengthen the investigations related to the disappearance of a person, the PGR will sign an agreement with the ICRC for the installation of a specialized software to operate a database of missing persons, as well as *ante mortem* and *post mortem* data which will help in the search, location and identification of missing persons.
- <sup>95</sup> In November 2012, its regulatory framework was published, in order to establish the functioning, coordination, organization, and the procedures that the organisms and institutions involved in the implementation of the Mechanism must follow.
- <sup>96</sup> The Mechanism’s Governing Board is its highest authority, and is constituted by 9 permanent members (2 representatives from SEGOB, one from PGR, SRE, the CNDH and four representatives

of the Consulting Council of the Mechanism) as well as by permanent observers (Office of the United Nations High Commissioner for Human Rights, the National Conference of Governors, the Senate and the Chamber of Deputies).

<sup>97</sup> Congress is currently in the process of reforming regulatory legislation on the subject.

<sup>98</sup> Currently, 25 states have signed the cooperation agreement with the Mechanism.

<sup>99</sup> Articles 6, 7, 27, 28, 73, 78, 94 and 105 of the Constitution are amended. The reform outlines a term of 180 days for its full implementation; therefore, the legislature must present all regulatory laws, including a single legal instrument which will regulate the radio electric spectrum, the networks and all telecommunication services through the regime of unique concession. For further information, the following site is available:

[http://www.dof.gob.mx/nota\\_detalle.php?codigo=5301941&fecha=11/06/2013](http://www.dof.gob.mx/nota_detalle.php?codigo=5301941&fecha=11/06/2013)

<sup>100</sup> The Federal Institute of Telecommunications shall identify dominant enterprises (with more than 50% of the market) and issue the corresponding regulatory measures, which may be asymmetrical regulations, an order to share infrastructure and to interconnect with the networks of other companies, among others.

<sup>101</sup> Article 1 prohibits all forms of discrimination motivated by ethnic or national origin, gender, age, disability, social condition, health conditions, religion, opinions, preferences, marriage status or any other reason that harms human dignity and has the purpose of undermining the rights and freedoms of any person. Additionally, through the human rights constitutional reform of 2011, the prohibition of discrimination based on sexual preference was also enshrined in this article.

<sup>102</sup> Aguascalientes, Baja California Sur, Campeche, Chiapas, Chihuahua, Coahuila, Colima, Distrito Federal (Federal District), Durango, Estado de México, Guerrero, Hidalgo, Michoacán, Nayarit, Querétaro, San Luis Potosí, Tamaulipas, Yucatán, and Zacatecas.

<sup>103</sup> Aguascalientes, Baja California, Baja California Sur, Campeche, Chiapas, Chihuahua, Coahuila, Colima, Distrito Federal (Federal District), Durango, Estado de México, Guerrero, Hidalgo, Michoacán, Nayarit, Querétaro, Quintana Roo, San Luis Potosí, Tamaulipas, Yucatán, and Zacatecas.

<sup>104</sup> This Poll can be found in: <http://www.conapred.org.mx/userfiles/files/Enadis-2010-RG-Accss-002.pdf>

<sup>105</sup> From 2009 to mid-2013, 115,342 Visiting Migrant Worker Cards and 375,023 Regional Visitor Cards had been issued for nationals of Guatemala and Belize.

<sup>106</sup> For nationals of Guatemala or Belize.

<sup>107</sup> The 2012 Winter Operation helped more than 400,000 Mexicans through observation stands and attention centers.

<sup>108</sup> 21 Beta Groups are currently in operation, and they are comprised of 166 public servants from all three levels of government (126 federal level, 10 state level y 30 municipal level) who work mainly in 9 states: Baja California, Sonora, Chihuahua, Coahuila, Tamaulipas, Chiapas, Tabasco, Veracruz and Oaxaca.

<sup>109</sup> During this period 20,184 migrants were rescued; 966,525 migrants received social assistance; 1,146 migrants received legal assistance; 1,092,539 migrants were provided orientation; and 596,221 repatriated migrants were helped.

<sup>110</sup> The National Institute for Migration currently has 493 Child Protection Officers in 32 Federal Delegations.

<sup>111</sup> Shelter, clothes, food, rest, and – in some cases – medical, psychological, and legal assistance.

<sup>112</sup> The Agreement was celebrated between SEGOB, the National Institute for Migration, the SSP, and PGR.

<sup>113</sup> A regulatory framework for this Law was published in February 2012.

<sup>114</sup> <http://www.un.org/spanish/News/story.asp?NewsID=20162#.Ue3iy42G2So>

<sup>115</sup> Further information can be found in the site: <http://www.acnur.org/t3/noticias/noticia/gobierno-de-mexico-y-acnur-presentan-informe-sobre-perfiles-e-integracion-de-refugiados/>

<sup>116</sup> According to the 2010 Population and Housing Census. From this number, 6.9 million people speak an indigenous language and 11.1 million live in a household which is considered indigenous.

<sup>117</sup> The working plan is divided into three phases: the first of these consisting in the creation of guidelines for the consultation of indigenous peoples and communities regarding the environment, for the attainment of free, prior and informed consent, and for the elaboration of terms of mutual agreement with indigenous communities. The plan is currently in its second phase of analysis (by personnel of the Ministry for the Environment at a national level, as well as by representatives of indigenous peoples), in order to achieve a final approved version. Once this phase is complete, new *ad hoc* consulting protocols will be developed for those administrative units and decentralized organs

whose decisions may affect land, territory, natural resources, cultural, intellectual, religious or spiritual property of indigenous peoples and communities.

- 118 The State's priorities in this area are: ensuring that indigenous peoples and communities fully exercise the right to food, health, education and basic infrastructure; to guarantee their access to justice and due process, while taking into account indigenous customs, in the framework of a judicial system that is coherent with the multicultural and linguistically diverse nature of Mexico; to promote the incorporation of specific rights of indigenous women and children to federal and local legislation; to strengthen the mechanisms for the consultation and the participation of indigenous peoples and communities in the planning and management of their own social development, ensuring the respect for their rights and way of life; to attain the full recognition of the political and electoral rights of indigenous peoples, among other actions.
- 119 As a result of this Forum, the "Agenda for the inclusion and social wellbeing of afro-descendant and afro-Mexican people in all areas of public life" was published. This Agenda establishes the declaration of a national afro-Mexican day in order to contribute to their visibility and recognition in public policy-making throughout the country; that the mandate of the National Commission for the Development of Indigenous Peoples will be extended, or that a special instance will be created to dedicate itself to the development of afro-Mexican and afro-descendant peoples, in consultation with them; and that a series of initiatives will be implemented in order to promote their cultural heritage and history.
- 120 The proposals that the *Public Action Guide* outlines to fight discrimination and promote the inclusion and rights of the afro-descendant population are divided into eight main courses of action: i) public restitution of the afro-descendant identity; ii) social recognition and sensitivity to the contributions made by the afro-descendant population to the conformation of the country; iii) research and analysis of the afro-descendant population in Mexico in order to design adequate and anti-discriminatory policies; iv) inclusion of afro-descendant people in the development of the country through a State policy that guarantees non-discrimination and equality of treatment and opportunities; v) training for public servants and people working in the judicial branch; vi) fighting discrimination and racism through media and public spaces; vii) promoting civil participation by the afro-descendant community; and viii) promoting the human rights of the afro-descendant population in the international sphere.
- 121 Through the National System for the Equality of Men and Women and the National System to Prevent, Respond, Punish and Eradicate Violence Against Women.
- 122 Aguascalientes, Baja California, Campeche, Chiapas, Coahuila, Colima, Distrito Federal (Federal District), Durango, Guanajuato, Guerrero, Hidalgo, Jalisco, Estado de México, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Yucatán and Zacatecas.
- 123 Approximately 1,416 million USD.
- 124 In 2012 the budget was 16,753 million pesos (approximately 1,265 million USD); in 2011 it was of 14,916 million pesos (approximately 1,126 million USD); in 2010 it was of 10,921 million pesos (approximately 824 million USD); in 2009 it was of 8,982 million pesos (approximately 678 million USD); and in 2008 it was of 7,282 million pesos (approximately 550 million USD).
- 125 Pursuant to article 219 of the Federal Code for Electoral Institutions and Procedures, all candidatures for deputies and senators presented by political parties or coalitions must have at least 40% of the main candidates from one gender, procuring the achievement of full parity.
- 126 The *Inter-institutional Group for the Strengthening of Shelters* links shelters which are operated by non-governmental organizations to those operated by the government, in order to coordinate their work and to push for the creation of public policies that will benefit the women who use them.
- 127 The National Center for Gender Equality and Reproductive and Sexual Health is a decentralized organ of the Health Ministry which, since 2003, has the mission of incorporating gender perspective into health policy and of improving the sexual and reproductive health of the population through various programs, in a framework of social participation and respect for human rights. The Center works through 7 main programs: gender equality in health; prevention and response to violence; breast cancer; cervical-uterine cancer; family planning and birth control; maternal and perinatal health; and sexual and reproductive health for teenagers. The Center collaborates with the United Nations Population Fund in order to increase the availability and quality of birth control methods.
- 128 Services include attention to injuries, diseases commonly associated to violence, emergency birth control, HIV/AIDS prevention and treatment, legal evidence, a psychological attention protocol, among others.

- <sup>129</sup> Funds earmarked for reproductive health and gender equality increased from 1,141.37 million pesos (approximately 86.21 million USD) in 2012, to 1,245.94 million pesos (approximately 94.1 million USD).
- <sup>130</sup> Additionally, the reform establishes that parents, tutors and custodians have an obligation to preserve and respect these rights.
- <sup>131</sup> By the end of 2012, 30 State Committees were in full operation.
- <sup>132</sup> From 2009 to 2012, the strategy was in operation in 8 states: Baja California, Chihuahua, Nuevo León, Jalisco, Puebla, Distrito Federal (Federal District), Guanajuato, and Estado de México, through the collaboration of state and municipal government systems and non-governmental organizations.
- <sup>133</sup> Mexico has also begun a process to join the *Global Alliance Against Child Sexual Abuse Online*, which is focused in uniting world-wide decision-making actors to identify and better assist the victims of this crime and to punish those that commit it.
- <sup>134</sup> As a result of these alerts, 49 children and teenagers were found within the first 72 hours after they went missing.
- <sup>135</sup> The following institutions participated in the agreement: the SSP, SEDENA, Secretariat of the Navy, PGR, PROVICTIMA, the SCJN and CNDH, coordinated by SNDIF.
- <sup>136</sup> In November 2012, the regulatory framework for the Law was published, and it established the obligations of federal offices to promote, protect and ensure the full respect of the rights of persons with disabilities.
- <sup>137</sup> A public, decentralized organ with legal personality and its own assets, with technical and managerial autonomy.
- <sup>138</sup> According to the 2010 Population and Housing Census.
- <sup>139</sup> The National Institute for Older Persons promotes their rights, particularly in order to ensure equality and non-discrimination due to age. The Institute published the “Gerontological Attention Models” in 2012, which establish the creation of specialized attention mechanisms in order to guarantee the basic rights and wellbeing of older persons. That same year, the *Official Mexican Norm NOM-031-SSA3-2012* was published, which outlines the necessary requirements for the operation of any establishment that provides social assistance to older persons at risk or especially vulnerable.
- <sup>140</sup> Mexico supported the establishment of an ombudsperson to promote fair and transparent procedures in the framework of the sanctions regimes against terrorism. Mexico also presided over the Working Group on Children and Armed Conflict, and strengthened its work by adopting resolution 1882 (2009). Moreover, Mexico promoted the integration of a gender perspective, prevention of sexual violence, and an active participation of women in mediation and peace consolidation processes.
- <sup>141</sup> These measures include the publication of judgments, public acts of acknowledgment of State responsibility, payment of compensation to most victims, and several legal reforms and public policies intended to solve the problems evidenced by the judgments, all of which are in the process of being implemented. As regards *Caso Castañeda Gutman vs. México*, the three operative paragraphs on reparations have been complied with. As regards *Caso González Banda y Otras (Campo Algodonero) vs. México*, 8 out of 14 operative paragraphs on reparations have been complied with; the remaining 6 paragraphs are in process of implementation, in so far as a Medical, Psychological and Psychiatric Attention route has been established for the claimants, the National Committee for the Prevention and Eradication of Violence against Women and the government of Chihuahua have signed a collaboration agreement, the administrative investigations have begun, and the databases on missing women are being updated, among other measures. As regards *Caso Radilla Pacheco vs. México* 4 out of 10 operative paragraphs on reparations have been complied with; the remaining 6 are in process of completion, through investigations on the facts and the responsible parties, and the continued search for Mr. Rosendo Radilla or his remains, and through reform initiatives for the Code of Military Justice and the Criminal Code which are currently under consideration by Congress. As regards *Fernández Ortega vs. México* and *Rosendo Cantú vs. México*, 5 out of 16 operative paragraphs on reparations have been complied with; the 11 remaining paragraphs are in the process of implementation, insofar as investigations concerning the facts that took place continue, medical and psychological attention is being provided to the victims, the Code of Military Justice is in the process of being reformed, and different training, education, support and aid programs are carried out. As regards *Cabrera García y Montiel Flores vs. México*, 3 out of 7 operative paragraphs on reparations have been complied with; the remaining 4 are being addressed, as the facts that occurred are still under investigation, the Code of Military Justice is in process of being reformed, the military and naval forces are being trained on the correct use of public force and the Administrative Registry of Detentions is being strengthened.