

RESPONSE OF THE MEXICAN STATE TO THE RECOMMENDATIONS MADE BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS, MR. ZEID RA'AD AL HUSSEIN, FOLLOWING HIS VISIT TO THE COUNTRY ON 5 TO 7 OCTOBER 2015

On March 2016, Mexico received a letter with which the United Nations High Commissioner for Human Rights (UNHCHR) transmitted his final recommendations that resulted from his visit to Mexico in October 2015.

The dialogue held with the High Commissioner following said visit has highlighted the importance of a timely exchange of information and has allowed the Mexican State to share with the High Commissioner an integral vision of the human rights situation in the country, of advances made and remaining challenges, as well as of the commitment made to ensure sufficient and adequate attention is given to these challenges.

In light of the above, the recommendations issued by the High Commissioner will be given due consideration and attention, as other recommendations issued by international human rights mechanisms are currently being considered. It must be highlighted that some of the recommendations issued require actions by the judicial or legislative branches, as well as by the local authorities. The federal nature of our country implies that an integral attention to these recommendations will involve actors beyond the Executive Branch, regardless of the fact that the recommendations are generally constructive and can be considered, in general, feasible.

In the following table, specific responses are made to each recommendation, particularly regarding the follow up that may be given to each of them. To achieve this, a constant and continued dialogue with the Office of the High Commissioner will be important, in order to continue working for the effective promotion and protection of human rights in Mexico.

Recommendations and Response by the Mexican state

Recommendation by the High Commissioner	Mexico's Response
<p>1. <i>Advisory Council</i>: Establish an Advisory Council of renowned experts in the field of human rights and the fight against impunity to advise the Mexican State on strategies and reforms to foster the capacities to investigate and prosecute and to reverse the impunity rates prevailing in the country. The Council should elaborate and publicly present a national assessment on impunity and recommend a roadmap to address the issue, gauge its effective implementation and present public periodic reports.</p>	<p>This recommendation could be met through the creation of a national human rights organism, which includes an advisory group of experts on the subject. Additionally, it must be highlighted that Mexico has autonomous institutions that promote and defend human rights and fight against impunity, such as the National Human Rights Commission, the National Coordination Council for the Implementation of the Criminal Justice System, and the National Institute for Transparency, Access to Information and Protection of Personal Data. In any event, Mexico has experts and the capacity to implement the substantive part of this recommendation.</p>
<p>2. <i>Due investigations of serious human rights violations</i>: Strengthen efforts to ensure that all serious human rights violations, including torture, extrajudicial executions and enforced disappearances, are duly investigated and</p>	<p>Mexico agrees with this recommendation and reaffirms its commitment to adequate investigation of human rights violations. This is why the Attorney General's Office (PGR) has established an Assistant Attorney-General's</p>

<p>prosecuted by a specialized high level Office within the Attorney General’s Office. This Office should be led by a renowned expert in the fields of human rights and the fight against impunity and contribute to the already existing specialized units and Prosecutors within the Assistant Attorney General’s office for Human Rights. This Office should have adequate human, technical and financial resources to carry out its tasks in a professional and effective manner.</p>	<p>Office for Human Rights, which has Prosecution and Specialized Units for the investigation various human rights violations, such as: the Special Prosecutor for Missing Persons (FEBPD); the Special Prosecutor for Crimes against Freedom of Expression (FEADLE); and the Special Prosecutor for Crimes of Violence Against Women and Human Trafficking (FEVIMTRA); the Specialized Unit for the Attention of Indigenous Matters; and the Unit for the Investigation of Crimes against Migrant Persons – which includes the Mechanism for External Support in Search and Investigation. Additionally, the Specialized Unit on the Crime of Torture was created within the Assistant Attorney-General’s Office for Federal Crimes, in accordance with Agreement A/101/15 of the Attorney General published on 27 October 2015. This Unit has been given sufficient material and personal resources to adequately undertake its obligations, and it has concentrated all investigations related to torture which were opened in various other offices within the Attorney General’s Office.</p>
<p>3. <u>Military Justice Code</u>: While welcoming the legal reforms made by the Government in 2011 and 2014 to limit military jurisdiction, further amend the Military Justice Code and other relevant norms so that civilian jurisdiction also encompasses cases of human rights violations committed against the military. Civilian authorities should fully comply with their duty to properly investigate any type of wrongdoing by elements of the armed forces, including command responsibility.</p>	<p>It must be highlighted that the 2014 amendment to the Code of Military Justice is currently being implemented, and that it is not feasible to consider further amendments. Nevertheless, it must be emphasized that as a result of the 2011 constitutional reform on human rights, civilian authorities have a sufficient and strengthened legal framework to consider any cases related to alleged violations of human rights committed by military personnel. This means that any violation of human rights committed against a member of the armed forces can be duly revised or brought before civilian tribunals, in accordance with articles 8 and 25 of the American Convention for Human Rights.</p> <p>It must also be mentioned that the criminal justice reform of 18 June 2008 also impacted military criminal procedure and military tribunals, which have been substituted by adversarial and oral military tribunals, control military tribunals and military tribunals for the supervision of judgment executions, as well as through the reassessment of territorial divisions in relation to the jurisdictional competence of the superior military tribunal,</p>

	<p>control judges and military adversarial and oral tribunals. This means that the reform has promoted the rights of the victim and the accused, which is why – in the same way as other authorities at all levels of government – the Ministry of National Defense continues to undertake the necessary training and restructuring to ensure the full implementation of the new criminal justice system, which will ensure a more efficient and adequate access to justice.</p> <p>Regarding this last aspect, the Military Code of Criminal Procedure adequately provides for the respect of the rights of the accused and the victims in a manner equivalent to the National Code of Criminal Procedure, insofar as it recognizes the rights of all that intervene in the process as established in the Constitution, respecting the dignity of all persons, their access to legal counsel, and their right to a timely, adequate and fair trial, the obligation for all evidence to be considered and to be protected whenever there is a threat to their life, as well as to protection, precautionary and cautionary measures and means of appeal.</p>
<p>4. <i>Public security compliant with human rights</i>: Complement the efforts already made by the Government to promote a citizen security approach to public security with further measures to ensure that public security policies and operational instructions comply with international human rights standards and guarantee that effective accountability measures for violations committed by members of the armed forces are in place.</p>	<p>Mexico agrees with the substantive issues in this recommendation and expresses its commitment to continue working in order to ensure the citizen security approach to public safety through policies such as the National Program for the Social Prevention of Violence and Crime. Furthermore, national capacities to guarantee the safety of all Mexican people with a human rights perspective will continue to be strengthened.</p>
<p>5. <i>Use of force</i>: Adopt a national law on the use of force by public servants, in accordance with international standards, and ensure its effective implementation.</p>	<p>Mexico will further analyze this recommendation, aware of the need to undertake a debate on this issue and continue consultations with the various actors involved. Regardless of the fact that there isn't a general law on this issue, it must be highlighted that all public safety authorities have use of force regulations which duly comply with international standards on human rights.</p> <p>The Mexican state has created national protocols for public safety officials which consider, among other issues, the standardization of acts to register official procedure, and to ensure the</p>

	<p>standardization of criteria on the use of force by first responders.</p>
<p>6. <i>Forensic institutions</i>: Create an autonomous and independent national forensic institution with sufficient resources, which serves all bodies that administer justice, including the courts, law enforcement authorities and legal representatives.</p>	<p>This is an interesting proposition which is currently under analysis. Mexico is considering the creation of an institution of this nature; in particular, it must be mentioned that there is an initiative under consideration by the Senate to create the National Institute of Forensic Services, which would have federal and local jurisdiction. This proposal is currently under study by a competent Commission in the Senate. Independent of this, the creation of an institution of this nature requires the undertaken of wide consultations with the different states and authorities in the country.</p>
<p>7. <i>Registry of all arrests</i>: Complement the Government's existing efforts to register persons deprived of their liberty with the adoption of a national law establishing a solid unified registry of all kinds of arrests and persons deprived of their liberty, including specific preventative measures to avoid arbitrary arrests, torture and disappearances.</p>	<p>This is a compelling proposition, and Mexico reaffirms its intention to continue improving detention registries, in line with its constitutional obligation to register detentions immediately which was established by the criminal justice reform in 2008. The National Registry of Detainees (SIREN) under the purview of the Attorney-General's Office has been strengthened, and work will continue to ensure that all federal states use similar tools. Furthermore, Mexico is complying with the judgment issued by the Inter-American Court to improve and strengthen detention registries. Regardless of the above, the possibility of creating a unified registry in a federal country such as Mexico requires the undertaking of wide consultations with state and local authorities as well as the three branches of Government.</p> <p>It is important to highlight that article 16, paragraph 5 of the Mexican Constitution already establishes the obligation to immediately register the detention of any person. Furthermore, the General Law for the National System of Public Safety, the Federal Code for Criminal Procedure and the National Code for Criminal Procedure establish that all detentions must be registered and that the Police and Ministerial Authorities have an obligation to provide information regarding detentions. In 24 May 2010, Agreement A/126/10 on the creation of the National Registry of Detainees (SIREN) was created, with the objective to establish adequate administrative control of all detentions made for crimes under the</p>

	<p>jurisdiction of the Attorney General’s Office. Agreement A/060/15 specified that the human rights of the detainee should be respected from the moment of detention until the presentation before competent authorities, and that Ministerial Authorities had the obligation to ensure that no rights had been violated when the detainee is presented before them and to register all circumstances related to the detention. The information captured in the SIREM is confidential in light of applicable legislation.</p>
<p>8. <i>Autonomy of different organs:</i> Take all necessary steps to guarantee the professionalism and independence of local and federal public organs, including those of the administration and prosecution of justice and human right institutions, and that of the persons who lead them. Investigate thoroughly any act of political pressure and corruption and remove public servants from their functions if found guilty.</p>	<p>We agree with the proposal, which is consistent with the efforts and measures regarding human rights. In particular, the National Commission of Human Rights (CNDH)- as institution that complies with the Paris Principles- is the main independent and autonomous institution responsible for the protection of human rights in Mexico. In the field of administration of justice, the Federal Judiciary Council is responsible for ensuring the independence and objectivity of federal tribunals. Finally, on May 6, 2015, the National System of Transparency was created, through the new General Law of Transparency and Access to Public Information.</p>
<p>9. <i>Ratification of international instruments:</i> a) Promote the signature and ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child; recognize the competence of the Committee on Enforced Disappearances under articles 31 and 32 of the Convention; b) Sign and ratify all Inter-American human rights treaties adopted by the General Assembly of the Organization of American States, which still await ratification.</p>	<p>The State will undertake the respective consultation processes with the competent authorities. In particular, Mexico is carefully analyzing the practice and working methods of those treaty bodies that are relatively recent and whose jurisdiction has been recognized by a limited number of states. Regarding Inter-American instruments, the appropriate consultations process has been carried out with the national competent authorities in connection with the Inter-American Convention on Protecting the Human Rights of Older Persons (Mexico promoted its development and actively participated in its negotiation).</p>
<p>10. <i>Inter-institutional high level mechanism:</i> Ensure and monitor the implementation, both at the local and national level, of the international and regional human rights standards and recommendations by strengthening the inter-institutional high-level mechanisms created for this purpose and the national human rights statistics system. Both should include adequate mechanisms for the participation of civil society and stakeholders.</p>	<p>Mexico shares with the High Commissioner the importance of guaranteeing the implementation of human rights standards at all levels, as reflected in the National Development Plan 2013-2018 and in the National Human Rights Program 2014-2018. In addition, Mexico will maintain a close dialogue and collaboration with civil society on human rights, both in the field of domestic policy (through the Commission of Governmental Policy</p>

	<p>on Human Rights within the Ministry of the Interior, for instance) and in foreign policy, in the framework of working groups and consultation processes to present reports before the treaty bodies and implement their recommendations.</p> <p>Regardless the above, there is a willingness to continue strengthen the existing mechanisms</p>
<p>11. <i>Indigenous peoples</i>: Ensure that indigenous peoples are properly consulted when measures affecting their rights are taken or planned, particularly in the context of development projects, national and transnational corporations, as required by international human rights standards.</p>	<p>Mexico accepts the recommendation and will continue working on its implementation through the Special Program on Indigenous Peoples 2014-2018 in order to ensure the respect and enjoyment of the right to consultation and participation, which must be based on free and previously informed will of the indigenous and tribal peoples, in accordance with the Convention No. 169 of the International Labor Organization, as well as through mechanisms such as the National System on Consultations to Indigenous Peoples.</p> <p>Mexico also has a Specialized Unit for the Attention of Indigenous Affairs within the Office of the Attorney General, which controls the performance of the Public Prosecutor in matters where indigenous peoples are involved in the commission of federal crimes, either as victims or injured parties, and provides due attention with a human perspective and considering their language, culture, uses and practices.</p>
<p>12. <i>Women's public policies</i>: Further incorporate a human rights perspective into women's public policies, especially those relating to combating violence against women, assuring the allocation of the necessary resources for their full implementation. In this regard the National Data Base for Information on Cases of Violence Against Women (BANAVIM) needs to be strengthened to provide up to date figures, and become a more accessible tool to the public.</p>	<p>Mexico agrees on the importance of the recommendation and the need to work in an integral manner to eradicate violence against women. In that sense, there is a National Program for Equal Opportunities and Non-Discrimination Against Women 2014-2018, an Integral Program to Prevent, Attend, Sanction and Eradicate Violence against Women 2014-2018, in addition to the General Law to Guarantee the Access of Women to a Life Free from Violence (which has fomented the enactment of local legislation).</p> <p>As for the BANAVIM, currently, the National System for the Prevention, Attention, Punishment and Eradication of Violence Against Women – through its Sanction Committee – evaluates the efficacy of the BANAVIM and is working to strengthen it, in order to incorporate all the</p>

	<p>information needed to ensure it works effectively, through its Program of Work 2016-2017.</p>
<p>13. <i>OHCHR's indicators framework</i>: All federal and local institutions, in particular autonomous bodies, the judiciary and executive branches, should measure the impact of public policies related to human rights by fully implementing OHCHR indicators framework on human rights. The processes for public policy design should be based on the information generated through the indicators system and a policy on transparency should be implemented. Necessary funds for the data systems' design should be allocated.</p>	<p>Mexico shares the concern reflected in this recommendation and agrees on its importance.</p> <p>In that line, Goal 6 of the National Human Rights Program 2014-2018 (NHRP, annex 7) establishes in its line of action 6.2.1 the obligation to classifying information related to human rights in order to strengthen all public policies, and specifically determines that the OHCHR's indicators framework of human rights must be implemented to define advances and challenges in the protection of human rights.</p> <p>Within the NHRP, the Government is undertaking efforts to fully implement the OHCHR and the OAS indicators framework, in order to develop a National Evaluation System of the enjoyment of Human Rights. In order to achieve this, a strategic alliance has been establish with the National Autonomous University of Mexico (UNAM), the OHCHR and the CNDH.</p> <p>Measuring the protection and guarantee of human rights is a true "science of human dignity." In this regard, the PGR has worked closely with OHCHR-Mexico in order to develop a methodological framework that would allow creating a national system of human rights indicators. The contextualization of indicators on the right to justice led the Office of the Attorney General to the definition of 104 indicators, 94 of which are process-based indicators and 10 are indicators. During the past National Encounter on Administration of Justice, on 26 November 2015, in which the first advance on the indicators was presented, the ENPIJ / 02/15 Agreement was approved. In which the participants agreed to consider the national system of human rights indicators for the administration of justice as a model complementary to that previously created by the judiciary to measure the right to a fair trial. This will allow collecting homologated and precise information at national level.</p> <p>It was also considered that the PGR must head a technic group that will be part of a Special Commission of the National Conference of</p>

	<p>Administration of Justice in order to first, analyze the advancements and adjustments that must be done to the indicators and second, to establish a mechanism to share the methodology that has been developed with all the Attorney General Offices, as well as the Superior Justice Tribunals at national level. This methodology and its indicators, continue to be developed with the assistance of the OHCHR for its full implementation.</p>
<p>14. <u>General laws on torture and disappearances.</u> Adopt the general laws on torture and disappearances, in accordance with international human rights standards and with the participation of victims and civil society in order to adequately integrate their views. Ensure their effective implementation at the federal and state levels, including by building the required capacities and allocating the necessary human and financial resources.</p>	<p>We agree with the recommendation. Mexico is committed to the prevention and punishment of acts of torture and enforced disappearance, and ultimately to eradicate these crimes.</p> <p>On July 10th 2015, the constitutional amendment allowing the Congress to enact a general law to prevent and eradicate torture was published. Following, the Attorney General's Office, in coordination with the Deputy Ministry of Human Rights of the Ministry of the Interior, convened an exercise of citizenship participation called Public Consultation for the elaboration of the draft for the General Law Initiative for the Prevention, Investigation and prosecution of Torture and Other Cruel, or Inhuman or Degrading treatment or Punishment.</p> <p>The Attorney General's Office has also undertaken particular measures to prevent and prosecute torture and cruel treatment. Proof of this is, first, the preparation, management and approval of torture as a crime on august 20th 2015 at the National Conference of Administration of Justice of the homologated Protocol for the Research of Torture, from which it has been undertaken to take different actions of training and promotion that are allowing the implementation.</p> <p>On the other hand, the Deputy Ministry of Human Rights of the Ministry of the Interior, has organized discussions like the Forum for the development of the draft for the General Law Initiative on missing persons, in which the federal and the state government, national and international human rights organizations and civil society organizations, concurred to express their</p>

opinion on it, participate and propose basic elements that the respective law should consider.

On December 10th 2015, President Enrique Peña Nieto sent to the Congress the draft Law of the General Law for the Prevention, Investigation and prosecution of Torture and Other Cruel, or Inhuman or Degrading treatment or Punishment and the General Law for the Prevention and Prosecution of crimes related to the disappearance of persons, that will harmonize the respective crimes according to international standards. These laws are currently under consideration by the Congress (the draft law on torture was approved by the Senate on April 29th 2016, which is now being considered by the Chamber of Deputies).