

MEXICO

Follow-up State Reporting i) Action by Treaty Body

CERD, A/62/18 (2007)

CHAPTER IV. FOLLOW-UP TO THE CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

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497. On 12 April 2007, reminders were sent by the coordinator on follow-up to the following States parties which had not yet sent information following adoption of the concluding observations of the Committee at its sixty-seventh and sixty-eighth sessions, held respectively from 1 to 19 August 2005 and from 20 February to 10 March 2006: Barbados, Bosnia and Herzegovina, Botswana, El Salvador, Guatemala, Guyana, Lithuania, Mexico, Nigeria, Tanzania, Turkmenistan, Uzbekistan, Venezuela and Zambia.

498. Between 18 August 2006 and 17 August 2007, follow-up reports were received from the following States parties on the implementation of the recommendations regarding which the Committee had requested information within a year: Azerbaijan (CERD/C/AZE/CO/4/Add.1), Bahrain (CERD/C/BHR/CO/7/Add.1), France (CERD/C/FRA/CO/16/Add.1), Georgia (CERD/C/GEO/CO/3/Add.1), Lithuania (CERD/C/LTU/CO/3/Add.1), Mexico (CERD/C/MEX/CO/15/Add.1), Uzbekistan (CERD/C/UZB/CO/5/Add.2), Ukraine (CERD/C/UKR/CO/18/Add.1), Norway (CERD/C/NOR/CO/18/Add.1), and Guatemala (CERD/C/GTM/CO/11/Add.1) (see annex IV for an overview of the follow-up reports pending receipt, received, examined or scheduled for consideration at the seventy-second session).

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Annex IV

OVERVIEW OF INFORMATION PROVIDED BY STATES PARTIES ON THE IMPLEMENTATION OF THE CONCLUDING OBSERVATIONS

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Sixty-eighth session (20 February-10 March 2006) - Follow-up reports due by 10 March 2007

<u>State party</u>	<u>Date of receipt of follow-up report</u>	<u>Session at which follow-up report was discussed</u>
...		
Mexico	22 May 2007	Report scheduled for consideration at the seventy-second session

ii) Action by State Party

CERD, CERD/C/MEX/CO/15/Add.1 (2007)

Comments by the Government of Mexico on the concluding observations of the Committee on the Elimination of Racial Discrimination* **

[23 May 2007]

**SUPPLEMENTARY REPORT OF MEXICO TO THE COMMITTEE
ON THE ELIMINATION OF RACIAL DISCRIMINATION**

1. This supplementary report of Mexico is submitted to the Committee on the Elimination of Racial Discrimination in compliance with the request made by the Committee in paragraph 21 of its concluding observations on Mexico issued in 2006 (CERD/C/MEX/CO/15). It contains information on the implementation of the recommendations appearing in paragraphs 11, 12 and 17 of that document.

Information on communities of African descent (para. 11)

2. In paragraph 11 of its concluding observations, the Committee recommended that the State party should provide information on communities of African descent, “which are numerically small and vulnerable and should enjoy all the guarantees of protection laid down in the Convention”.

3. Academic studies indicate that the communities of African descent living in Mexico are to be found mainly in the States of Oaxaca, Guerrero and to a lesser extent Veracruz. These studies state that during the 1990s, there were roughly 450,000 persons belonging to this group.¹

4. There are no official statistics on these communities, as the Committee pointed out. Consequently, the National Council for the Prevention of Discrimination (CONAPRED) has specified that one of the main tasks of its documentation centre will be to collect as much information and data as possible on groups of African descent in Mexico, as described in annex I.

5. Similarly, in the context of its terms of reference, it funded a study entitled *Los afrodescendientes en México. Reconocimiento y propuestas para evitar la discriminación* (Persons of African descent in Mexico. Survey and proposals to prevent discrimination), which was presented in December 2006 and coordinated by Ms. Julia Isabel Flores Dávila of the Institute of Legal Research in the National Autonomous University of Mexico (UNAM). The research is aimed at identifying living conditions and identity-building processes in communities of African descent in three States - Oaxaca, Guerrero and Veracruz.

6. Similarly, following informal contacts with CONAPRED, the National Institute of Geography and Statistics (INEGI) is exploring the possibility of including the category of persons of African descent in the National Population and Housing Census for 2010 as a component of the Mexican population.

7. This census is organized every 10 years, and the last such census was held in 2000.

8. Guarantees of protection of the communities of African descent in Mexico may be found in the broad context of official policies aimed at ensuring that all individuals in the country are able to fully and effectively exercise all their human rights and fundamental freedoms. These policies have been boosted by legislative and institutional measures to combat discrimination adopted in recent years. Some highlights are as follows.

9. Firstly, following the enactment of the Federal Act to Prevent and Eliminate Discrimination on 12 June 2003, and the subsequent establishment of CONAPRED, which has been operational since 27 March 2004, CONAPRED introduced the National Programme for the Prevention and Elimination of Discrimination in May 2006. Its purpose is to set forth strategies and actions to strengthen the national policy to combat discrimination in the federal administration.

10. Second, in November 2003, with the aim of raising the profile of the groups of African descent, the Ministry of Education launched the Multicultural Mexico Project. This project was broadcast on free television channels including channel 9, channel 11, channel 22, the Congress channel and TV UNAM, on cable channels, the Aprende TV channel and official and satellite channels such as the Edusat network, and on radio via State broadcasters, community radio, Radio Educación and the Instituto Mexicano de la Radio (IMER). The content was as follows:

- (a) A series of videos entitled “Peoples of Mexico” (November 2003):
 - (i) Programme 24: The song of the cedar (Afromestizo population of Veracruz/music and dance);
 - (ii) Programme 25: African heritage (Afromestizo population of Costa Chica, Oaxaca and Guerrero/History);
- (b) “Afromestizos of Costa Chica” project, broadcast on channel 9 (September 2004 January 2005). Details of this broadcast are given in annex II;
- (c) “Peoples of Mexico” and “Our wealth is diversity” series, broadcast by:
 - (i) Channel 25 Edusat Radio. Broadcast from 22 November 2004 to 28 February 2005 and from 7 January to 5 June 2006). Details of this broadcast are given in annex II;
 - (ii) Channel 11. Broadcast hours during 2005 and 2006. Details of this broadcast are given in annex II;
 - (iii) Radio IMER. Broadcast from May 2006 on the following stations: XERF, in the city of Acuña, XEFQ, in Cananea, XHSCO, in Salina Cruz, XHYUC, in Yucatán, XHCHZ, in Chiapa de Corzo, XEMIT, in Comitán, XELAC, in Lázaro Cárdenas;
- (d) “Our wealth is diversity” series, produced by Media Llum Comunicación (2006) and

composed of five 20-second items on the following topics:

- (i) Multiculturalism;
 - (ii) Linguistic variety;
 - (iii) Natural wealth;
 - (iv) Economic wealth;
 - (v) Cultural wealth.
- (e) “Let us hear all our voices”: item 10 had as its subject “The Spanish language of the Afromestizo people of Costa Chica in Oaxaca and Guerrero”;
- (f) “Peoples of Mexico” audio series for radio (Multicultural Mexico project) on CD:
- (i) Item 26: The Afromestizo people of Veracruz;
 - (ii) Item 27: The Afromestizo people of Oaxaca and Guerrero.

11. Third, the Ministry of Education drafted a paper (a documentary study) at the request of the General Coordinating Office of Intercultural and Bilingual Education, entitled *La población negra en México* (The Black population in Mexico).

12. A national programme entitled *Nuestra tercera raiz* (Our third source) was set up in 1989 under the National Council for Culture and the Arts, for the purpose of granting recognition to the African contribution to the shaping of the country’s culture. Under this programme studies have been carried out on slavery in the Americas, oral and musical traditions, religious belief, traditional medicine and the aesthetic codes of people of African descent. The Programme also promotes cultural activities in communities where the specific cultural forms of expression of people of African descent survive, with the aim of granting them recognition, status and stimulation as a constituent element of the national identity.

13. Under its terms of reference, CONAPRED is authorized to receive complaints and claims relating to alleged acts of discrimination, including those committed against communities of African descent. This role is fulfilled through the Office of the Director-General for Complaints and Claims, which conducts investigations and takes decisions for application by the authorities responsible and individuals involved in acts of discrimination. Similarly, in accordance with its mandate, the National Human Rights Commission (CNDH), through its complaints programme, can receive and investigate complaints of alleged violations of human rights, including those committed against communities of African descent, and make recommendations to the authorities responsible.

14. Mexico has also played an active part in a variety of international meetings, both global and regional, for the purpose of exchanging experience on best practice in combating discrimination, including discrimination directed against communities of African descent. In this way, CONAPRED

represented Mexico in the following events:

(a) Regional Conference of the Americas on Advances and Challenges in the Plan of Action against Racism, Racial Discrimination, Xenophobia and Correlated Intolerances, which was held in Brasilia from 26 to 28 July 2006, and which, inter alia, endorsed a proposal for the establishment of machinery for the promotion of the rights of children of African descent in the Americas, and recommended the adoption of human rights training programmes for personnel in the judicial and prison systems and the police, in view of the pernicious effects of discrimination in the administration of justice, especially as regards young people of African descent in the region;

(b) Expert Seminar on Regional Standards and Mechanisms to Combat Discrimination and Protect the Rights of Minorities, convened by the Office of the United Nations High Commissioner for Human Rights at the headquarters of the Organization of American States (OAS) in Washington in January 2007;

(c) European Union visitors programme, organized by the European Parliament and the European Commission in Brussels in February 2007;

(d) Meeting of a group of international experts which compiled recommendations on the drafting of national plans to combat discrimination at the fifth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, held in Geneva in March 2007.

Constitutional reform in relation to indigenous matters

15. In paragraph 15 of its concluding observations, the Committee recommended that the State party should put into practice the principles set out in the constitutional reform in relation to indigenous matters in close cooperation with the indigenous peoples.

16. The Government of Mexico supplied the Committee² with the following information on the constitutional reform in relation to indigenous matters, as published in the federal *Diario Oficial*:

“It marks substantial changes in State policies for the indigenous peoples. On the one hand, it provides for participation by indigenous peoples, organizations and communities in devising and applying government policies and activities in the field of development. On the other, it acknowledges the shortcomings and lags in their economic and social circumstances, and obliges the federal, State and municipal authorities to foster regional development in the indigenous areas and to upgrade their living conditions.

“This amendment of article 2 of the Constitution, in addition to acknowledging the multicultural composition of the nation, supplies a legal definition of indigenous peoples and communities, recognizes the exercise of self-determination and autonomy and specifies the indigenous rights that may be exercised under the Constitution and the laws, with reference to the federal settlement and the sovereignty of the States.

“This reform imposes on the Federation, the States and the municipalities obligations in

guaranteeing the realization of indigenous rights and the all-round development of indigenous peoples and communities, with their involvement, and stipulates that the federal Congress and the State legislatures must amend the law to introduce the features of self-determination and autonomy which best reflect the circumstances and aspirations of the indigenous peoples at each level.”

17. In addition, to repeat the information supplied by the Government of Mexico to the Committee, a practical effect of the reforms of 2001 was the enactment of an Act setting up the National Commission for the Development of Indigenous Peoples (CDI) as a decentralized agency of the federal administration whose purpose is to guide, coordinate, promote, support, foster, follow-up and evaluate government programmes, projects, strategies and activities aimed at the all-round, sustainable development of the indigenous peoples and communities.

18. Under this Act (art. 12), CDI will have an advisory board to be responsible for consultation and relations with the indigenous peoples and society. This is a mixed, collegiate body with majority indigenous membership through which CDI seeks to initiate a constructive and inclusive dialogue with the indigenous peoples and society.

19. The tasks of the advisory board are to analyse government policies, programmes and activities aimed at the development of the indigenous peoples, express its views thereon and make proposals to the governing body and the Director-General of the Commission.

20. The advisory board has a total of 198 members, of whom 140 represent the indigenous peoples of Mexico, 7 represent Mexican academic and research institutions, 12 represent social organizations, 7 are officers of the Commissions on Indigenous Affairs of the two houses of the federal Congress and 32 represent the governments of the constituent elements of the Federation. The new advisory board for the period 2007 2009 took office on 21 and 22 April.

21. Its main functions include the following:

(a) To analyse and propose government policies, programmes, projects and activities aimed at the development of the indigenous peoples and communities;

(b) To evaluate government programmes, projects and activities;

(c) To offer views on the relevance, effectiveness and efficiency of government programmes, projects and activities;

(d) To participate in the development of the System for Indigenous Consultation and Participation;

(e) To analyse and make proposals on the participation and representation of the indigenous peoples.

22. The advisory board is organized as follows:

- (a) Assembly: full meeting of members;
- (b) Coordinating Commission: forum composed of the coordinators of all the working groups;
- (c) Honorary Commission: forum composed of five board members who remain in their posts until a new board takes office. Responsible for ensuring that the responsibilities of the members are fulfilled;
- (d) Chair: elected by the Assembly from among the indigenous board members. Remains in office for one year;
- (e) Twelve working groups dealing with general guidelines for the all-round development of the indigenous peoples. Its composition was laid down by the Assembly, and they carry out the various tasks agreed in the work programme;
- (f) Technical Secretary: a public official of CDI appointed by the Director-General. Responsible for providing support for the board's operations.

23. As the Committee has been informed,³ the constitutional reform in relation to indigenous matters has been followed by various practical actions to ensure its implementation, including, in addition to the Act on CDI, the Indigenous Peoples (Language Rights) Act of 2003, which established the National Institute of Indigenous Languages. Currently indigenous rights are referred to in the constitutions of 22 of the constituent elements of the Federation,⁴ 6 of which were amended in the light of the constitutional reform,⁵ while 7 constituent elements of the Federation have adopted laws relating to this area.⁶

24. CNDH has a programme for the protection and monitoring of the human rights of the indigenous peoples. Under this programme it organizes lectures, holds workshops and participates in seminars, forums, diploma courses and congresses, by means of which it disseminates, promotes and creates awareness of the importance of respect for indigenous rights.

25. During 2006, CNDH received 1,807 complaints, of which 412 relate to alleged violations of human rights. Among them are complaints relating to breach of duty in the administration of justice in the agricultural sector, provision of inadequate public services or failure to provide such services in the area of land regularization, and violation of the rights of indigenous people.

26. For the purpose of gathering information to throw greater light on the cases with which it is dealing, and collecting evidence confirming violations of the human rights of the indigenous communities, CNDH carries out field visits to places from which complaints originate. During 2006 it made a total of 74 visits to towns and municipalities in 15 constituent elements of the Federation.⁷

27. Details of the visits made to indigenous communities are supplied in the following table:

Constituent element of the Federation	Indigenous community visited	Date of visit
Guerrero	<ol style="list-style-type: none"> 1. Chiepetlán 2. Alpoyecancingo 3. Tilapa 4. Zapotitlán Tablas 5. Tonalá 6. Yoloxochitl 7. Zacualpan 8. Zoyatlán 	8 to 11 June 2005
Durango	<ol style="list-style-type: none"> 1. Bancos de Calitique 2. Brasiles 3. San Lucas de Jalpan 4. Santa María Huazamota 	14 to 18 November 2005
Yucatán	<ol style="list-style-type: none"> 1. Hunucmá 2. San Antonio Chel 3. Progreso 4. Maní 5. Peto 6. Tecax 	12 to 16 December 2005
Durango	<ol style="list-style-type: none"> 1. La Guajolota 	22 February 2006
Baja California	<ol style="list-style-type: none"> 2. Cucapá el Mayor 3. Ejido Tribu Mayor 4. Pai Pai de San Isidro 5. Pai Pai de Santa Catarina 6. La Huerta 7. Jamao 8. San José de la Zorra 9. San Antonio Nécua 10. Juntas de Nejí 	27 to 31 March 2006

28. The purpose of CNDH's activities in publicizing, promoting and creating awareness of the importance of respect for indigenous rights and the legislation in this area (lectures, workshops and participation in seminars, forums, diploma courses and congresses) is to place CNDH's services at the disposal of the indigenous people and make them aware of their rights, as well as ways and means of asserting them.

Forced sterilization

29. In paragraph 17 of its concluding observations, the Committee urged the State party to take all necessary steps to put an end to practices of forced sterilization, and to impartially investigate, try and punish the perpetrators of such practices. It stated that the State party should also ensure that effective remedies were available to the victims, including those for obtaining compensation.

30. As the Committee was informed in February 2006, there has been and is no government policy or systematic practice in Mexico which fosters the violation of the sexual and reproductive

rights of its inhabitants. On the contrary, there is a legal framework and a policy which fosters better knowledge of the reproductive health of the population, in particular among the indigenous communities in the countryside and other marginalized groups in urban areas. This policy has been boosted in recent years by means of an institutional framework which has improved coverage and activities in this area.

31. Of course, there is a possibility that some isolated violations of these rights may occur. In such cases, the legal and institutional apparatus of the Mexican State offers machinery which is designed to punish such offences and to enforce any recommendations which may emerge in order to protect the rights of the affected persons.

32. Recognizing the complexity of the situation and the socio-economic difficulties prevailing in some indigenous communities in the country, Mexico has achieved major progress in reproductive health and equity in the past five years, as described in the present document: improvement of the legal framework, establishment of new bodies and greater coordination between the bodies responsible for reproductive health, and a mushrooming of priority programmes especially targeted on indigenous communities and designed to enhance their health and their rights.

33. In the report combining periodic reports Nos. 12 to 15, the Government of Mexico supplied the Committee with non-contextualized information on CNDH general recommendation 4/2002, which was issued in response to administrative practices constituting violations of the human rights of members of indigenous communities with regard to obtaining free and informed consent for the use of family planning methods (CERD/C/473/Add.1, paras. 153-155). Given its general nature, this recommendation does not refer to specific situations in which such rights have allegedly been violated. Consequently, the present document seeks to provide information which will make it possible to place the content of the recommendation in context, and to understand the status of its implementation.

34. This is necessary because, on the basis of the non-contextualized general comments that those paragraphs contain, it was considered during the examination of the report that “paragraphs 153, 154 and 155 of the report certainly acknowledge that in Mexico the practice of forced sterilizations of indigenous persons existed (and, according to indigenous organizations, persists)” (paragraph 29 of the statement made by Mr. Cali, dated 15 February 2006, delivered before the Committee on 20 February 2006).

35. In this regard, the Government of Mexico wishes to repeat that there is not and has never been a government policy or systematic practice of forced sterilization of indigenous persons. This does not rule out the possibility that isolated cases exist, in which case the law contains provision for punishing their perpetrators.

36. In the document supplied to the Committee on 28 February 2006, information was provided on complaints relating to alleged forced sterilizations of indigenous persons in the State of Guerrero and action taken to follow them up, as well as government action and policies in the field of sexual and reproductive health. As a supplement, the present document provides information which was also presented by the Government of Mexico on 4 January 2007 to the Committee on the Application of Conventions and Recommendations of the International Labour Organization (ILO)

in pursuance of the March 2004 report (GB.289/17/3) prepared by the tripartite committee set up to study certain claims against the Government of Mexico in this regard.

37. It should be emphasized that the above-mentioned claim made in ILO refers to specific cases involving alleged violations of the sexual and reproductive rights of members of indigenous communities in Río Chiquito, in the municipality of Santiago Jocotepec, Oaxaca, and the communities of Ojo de Agua, Ocotlán, La Fátima and El Camalote, in the municipality of Ayutla de los Libres, Guerrero, in respect of which detailed information is supplied below.

38. According to information provided by the Office of the Attorney-General, following consultations with its local offices in Oaxaca and Guerrero, in none of these cases was any record found of a detailed official report or preliminary inquiry prompted by any complaint of alleged abuses against the inhabitants of those communities on grounds of sexual and reproductive health practices. Thus the specific cases referred to were complaints to the State human rights commissions, and led to recommendations by the latter and by CNDH followed by practical action by the government bodies to comply with these recommendations.

39. The Government of Mexico undertook a serious investigation into the specific cases submitted to ILO. The evidence shows that while possible violations of the sexual and reproductive rights of members of some communities may occur in an isolated manner - which in the cases of Oaxaca and Guerrero could not be reliably established - there is an institutional procedure for dealing with any complaints which may be lodged. In this regard it is worth underlining that the Mexican health authorities complied with the recommendations made by the national and State-level human rights commissions.

1. Complaints relating to specific cases in Guerrero

40. In relation to the State of Guerrero, the communication sent to ILO referred to alleged violations of sexual and reproductive rights by medical personnel (Ernesto Guzmán León, Rafael Almazán Solís and Mayra Ramos Benito) attached to Costa Chica health area 06 of the State health services, which were said to have been committed against some members of the communities of Ojo de Agua, Ocotlán, La Fátima and El Camalote, in the State of Guerrero, between 1998 and 1999.

41. According to this communication, these medical personnel promised members of these communities - some 14 men from each community - a certain amount of money, clothes, shoes and food in exchange for performing vasectomies on them.

42. The complaint relating to these events was lodged with the Human Rights Protection Commission of the State of Guerrero (CODEHUM-Guerrero) on 17 December 1999 by members of the first three communities and on 16 August 2004 in respect of the events in the community of El Camalote.

43. Concerning these events, CODEHUM-Guerrero issued two recommendations:

(a) Recommendation No. 041/99 (communities of Ojo de Agua, Ocotlán and La Fátima), addressed to the State Health Minister, to the effect that: "(i) he should initiate the internal

administrative procedure for investigation of the medical personnel involved in the alleged violations and harm suffered by the complainants; (ii) the necessary steps should be taken to comply, if appropriate, with what has been agreed by the medical personnel; (iii) the public officials working in those communities should be instructed to respect the autonomy and dignity of the indigenous peoples and to make health practices and services available to them; (iv) the health services in the indigenous communities in question should be stepped up, broadening their coverage and improving the quality of the medical care in keeping with the provisions of the State Development Plan for 1999 2005";

(b) Recommendation No. 035/2004, addressed to the Health Ministry of the State of Guerrero, calling on it to order: "(i) an administrative procedure for investigation of the same personnel attached to Costa Chica health area 06 of the State health services, for their involvement in cases of vasectomy in the El Camalote community; (ii) compensation for those affected; (iii) action by the personnel of the Ministry to ensure that henceforth the family planning policies are in keeping with official Mexican rules and with ILO Convention No. 169 on indigenous and tribal peoples".

44. In turn, CNDH submitted recommendation No. 18/2001 to the Governor of the State of Guerrero for the purpose of stepping up the application of recommendation No. 041/99.

45. In this regard, the Government has carried out the activities listed below.

A. Activities related to CODEHUM-Guerrero recommendation No. 041/99

46. The Health Ministry of the State of Guerrero initiated the administrative procedures for investigation of public officials involved in cases of alleged violations of the sexual and reproductive rights of indigenous persons in the above-mentioned communities in the municipality of Ayutla de los Libres, Guerrero. On completion of the process, the then Deputy Legal Director of the State Ministry of Health, Luis Enrique Díaz Rivera, issued a report in which he concluded that the public officials who were the subject of complaints "did not commit any labour-related, administrative or other irregularity, and therefore no penalty should be imposed on them". The report includes the testimony of various witnesses, who stated that there had not been any coercion on the part of the authorities and that the vasectomies had been performed voluntarily. It also includes copies of the administrative records of the investigation, dated 7 February 2002, which contains the testimony of the public officials in question.

47. The administrative records of the investigation referred to above do not indicate that the complainants were forced to undergo vasectomies; in fact, documents are available which fully demonstrate informed consent. In addition, the State Ministry of Health offered a reversal of the operation to anyone who wished to benefit from one.

48. As regards the task of instructing public officials working in communities to respect the autonomy and dignity of the indigenous peoples, the Office of the Director-General of Reproductive Health, together with the State health services, carried out in 2000 a project entitled "Strategies for improving sexual and reproductive health in indigenous communities", targeted on personnel providing institutional and community health services and working with the indigenous population

in areas 03 Centro, 04 Montaña, 06 Costa Chica and 02 Norte.

49. Seven training and awareness workshops on reproductive health were also held for those providing health services for the indigenous population, with participation by 470 health providers (medical personnel, nursing personnel, social workers, psychological personnel, primary health-care technicians, health outreach workers, health auxiliaries, midwives and traditional doctors), addressing such topics as sociocultural issues, free and informed consent, sexual and reproductive rights, family planning guidance and advice and informed consent.

50. With the aim of increasing the coverage of this model, three regional meetings were held in 2002 with participation by 15 constituent elements of the Federation that contain municipalities whose population is 40 per cent or more indigenous, as is the case for Guerrero.

B. Activities related to CNDH recommendation No. 18/2001

51. In communication No. UPDDH/2574/06 of 13 November 2006, the Ministry of the Interior indicated that these recommendations had been fully implemented “despite the fact that there was no decision from a competent authority to the effect that personnel of the State Ministry of Health participated in these activities, and it was demonstrated to CODEHUM-Guerrero and CNDH that the recommendations of these commissions were complied with in order not to enter into a dispute with those bodies, the persons who had undergone vasectomies having acknowledged that they accepted what had been agreed by the Ministry. At no time did those who are now complaining lodge a report with a competent authority”.

C. Activities related to CODEHUM-Guerrero recommendation No. 35/2004

52. As regards recommendation No. 35/2004, the Ministry of Health of the State of Guerrero stated that on 25 February 2004 a meeting was held in the community of El Camalote between Ministry officials and the complainants, attended by the Visitor-General of CODEHUM-Guerrero. Testimony was gathered from the wives of the complainants, who stated that the persons who at that time were [...] by the Tlalchinollan organization had tried to persuade them to express their discontent with the vasectomy.

53. Romualdo Remigio Cantú, who was acting as municipal commissioner in the year when the vasectomies were carried out, testified that the persons who now disagreed were not misled and that they did not sign any agreement in return for which they agreed to undergo vasectomies.

2. Complaints concerning specific cases in Oaxaca

54. The communication submitted to ILO concerning the State of Oaxaca referred to an incident involving the alleged violation of the human rights of Ms. Hermelinda del Valle Ojeda, a Chinantec from the community of Río Chiquito, municipality of Santiago Jocotepec, Oaxaca, which took place on 7 January 2000, when public officials from the Monte Negro Rural Medical Unit of the Mexican Social Security Institute (IMSS) reportedly fitted her with an intrauterine device without her consent.

55. The complaint concerning this incident was submitted on 9 May 2002 by Ms. Graciela Victoria Zavaleta Sánchez, Chair of the “Mahatma Gandhi” Regional Human Rights Commission. It was forwarded to the CNDH on 24 May 2002 by the Cuenca regional office of the Oaxaca Human Rights Commission.

56. On 6 December 2002, after collecting information and conducting an investigation, the CNDH issued recommendation No. 46/2002, addressed to the Director-General of Social Security. It requested the Director-General of IMSS: “(i) to pass the matter to the internal audit body of the Office of the Controller and Administrative Development of the Mexican Social Security Institute (IMSS) in order to identify the administrative offences committed by the public officials and, depending on the results achieved, to inform the Public Prosecutor’s office; (ii) to instruct and train the staff of IMSS who are involved in family planning programmes and in the application of methods to respect the rules relating to informed consent (NOM 005 SSA2 1993), while fully respecting the right of individuals to decide on the number and spacing of their children and any planning methods they may freely decide to use”.

57. The Government has carried out the following activities in pursuance of CNDH recommendation No. 46/2002.

**A. Activities pursuant to CNDH recommendation
No. 46/2002, subparagraph (i)**

58. On 27 February 2003, by communication No. 0954-06-0545/2287, the Office for General Coordination of Beneficiary Care and Guidance requested the Internal Controller of IMSS to identify any administrative offences which may have been committed by the public officials of No. 290 Monte Negro Rural Medical Unit in Jocopetec, Oaxaca.

59. In reply, the local Internal Controller’s office in the State of Oaxaca, in communication No. 00641/30.102.19/0263/2003 of 12 March 2003, indicated that in accordance with article 78, part II, of the Federal Public Officials (Responsibilities) Act, the power to impose penalties is limited to three years. As the date on which the alleged unlawful acts occurred was 7 January 2000 and the date on which the internal audit body was informed was 10 March 2003, the three-year period referred to in the above-mentioned article of the above-mentioned legal order for imposing any penalty had passed, and the Office for General Coordination of Beneficiary Care and Guidance, by communication No. 0954-06-0545/3532 of 28 March 2003, informed the Fourth Inspector of CNDH that:

“The case was passed to the internal audit body, as the settlement of the matter fell within its competence. That body took the appropriate steps to identify any offences, as IMSS has exhausted all the legal actions dictated by its terms of reference, including those stemming from the Federal Public Officials (Administrative Responsibilities) Act.”

**B. Activities pursuant to CNDH recommendation
No. 46/2002, subparagraph (ii)**

60. On 27 February 2003, by communication No. 0954-06-0545/2286, the Office for General Coordination of Beneficiary Care and Guidance informed the State office of IMSS in Oaxaca of recommendation No. 46/2002, requesting it to instruct and train the staff who are involved in programmes and in the application of temporary and permanent family planning methods, and to observe the rules relating to informed consent, fully respecting the right of individuals to decide on the number and spacing of their children and any family planning methods they may freely decide to use.

61. The State office in Oaxaca, in communication No. 2102040540/CTQ/173/2003, supplied the following information concerning the training courses carried out:

- (a) Workshop on a “National Crusade for the Quality of Health Services”;
- (b) Course on providing advice on reproductive health and family planning;
- (c) Induction course for medical personnel entering the social services in 2003.

62. The following material for the above-mentioned training courses was also distributed:

- (a) Training videos;
- (b) Handbook for sexual education outreach workers;
- (c) A compact disc containing rules of operation 2003, Workshop on mother and child health and gynaecology with rural midwives; Trainers: Health and sexual and reproductive rights; training guide on health and social and reproductive rights and notebook for outreach workers.

63. A local strategic plan for training in informed consent and birth control methodology was prepared with a programme of work, for the purpose of training the multidisciplinary personnel of IMSS to provide information to the female population of childbearing age at reproductive risk.

64. In its fourth progress report, CNDH indicates that with the above-mentioned activities, recommendation No. 46/2002 has been completely implemented.

3. CNDH general recommendation No. 4/2002

65. As the Committee has been informed previously, on 16 December 2002 CNDH issued its general recommendation No. 4/2002 relating to the task of “obtaining free and informed consent for the use of family planning methods” on the part of “members of indigenous communities”.⁸ It contains three general recommendations designed to guarantee the exercise of sexual and reproductive rights, as well as respect for the values and customs of the indigenous communities, and to specify that no government programme or economic benefit may be made conditional on agreement to use contraceptive methods. With the aim of raising the awareness of the personnel responsible for applying these programmes with respect to the cultural characteristics of these groups, CNDH recommends the adoption of a series of measures to ensure that the users are properly informed about family planning methods, in particular so that, by means of informed

consent, they can exercise their right to decide freely in matters of reproductive health.

66. Attached hereto is a report prepared by CNDH on the status of implementation of this recommendation by the Government.

67. It should be remembered that, in this recommendation, CNDH itself recognized the major efforts made by the federal Government and the State Governments to bring health services to the remotest communities, and to devise reproductive health programmes targeted on these communities, and even to encourage the participation and training of traditional health workers in these programmes.

Policy and actions of the Government of Mexico in the field of reproductive health

68. Population policy in Mexico is governed by respect for the freedoms and rights of individuals and attaches special importance to human rights, empowerment of mothers, equality of opportunity and respect for cultural and ethnic diversity. These principles are the foundation of efforts to promote the full exercise of reproductive rights and to guarantee access to family planning and reproductive health services.

69. The Government of Mexico points out that since 1994 Mexico's population and health policies have incorporated the reproductive health approach in its programmes, while constantly recognizing the right to decide how many children to have, and when.

70. The adoption and application of this approach have led to profound changes in institutional, judicial and administrative structures in the health sector, including large-scale mobilization of human and material resources in order to lay down rules governing the provision of services, boost reproductive health training and awareness among thousands of health workers, and encourage social involvement.

71. Notable among these actions are the following.

1. Legal framework

72. The Government of Mexico operates in the context of the following legal instruments:

(a) The Constitution,⁹ article 4 of which states that everyone has the right to take free, responsible and well-informed decisions concerning the number and spacing of his or her children;

(b) The Health Act,¹⁰ article 67 of which states that family planning is a priority. The services provided in the field of family planning constitute a means of exercising the right of all persons to take free, responsible and well-informed decisions concerning the number and spacing of their children, with full respect for their dignity. Anyone who practises sterilization without the consent of the patient or exerts pressure on the patient to agree to sterilization will be punished in accordance with the provisions of this law, regardless of the degree of responsibility he or she bears;

(c) The Population Act,¹¹ which lays down as a fundamental objective of population

policy that of regulating the phenomena which affect the population in terms of its volume, structure, dynamics and geographical distribution, with the aim of ensuring that the population shares fairly in the benefits of economic and social development;

(d) The regulations implementing the Population Act, article 21 of which states that “the health and education services and those providing information on family planning programmes shall guarantee that individuals may freely decide on the methods they wish to use to regulate their fertility, and it is forbidden to oblige anyone to use fertility regulation methods against his or her will. When individuals opt for the use of any permanent contraceptive method, the institutions or units providing the service shall obtain their written consent in advance”.

73. In addition to these legal instruments, the provision of reproductive health services is subject to the official rules which govern each sub-area:

(a) Official Mexican standard for care of women during pregnancy, delivery and the post-natal period, and of newborn children (NOM-007-SSA2-1993);

(b) Official Mexican standard for prevention and control of infection by the human immunodeficiency virus (NOM-010-SSA2-1993);

(c) Official Mexican standard for family planning services (updated version published in the *Diario Oficial* - DOF - on 21 January 2004) (NOM-005-SSA2-1993);

(d) Official Mexican standard for the prevention, detection, diagnosis, treatment, control and epidemiological monitoring of cervical cancer (NOM-014-SSA2-1994);

(e) Official Mexican standard for the prevention, treatment and control of addictions (NOM-028-SSA2-1999);

(f) Official Mexican standard for health care for children (NOM-031-SSA2-1999);

(g) Official Mexican standard for the prevention, diagnosis, treatment, control and epidemiological monitoring of breast cancer (published in the *Diario Oficial* on 17 September 2003) (NOM-041-SSA2-2002);

(h) Official Mexican standard for the prevention and control of birth defects (published in the *Diario Oficial* - DOF - on 18 September 2003) (NOM-034-SSA2-2002);

(i) Official Mexican standard for the prevention and control of perimenopausal and postmenopausal disorders in women. Criteria for the provision of medical care (NOM 035 SSA2-2002).

2. Institutional framework

74. The institutions handling the issue of sexual and reproductive health include the following:

- (a) Ministry of Health (SSA);¹²
- (b) Mexican Social Security Institute (IMSS);¹³
- (c) Social Security and Social Services Institute for State Employees (ISSSTE);¹⁴
- (d) National Centre for Gender Equity and Reproductive Health;¹⁵
- (e) National Population Council (CONAPO);¹⁶
- (f) National System for Integrated Development of the Family (DIF);¹⁷
- (g) National Commission for the Development of Indigenous Peoples (CDI).¹⁸

75. **National Centre for Gender Equity and Reproductive Health.** Its role includes putting forward national policies on reproductive health, including family planning, cervical and breast cancer, care for mothers and children, perinatal health, gender equity and prevention and treatment of domestic violence, sexual violence and violence against women as a public health problem, and ensuring that sexual and reproductive rights are respected.

76. **Inter-agency Group on Reproductive Health (GISR).** This is an advisory body set up on 15 February 1995 by representatives of 19 government agencies (the Ministry of Defence, the Ministry of Health, the Ministry of Education, the National Population Council, the Mexican Social Security Institute, IMSS-Oportunidades, the Social Security and Social Services Institute for State Employees, the National System for Integrated Development of the Family, the Government of the Federal District, Petróleos Mexicanos and the National Commission for the Development of Indigenous Peoples) and civil-society and private-sector organizations, for the purpose of following up health programmes and the processes of drafting and updating the rules and regulations governing the various dimensions of reproductive health in Mexico.

77. The role of GISR as an advisory body was officially recognized in the internal regulations of the Ministry of Health, published in the *Diario Oficial* on 19 January 2004, which lay down that its activities will be coordinated by the National Centre for Gender Equity and Reproductive Health.

78. In keeping with national health objectives and in order to foster conditions conducive to promotion of the full exercise of the reproductive rights of the indigenous population, the Ministry of Health, the National Population Council, the Office for General Coordination of the IMSS-Oportunidades programme and the National Commission for the Development of Indigenous Peoples signed in 2005 a letter of intent designed to strengthen inter-agency cooperation in the area of the reproductive health of the indigenous population with the aim of enhancing institutional efforts and raising levels of reproductive health among the indigenous population.

A. Priority programmes

79. **National Population Programme, 2001-2006.**¹⁹ Drawn up in the context of the guidelines laid down in the Population Act. Its main purposes are to promote the free, responsible and well

informed exercise of the rights of individuals in the areas of sexuality and reproduction; to address areas in which indigenous peoples have been left behind in sociodemographic terms; and to enhance the abilities of and opportunities for individuals to exercise their rights in a free, responsible and well-informed manner in the areas of sexuality and reproduction and to boost population information, education and communication activities.

80. **National Health Programme, 2001-2006.**²⁰ Sets out strategies for helping to ensure that Mexicans enjoy a sexual, reproductive and post-reproductive life which is satisfactory, healthy and risk-free, with absolute respect for their rights and their freedom to decide, with special emphasis on rural and marginalized urban areas, and on indigenous communities and the teenage population.

81. This National Health Programme includes the development of a **Reproductive Health Action Programme**,²¹ whose essential purpose is to reduce disparities in reproductive health indicators between the various regions of the country, with special emphasis on rural areas and municipalities with a high level of marginalization. The aims of the Programme are focused on boosting information and education to promote the exercise of sexual and reproductive rights, taking into account the cultural diversity of each population group, to promote access to reproductive health services for teenage groups, indigenous persons, the disabled and the rural and marginalized urban population, and to encourage greater participation by men in maintaining reproductive health, bearing in mind cultural, geographical and economic factors.

82. **Coverage Expansion Programme (PAC).**²² This was set up to expand access to reproductive health services by providing a basic package of health services, including family planning, to the population located in remote areas who have no easy access to any type of health services or social security.

83. The activities carried out in this regard are: health education; guidance and provision of contraceptive methods; identification of the population at risk; referrals for the fitting of IUDs; bilateral tubal ligation; and vasectomy and infertility treatment and reproductive health education and promotion. To this end, information is also distributed on the general rights of patients and on where they can turn if their rights are violated, the use of contraceptive methods and their sexual rights.

84. **Family planning programmes.**²³ Created between 1997 and 2000 by IMSS, ISSTE and the Ministry of Health. There are five programmes featuring two main activities - home visits by outreach workers to families in marginalized urban areas, and assistance provided in units located in the social security centres, where information and family planning advice are dispensed, with absolute respect for the reproductive rights of individuals and their freedom to make their own decisions.

85. Teaching and promotional materials are used to encourage responsible and well-informed decision-making by couples concerning the number and spacing of their children; the full range of contraceptive methods is offered free of charge; and guidance is offered on cervical cancer, breast cancer, the menopause and sexually transmitted infections. These efforts are complemented by Reproductive Health Days in medical units in urban areas, which reinforce the strategy for improving access to contraceptive methods and reducing unmet demand and unplanned pregnancies.

86. **The IMSS-Oportunidades programme.**²⁴ This promotes Mexicans' right to health and individual and collective well-being. It is an instrument of the Mexican Government's social policy aimed at bringing health and social welfare services to marginalized rural areas.

87. This programme is implemented first and foremost in remote communities which are inhabited by population groups with social and economic handicaps, bringing to the marginalized areas comprehensive, timely and high-quality health care, using a health-care model which combines the provision of services with the promotion of social and cultural development, while ensuring broad and committed community involvement.

88. This programme is currently providing comprehensive health care for over 10.6 million farmers and indigenous persons in 17 constituent elements of the Federation.

89. This care model is essentially based on efforts to work together with the population of the marginalized rural communities, with the involvement of over 250,000 volunteers working as rural health assistants, voluntary social outreach workers, members of health committees, rural midwives and traditional healers, who in an organized, responsible and voluntary manner participate in efforts designed to preserve the health of their families and their communities and improve their environment.

90. **“An equal start in life” action programme.**²⁵ This has the purpose of providing high quality health information and services to guarantee a healthy pregnancy, safe childbirth and a post-natal period without complications for all Mexican women, as well as equal opportunities for growth and development.

91. The programme began in the States of Aguascalientes, Campeche, Hidalgo, Morelos, Nayarit, Tabasco and Veracruz, focusing on 71 municipalities with a high rate of maternal mortality. In order to make progress in equipping the health services network, the programme was offered to the States of Chiapas, Guanajuato, Guerrero, Michoacán, Oaxaca, Querétaro, Quintana Roo, San Luis Potosí and Yucatán.

92. In order to move forward the strategy for training trainers of midwives and community personnel in all-round care during pregnancy, childbirth and the post-natal period and care for the newborn, a survey of midwives who cooperate with the Ministry of Health and Welfare was carried out, together with a diagnosis of training needs. This led to the distribution of 14,303 midwifery kits. At the same time training courses were held for nursing personnel.

93. **Health and nutrition programme for indigenous peoples.**²⁶ This covers 10 strategic actions, including action to improve the health of indigenous women. In coordination with IMSS-Oportunidades, a training workshop was held for the empowerment of indigenous women in the region of Huasteca Potosina, which addressed the situation of women in Mexico, boosting self-esteem, decision-making, etc.

94. **“Women and health” action programme.**²⁷ The purpose of this programme is to carry out activities involving awareness creation, training, promotion and distribution in all health sector institutions in order to incorporate the gender perspective in action programmes, budgets,

information systems, lines of research and health services, with the aim of helping to improve the situation of women and men, taking into account the differences arising from their gender status.

B. Other actions

95. **Information, education and communication among the population.** In order to keep the whole population informed, the Government of Mexico is embarking on strategies which fall within the package of actions in the field of population information, education and communication. The purpose of this strategy is to help to build up a solid demographic culture which seeks to:

- (a) Eradicate prejudices, stereotypes and groundless beliefs which often influence decision-making by individuals and couples in demographic matters;
- (b) Strengthen the spirit of prevention and planning in individuals and families;
- (c) Foster demographic behaviour by individuals and couples which helps to enhance their quality of life and encourage free, responsible and well-informed decision-making;
- (d) Encourage greater commitment and involvement in solving problems of population growth and distribution.

96. The campaigns being carried out have the following additional objectives:

- (a) To promote awareness of the benefits of family planning among the population;
- (b) To promote responsible and well-informed participation by men in decision-making on family planning and communication within the couple;
- (c) To promote independent decision-making by couples in pursuing their childbearing plans, and remove social and cultural barriers to family planning;
- (d) To promote the search for information and the use of family planning services in public health institutions;
- (e) To broaden men's and women's knowledge and understanding of the "informed consent" procedure in the acceptance of contraceptive methods.

97. In order to achieve these objectives, 5 radio spots and 19 radio items were devised and produced as part of a campaign entitled "Sexual and reproductive health for the indigenous population". These messages were broadcast on CDI's 27 transmitters with the aim of increasing knowledge of reproductive health care with emphasis on the health of mothers and children and identifying risk factors and warning signs which indicate that the population should contact the health services.

98. In addition, as a central feature of the communication product in sexual and reproductive health for the indigenous population, work was carried out on the conceptual design of, scripts for

and production of four informative videos on informed consent (on intrauterine devices, bilateral tubal ligation, vasectomy and informed demand).

99. **Expanding the coverage and improving the quality of the sexual and reproductive health services.** Mexico has assigned priority to expanding access to services to geographical areas with high mortality rates, early age of marriage and first childbirth and a low level of contraceptive use, and providing services to the population with the greatest needs as a basic condition for guaranteeing the full exercise of reproductive rights, while constituting a key element of equity and social justice.

100. Currently, reproductive patterns are much more favourable because the Government is pursuing policies designed to protect women's and children's health, while reducing childbirth at an early age, excessively closely spaced pregnancies, very numerous pregnancies or childbirth at an advanced age.

101. Reproductive health is an intrinsic component of well-being and the quality of life of men and women, and a sine qua non for the development of their potential. Although during the past decade social policies targeted on members of the indigenous population have helped to improve their circumstances in terms of reproductive health, they still lag behind to such an extent that efforts need to be redoubled to remedy the unequal and unfair situation they suffer in this regard.

102. In order to continue to guarantee the right to health and the right to decide on the number and spacing of births, the National Health System continues to take a variety of steps to expand the coverage and improve the quality of services, which is reflected in the growing percentage of couples of childbearing age who make active use of family planning.

103. **Promotion of the sexual and reproductive health of the indigenous population.** The National Population Council and CDI have developed a project entitled "Promotion of the sexual and reproductive health of the indigenous population", which also responds to the need for redoubled efforts to overcome the lags affecting this sector in terms of reproductive health. Among the goals set are those of increasing knowledge of reproductive health care, encouraging dialogue and fair participation between men and women, free of violence, in reproductive health care, publicizing the right of individuals to receive high-quality services, as well as the guidance and information necessary to enable them to take free, responsible and well-informed decisions in such areas as sexual and reproductive health.

*/ In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

**/ Annexes to the report may be consulted in the secretariat's files.

1/ See "Los Afrodescendientes en México: Procesos de construcción de identidad, condiciones de vida y discriminación: un estudio comparativo de comunidades", Área de Investigación Aplicada

y Opinión del Instituto de Investigaciones Jurídicas, Universidad Autónoma de México (UNAM). Available at: www.waporcolonia.com/abstracts/63-dominguez-otros.pdf, sin fecha.

2/ Response by Mexico to the Committee's questions relating to the consideration of the twelfth to fifteenth periodic reports of Mexico, paras. 28-30, 19 May 2006.

3/ Ibid.

4/ Constitutions of Guerrero, Chiapas, Oaxaca, Querétaro, Hidalgo, Sonora, Jalisco, Chihuahua, México State, Campeche, San Luis Potosí, Quintana Roo, Michoacán, Nayarit, Veracruz, Tlaxcala, Sinaloa, Tabasco, Durango, Morelos, Puebla and Yucatán.

5/ Durango, Jalisco, San Luis Potosí, Morelos, Puebla and Tabasco.

6/ Oaxaca, Quintana Roo, Chiapas, Campeche, México State, San Luis Potosí and Nayarit.

7/ Chiapas, Chihuahua, Coahuila, México State, Guerrero, Hidalgo, Jalisco, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Tamaulipas, Veracruz and Yucatán.

8/ Available on the CNDH web page: www.cndh.org.mx/recomen/general/004.htm.

9/ See info4.juridicas.unam.mx/ijure/fed/9/.

10/ See info4.juridicas.unam.mx/ijure/tcfed/163.htm?s.

11/ See info4.juridicas.unam.mx/ijure/tcfed/161.htm?s.

12/ See www.salud.gob.mx.

13/ See www.imss.gob.mx/imss.

14/ See www.issste.gob.mx.

15/ See www.generoysaludreproductiva.gob.mx.

16/ See www.conapo.gob.mx.

17/ See www.dif.gob.mx.

18/ See cdi.gob.mx.

19/ See www.conapo.gob.mx/pnp/pnp.html.

20/ See www.salud.gob.mx.

21/ See www.salud.gob.mx/docprog/estrategia_2/salud_reproductiva.pdf.

22/ See www.imss.gob.mx/imss.

23/ Ibid.

24/ See www.imss.gob.mx/IMSS/IMSS_SITIOS/IMSS_06/ProfesionalesSalud/DPM/IO/Principal.htm.

25/ See www.salud.gob.mx/unidades/cdi/nom/compi/re211102.html.

26/ See sedesol2006.sedesol.gob.mx/manualmicroregiones/20_SSA_PSNPI.pdf.

27/ See www.mujerysalud.gob.mx.