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纳入妇女人权和性别公平观：
暴力侵害妇女

2006 年 1 月 23 日墨西哥常驻联合国日内瓦办事处代表团
致联合国人权事务高级专员办事处的普通照会

墨西哥常驻联合国日内瓦办事处和日内瓦其他国际组织代表团向人权事务高级专员办事处致意，并谨随照附上墨西哥政府就暴力侵害妇女、其原因及后果问题与特别报告员亚肯·埃蒂尔克女士 2005 年 2 月 21 日至 25 日访问墨西哥的报告 (E/CN.4/2006/61/Add.4) 提出的意见。^{*}

墨西哥常驻代表团谨请将上述附件作为人权委员会第六十二届会议的正式文件分发给人权委员会所有成员国和观察员。

* 附件不译，仅以原文和英文印发。

Annex

**OFFICIAL REPLY FROM THE GOVERNMENT OF MEXICO CONCERNING
THE REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST
WOMEN, ITS CAUSES AND CONSEQUENCES**

1. The Government of Mexico welcomes the report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Yakin Ertürk, on her mission to Mexico from 21 to 25 February 2005.
2. It notes with satisfaction the Special Rapporteur's appreciation for the assistance and cooperation provided by the Government throughout the mission, which reflects Mexico's policy of openness and cooperation with international human rights mechanisms.
3. It thanks the Special Rapporteur for the recommendations made in her report, and reiterates its commitment to consider and follow them up. It is also pleased to inform the Special Rapporteur that the recommendations are being carefully studied with a view to establishing policies and courses of action for their implementation, and that some of them are already being implemented by the competent authorities.
4. The Government recognizes that, in spite of the efforts made, inequality and discrimination against women continue to exist in the country. As the Special Rapporteur points out, however, significant steps are being taken to eradicate these problems and foster a culture of respect for women's rights.
5. The results so far have been modest. It cannot be denied that the measures taken by the federal, state and municipal Governments in coordination with civil-society bodies are still capable of considerable improvement. The different authorities are assessing the recommendations and reviewing the various programmes to combat violence against women.
6. As the Special Rapporteur says, the situation in Ciudad Juárez exemplifies the patterns of violence that in various degrees prevail in Mexico. Like the Special Rapporteur, the Government has decided that efforts to combat violence against women should not focus exclusively on Ciudad Juárez, and has promoted action throughout the country.

**II. ENSURING VIOLENCE AGAINST WOMEN
DOES NOT GO UNPUNISHED**

7. The Government wishes to inform the Special Rapporteur that with a view to improved cooperation between the federal and local Governments in dealing effectively with the problem of violence against women, the establishment of a special prosecutor's office for violent crimes against women has been approved. The office, headed by Ms. Alicia Elena Pérez Duarte, will become operational in the first quarter of 2006, and will cover the whole country.
8. Regarding legislation on women's rights, the Government has the honour to inform the Special Rapporteur that, at the request of the judicial authorities of the State of Puebla, the

Supreme Court has changed its jurisprudence on marital rape, in force since 1994, which held that violent sexual intercourse between spouses did not amount to the offence of rape but merely constituted the “improper exercise of a right”.

9. The Supreme Court points out that the old criterion was questionable not only on theoretical grounds but also from the point of view of gender equality before the law. It also affirms the right of individuals to express themselves completely freely not only about their sexual freedom and right to do what they like with their bodies but also about the choice of when to have children.

10. The Supreme Court has thus decided that since rape is understood as having intercourse with a person of either sex by means of physical or mental violence, the jurisprudence must be amended to the effect that the procurement by either spouse of intercourse through violence, against the express will of the other, constitutes the offence of rape. This decision may be invoked throughout the country.

11. Moreover, efforts to classify this as an offence are under way at the state level. Since the Special Rapporteur’s mission to Mexico, two more states, Coahuila and Durango¹, have classified marital rape as an offence. Furthermore, two states (Baja California and Chihuahua)² have accepted domestic violence as a ground for divorce.

12. In the case of the young girl Paulina, Mexico has initiated the procedure for an amicable settlement with the Inter-American Commission on Human Rights. The Special Rapporteur will be kept informed of the outcome and of legislative reforms guaranteeing proper care and full enjoyment of rights for women who have been raped.

13. With regard to national and local measures to guarantee access to justice in terms of equality before the law, particularly for indigenous women, it is worth noting:

- (i) The drafting of the Federal Prevention and Elimination of Discrimination Act, and the establishment of the National Council for the Prevention and Elimination of Discrimination;
- (ii) The drafting and launch of the Programme for the Promotion of Judicial Agreements by the National Commission for the Development of Indigenous Peoples, which seeks to enable indigenous peoples, communities and individuals to have access to the jurisdiction of the State and assert their rights;
- (iii) The adoption of the Linguistic Rights of Indigenous Peoples Act, article 7 of which guarantees the translation of any type of legal proceeding.

14. With respect to the rights of migrant women, memorandums of understanding signed with Guatemala and El Salvador provide for special protection for women who have been the victims of slavery and cross-border trafficking in persons: in particular, safe, voluntary repatriation mechanisms for family reunification purposes and a joint study with Guatemala on the problems of female and under-age victims of slavery and trafficking in persons. At present, specific measures to meet these objectives are being agreed upon with the Government of Guatemala.

15. Lastly, it should be said that, to ensure crimes against women do not go unpunished, training programmes to raise awareness among judicial officials dealing with such crimes have been stepped up so that investigations take account of the gender perspective and greater attention is paid to the victims. Sections IV and V of this document refer to training efforts along these lines.

III. INVESTIGATING AND PROSECUTING ALL RESPONSIBLE FOR VIOLENCE AGAINST WOMEN, ESPECIALLY IN THE STATE OF CHIHUAHUA

16. The Government of Mexico recognizes that initially the problems in Ciudad Juárez were not handled in a timely and effective manner. However, as the Special Rapporteur acknowledges, various measures in the areas of prevention, care and the procurement of justice are yielding results.

17. Between 1993 and 5 January 2006, 379 women were murdered in Ciudad Juárez. The culprits in 149 of these cases have been convicted of homicide; 16 were sent for trial before the Juvenile Court of the State of Chihuahua; 64 are on trial; 122 are under investigation by the *Fiscalía Mixta*, a joint investigation and prosecution body in the Office of the State Attorney-General; 14 cases have been referred for investigation to the Office of the Attorney-General of the Republic, and 14 shelved because the killers have committed suicide. These figures indicate that rather more than 40 per cent of the murders have been punished, trials on almost 18 per cent are under way, and approximately 36 per cent are still under investigation.³

18. While it is recognized that many murderers still need to be identified and punished, the state authorities have become more efficient in procuring and administering justice: of the 32 murders committed in 2005, the culprits in 22 cases (68 per cent) have been arrested and brought before the courts.

19. Concerning the motives for the offences, in February 2006, the Government will submit to the Special Rapporteur the results of an analysis of all case-files by the Special Federal Prosecutor's Office, in which the number of homicides involving sexual violence is indicated.

20. Progress over the past year is due, to a great extent, to restructuring at the Office of the Attorney-General of the State of Chihuahua, which is now conducting a technical investigation based on forensic science methods and the theory of evidence into all cases. As part of the process, case-files that had not been investigated have been reopened, and sounder investigation leads have been sought so that all cases can be resolved. At the same time, the Office of the Attorney-General of the State of Chihuahua has cooperated with the Office of the Attorney-General of the Republic, the Ministry of Public Security of the State of Chihuahua and the Municipality of Ciudad Juárez in locating and apprehending the likely culprits.

21. As regards impunity among public officials who have been identified as likely to bear civil or criminal liability, the Office of the Attorney-General of the State of Chihuahua has carried out thorough investigations to determine that liability. As a result, criminal proceedings

have been brought in 5 cases and administrative proceedings in 52 cases. The officials were all suspended from duty as soon as the investigations were launched. Thus far, one official has been dismissed and proceedings are still under way against the others.

22. As the Special Rapporteur says, criminal or administrative proceedings are now prescribed in seven criminal cases and in seven administrative cases. In cases involving 38 other public officials whose probable liability was referred to in the Special Federal Prosecutor's report, investigation failed to establish what acts of omission or negligence had been committed.

23. At any rate, it should be noted that a statute of limitations applies to the offence of abuse of authority in Mexico, which is regarded as a continuing offence (because it infringes the same precept of law and there is a single criminal purpose with multiple criminal acts). It applies four years and six months from the day on which the last criminal act was committed; in other words, for the authorities involved, the statute runs from the day they cease their functions; it would therefore not be accurate to assert that the officials under investigation were those who had wrongfully ensured that their cases had lapsed.

24. With regard to the allegations of torture mentioned in the report, the Government hereby states that in every case a medical/psychological evaluation based on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol") has been conducted. The results have shown no evidence of injuries caused by any ill-treatment or torture. Nevertheless, the Internal Affairs Control Unit at the Office of the Attorney-General of the State of Chihuahua is continuing investigations into these cases.

25. Various measures and policies are being applied to improve the human rights situation in Chihuahua. Worthy of note are the establishment of an Office of the Assistant Attorney-General for Human Rights and Care of the Victims of Crime; the agreement with the Office of the Attorney-General of the Republic to apply the Istanbul Protocol, and proper training for staff in the State of Chihuahua; the drafting, together with the National Human Rights Commission, of a bill on the care and protection of crime victims; and the drafting of a set of human rights provisions for the Office of the Attorney-General of the State of Chihuahua.

26. An example of the intensive work being done to improve the human rights situation in the State of Chihuahua is the handling of the case of Bryan T., who was accused of murdering two Municipal Traffic Department employees and was allegedly tortured by the Ciudad Juárez Municipal Police. The case is now being investigated, and medical certificates attesting to injuries and a request for application of the Istanbul Protocol have already been prepared. The Government reiterates that all necessary steps will be taken to collect the relevant evidence and determine the likely guilt of the officials concerned.

27. With regard to how reports of disappearances are dealt with, it should be noted that on 25 January 2005, the Office of the Attorney-General of the State of Chihuahua decided to set up a special unit to investigate absent or missing persons, immediately launching search and tracing operations in cooperation with the local, state and federal authorities.

28. Furthermore, October 2003 saw the launch of operation ALBA, under which the authorities at the three levels of government monitor and deal with cases of violence in high-risk areas of Ciudad Juárez. The three levels of government watch out for reports of possible disappearances of women in the town, with a view to taking prompt action.

29. As part of this operation, a protocol has been drawn up to govern handling response and coordination among federal, state and municipal authorities in the event of women or children disappearing in the Municipality of Ciudad Juárez. For the purpose of improving search tools and procedures, a police training course on prompt action to trace and rescue missing persons was given recently by the Chilean police force (*carabineros*), the body responsible for such matters in Chile. Federal and local security agencies attended the course.

30. Regarding help from international organizations, the Equipo Argentino de Antropología Forense (Argentine Forensic Anthropology Team) (EAAF) is still helping to identify the remains of victims, and to find new evidence that will help the investigation.

31. As for the role played by the Office of the Attorney-General of the Republic in the *Fiscalía Mixta* to investigate the killings of women in Ciudad Juárez, it must be made clear that the Office of the Assistant Attorney-General for Specialized Investigation into Organized Crime makes a direct and systematic contribution to the *Fiscalía Mixta*, with staff permanently assigned to provide legal, technical, police and technological support for the investigations.

IV. PROVIDING PROTECTIVE AND SUPPORT SERVICES TO FEMALE VICTIMS OF VIOLENCE

32. The Government of Mexico has made significant progress in dealing with violence against women, through the coordination of and support for the building of shelters, improvements to and training in care services (such as the “Life without violence” helpline) and the establishment of specialized services for groups of indigenous women.

33. As regards the National Shelters Network, the National Institute for Women has encouraged evaluation and diagnosis meetings for the purpose of making specific proposals to promote the building and upgrading of shelters. It also follows up the National System for the Comprehensive Care of Women Affected by Domestic Violence, which is intended to identify a crisis procedure at the state level for women seeking assistance from institutions offering preventive services and care.

34. The National Commission for the Development of Indigenous Peoples has promoted a system of dealing with family violence for indigenous women entitled “Safe houses for indigenous women”, which, in cultural terms, is appropriate and suited to indigenous women’s needs and requirements.

35. The purpose of the safe houses established to date in the indigenous regions of the country (Chiapas, Guerrero, Oaxaca and Puebla) is to promote a model for intercultural relations between community health resources and local health service providers which boosts the indigenous population’s capacity to promote health, sexual and reproductive rights and prevent violence within the community. It also encourages contact with the health and justice authorities so as to foster a climate based on rights and equality in the indigenous regions.

36. A Programme to Prevent and Address Family and Gender-Based Violence will be launched among the indigenous peoples in the first quarter of 2006; it will address the problem through a comprehensive approach and inter-institutional coordination among the different levels of government.

37. The National Commission for the Development of Indigenous Peoples also publicizes the right to a life without violence; documents the specific ways in which violence against indigenous women occurs and manifests itself; assists indigenous organizations looking for ways of protecting women against family and domestic violence; and sets up projects and programmes with a gender-based focus that address the needs of indigenous women.

38. In Ciudad Juárez, the Office of the Attorney-General of the Republic and the Office of the Attorney-General of the State of Chihuahua support victims through the Economic Fund to Assist the Families of Female Murder Victims. To date, funds have been distributed to more than 50 families. The criteria for distributing funds and providing relatives of victims with psychological, economic, legal and medical support are based on the principles on the rights of victims as defined by the United Nations.

39. The Office of the Assistant Attorney-General for Human Rights and Care of the Victims of Crime in the Office of the Attorney-General of the State of Chihuahua has carried out various programmes giving crime victims guidance on how effectively to exercise their rights. Chihuahua Government agencies are providing supervisory, help, preventive, medical, psychological and educational services.

40. The Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez, Chihuahua, has assembled a network of public institutions caring for women facing violence and/or relatives of female murder victims, which coordinates work by different public institutions for women facing violence. It has also run a seminar entitled “The grieving process”, and more than 20 training workshops, in cooperation with the National Institute for Social Development, to foster a culture intolerant of violence against women and children.

V. CREATING GENDER-BASED INFORMATION AND KNOWLEDGE

41. In December 2005, the National Institute for Women published a compilation of the laws of 28 states on the handling and prevention of domestic violence. This gives information on how violence is dealt with in every state (classification in the Criminal Code and ground for divorce in the Civil Code) and the findings of the Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares (ENDIREH) (National Survey on the Dynamics of Domestic Relations) and the Encuesta Nacional de Violencia contra las Mujeres (ENVIM, 2003) (National Survey on Violence against Women).

42. A project entitled “Analysis of gender-based violence in Ciudad Juárez, Chihuahua: proposals for prevention” has been launched under the auspices of the Juárez Commission. This investigation, to create a geographical statistical information system, will be carried out by the College of the Northern Frontier and the National Institute for Statistics, Geography and Information Science.

VI. STRENGTHENING THE INSTITUTIONAL INFRASTRUCTURE FOR THE ADVANCEMENT OF WOMEN

43. The Government of Mexico has promoted various moves to strengthen the institutional infrastructure, including:

- (i) The drafting of the Act establishing the National System for Prevention, Protection, Assistance and Eradication of Violence against Women and Girls;
- (ii) The establishment of women's institutions in all the states of the Republic;
- (iii) The adoption by 28 of the 32 states of legislation to prevent and punish domestic violence;
- (iv) The enforcement of administrative legislation entitled "Domestic Violence Act (Handling and Prevention, Assistance and Care)", in the following states: Baja California, Baja California Sur, Campeche, Chiapas, Coahuila, Colima, Federal District, Durango, Guanajuato, Guerrero, Jalisco, State of Mexico, Michoacán, Morelos, Nayarit, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tlaxcala, Tamaulipas, Veracruz, Yucatán and Zacatecas;
- (v) The drafting and implementation of a national plan or programme to prevent, punish and/or eliminate discrimination and/or violence against women entitled "National Programme for Equal Opportunities and Non-Discrimination against Women" (Proequidad);
- (vi) The National Programme for a Life without Violence 2002-2006 (revised in November 2005 by the National Institute for Women);
- (vii) The Programme for Institutionalizing the Gender Perspective in the Federal Public Administration (introduced by the National Institute for Women in 2005).

44. The Government is also promoting the drafting of a framework law on domestic violence, laying down broad standards in criminal, civil and administrative matters to uphold the right to a life without violence. The idea is to promote standardized criteria upholding the right to a life without violence in Mexico, and to encourage those states that do not have legislation on the subject to create a legal framework for the purpose.

45. Six international congresses and 33 workshops on harmonization of domestic legislation were held under the project "Follow-up to Mexico's international commitments in the area of women's human rights and strengthening the gender perspective in the Ministry of Foreign Affairs", carried out in cooperation with the United Nations Development Fund for Women (UNIFEM) and the United Nations Development Programme.

46. The purpose of these meetings was to elicit proposals for the reform of Mexico's criminal, health and social welfare legislation and to develop initiatives for the reform of state laws, article by article, so as to bring them into line with the international obligations relating to

women's rights set forth in the Convention on the Elimination of All Forms of Discrimination against Women, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, "Convention of Belem do Para" and the Protocol to Prevent, Punish and Suppress Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol).

47. The proposals for reform ensuing from these meetings were submitted to the executive, legislature and judiciary of the Federation, in December 2005. In January 2006, they were referred to the Legislative Assembly of the Federal District, the local congresses and the Congress of the Union, the Head of Government of the Federal District and the state governors.

VII. PROMOTING TRAINING, CARE AND PREVENTION PROGRAMMES IN THIS AREA

48. As far as training programmes are concerned, the National Institute for Women has promoted the following activities:

- (i) A workshop for law students on international legal tools and know-how for the protection of human rights, with a gender-based perspective;
- (ii) A workshop on the technical and legal aspects of securing justice from a gender-based perspective, with a view to ensuring that preliminary investigations by Public Prosecutors' Offices in the different states of the Federation take account of international treaties and agreements on women's rights. This workshop has been staged in 16 states: Sonora, Jalisco, Quintana Roo, Chihuahua (two in Ciudad Juárez and one in Chihuahua), State of Mexico, San Luis Potosí, Baja California, Nayarit, Nuevo León, Chiapas, Campeche, Puebla, Yucatán and Michoacán;
- (iii) In August 2005, the National Institute for Women and the Council of the Federal Judiciary signed a cooperation agreement committing themselves to training so that the gender perspective would be taken into account in the work of the federal judicial bodies.

49. The National Commission for the Development of Indigenous Peoples has launched projects publicizing indigenous women's rights; these include "Different voices, discordant voices"; "Women and traditional legislative frameworks"; "Gender, traditions and customs"; "Prevention of violence and its consequences for the health of indigenous women".

50. With regard to the rights of migrant women, the National Institute for Women has taken a number of steps to care for migrant women and their families: it has held forums on migrant women's rights, including "Women and international migration on the southern frontier"; "Women and migration in Mexico"; and "Binational forum: Women who live and work in the United States". The purpose of these meetings was to facilitate the planning and implementation of inter-institutional policies, programmes, projects and measures benefiting migrant women and their families in the areas of health, violence and employment. A campaign entitled "Here or on the other side of the frontier you have rights, find out so you can exercise them" has been launched to publicize migrant women's rights.

51. In 2005, the National Institute for Women held three inter-institutional round tables on gender and migration, which addressed the promotion of human rights and the gender equality of women affected by the phenomenon of migration. These finalized plans for two two-nation training days on gender and migration, which took place on 10 and 11 August and 15 and 16 June 2005 respectively. These training days resulted in the drafting of proposals on public policy and specific guidelines for dealing with migrant women and their families in frontier areas.

CONCLUSIONS

52. The Government of Mexico thanks the Special Rapporteur for the objective picture of the situation given in her report, which not only describes the problems Mexico faces but recognizes the various degrees of progress made in legislation and regulations that protect women's rights and punish violence against them, and the difficulties the Government confronts in remedying the disparities.

53. The Government is aware that the task of eliminating violence against women is a long-term one. A change in cultural patterns calls for continual efforts and for public policies that slowly but surely change public attitudes. The necessary change in culture requires a steadfast effort to harmonize legislation, trained, professional staff to deal with problems, and vigorous action to combat impunity.

54. As indicated in this document, the Special Rapporteur's recommendations are being given due consideration and, where possible, progress is being made with their implementation. The Government reiterates its firm commitment to work in cooperation with civil society, and, where appropriate, with the support of the international community, to achieve the full enjoyment of women's rights in Mexico, particularly the right to a life without violence.

Notes

¹ It has still not been classified as an offence in: Aguascalientes, Baja California, Baja California Sur, Campeche, Chiapas, Colima, Guerrero, Jalisco, Mexico, Michoacán, Morelos, Nayarit, Nuevo León, Puebla, Quintana Roo, Sinaloa, Sonora, Tabasco, Tlaxcala y Zacatecas.

² It is still not considered a ground for divorce in: Campeche, Chiapas, Guanajuato, Guerrero, Hidalgo, Jalisco, Nayarit, Querétaro, Tabasco, Yucatán y Zacatecas. It should be noted that in the State of Mexico only domestic violence committed by a spouse against any of their children is considered a ground for divorce.

³ Information from the Office of the Attorney-General of the State of Chihuahua and the Office of the Attorney-General of the Republic.
