



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined twenty-second to twenty-fourth periodic reports of Mexico\*

1. The Committee considered the combined twenty-second to twenty-fourth periodic reports of Mexico,<sup>1</sup> submitted in one document, at its 3052nd and 3053rd meetings,<sup>2</sup> held on 9 April 2024. At its 3070th and 3071st meetings, held on 23 April 2024, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the combined twenty-second to twenty-fourth periodic reports of the State party, submitted in one document. The Committee expresses its satisfaction with the constructive dialogue held with the State party's delegation and appreciates the additional information provided in writing after the dialogue.

#### B. Positive aspects

3. The Committee welcomes the ratification of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189) on 3 July 2020, in addition to the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance and the Inter-American Convention against All Forms of Discrimination and Intolerance on 11 November 2019.

4. The Committee also welcomes the legislative, institutional and public policy measures taken by the State party:

(a) The adoption, in 2022, of the Federal Act for the Protection of the Cultural Heritage of Indigenous and Afro-Mexican Peoples and Communities;

(b) The amendment, in 2020, of the provisions of the Migration Act concerning the protection of migrant children;

(c) The formal establishment, in February 2024, of the National Council of Indigenous Peoples as a mechanism for the participation of Indigenous Peoples;

(d) The National Human Rights Programme 2020–2024;

(e) The National Programme for Equality and Non-Discrimination 2021–2024;

(f) The Special Programme for Indigenous and Afro-Mexican Peoples 2021–2024;

(g) The Programme for the Holistic Well-Being of Indigenous Peoples and the Indigenous Education Support Programme, for 2021 and 2019, respectively.

\* Adopted by the Committee at its 112th session (8–26 April 2024).

<sup>1</sup> [CERD/C/MEX/22-24](#).

<sup>2</sup> See [CERD/C/SR.3052](#) and [CERD/C/SR.3053](#).



5. The Committee welcomes the State party's continued development of mechanisms and a methodology for the collection of statistical data through the 2020 population and housing census and the 2017 and 2022 national discrimination surveys, in addition to its incorporation of variables relating to the ethnic and racial composition of the population.

## C. Concerns and recommendations

### Statistics

6. While the Committee expresses its appreciation to the State party for providing some statistics during the dialogue, it regrets that these statistics are not sufficiently complete to allow for an assessment of the progress made with respect to the living conditions of and enjoyment of rights by historical victims of discrimination, in particular Indigenous Peoples and people of African descent. The Committee is also concerned that the variables on ethnic and racial composition are not systematically incorporated into all relevant surveys at the federal and state levels, in particular those concerning the judicial system, and that, in some cases, these variables do not allow for the accurate identification of all individuals who continue to be victims of discrimination on the grounds of race, colour, descent or national or ethnic origin.

7. **The Committee encourages the State party to redouble its efforts to compile complete and accurate statistics on the demographic composition of the population, based on the principle of self-identification, and to establish socioeconomic indicators disaggregated by race, colour, descent and national or ethnic origin that will enable it to accurately and periodically assess the progress made in ensuring that all groups enjoy the rights enshrined in the Convention on an equal footing and without discrimination. The Committee also recommends that the State party use the statistics compiled as a basis for formulating its policies on combating racial discrimination. Lastly, the Committee recommends that the State party ensure that ethnic and racial variables are systematically included in official surveys and censuses conducted at the federal and state levels, including those concerning the judicial system.**

### Definition of racial discrimination

8. The Committee notes that the Federal Act on the Prevention and Elimination of Discrimination is currently undergoing a major reform process. However, the Committee finds it regrettable that this Act and other state laws do not yet contain a definition of discrimination that includes all the grounds of discrimination listed in article 1 of the Convention, especially race and descent (art. 1).

9. **The Committee reiterates its previous recommendation<sup>3</sup> and urges the State party to accelerate the process of reforming the Federal Act on the Prevention and Elimination of Discrimination and to ensure that it incorporates a definition of discrimination that includes all the grounds of racial discrimination listed in article 1 of the Convention, in particular race and descent. In addition, the Committee recommends that the State party take steps to harmonize the federative entities' laws on the prevention and elimination of discrimination in order to ensure that the definition of discrimination contained in those laws reproduces the contents of article 1 of the Convention and covers acts of direct and indirect discrimination in all spheres of law and public life. The Committee refers the State party to its general recommendation No. 14 (1993) on article 1 (1) of the Convention.**

### Institutions

10. The Committee acknowledges the State party's recent efforts to strengthen the National Council for the Prevention of Discrimination by, as was mentioned during the dialogue, revising its statute and increasing its budget. The Committee welcomes the appointment of the President of the National Council for the Prevention of Discrimination who, for the first time, is an Indigenous woman. However, the Committee is concerned about

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<sup>3</sup> CERD/C/MEX/CO/18-21, para. 9.

the limited number of complaints relating to racial discrimination that have been received and handled by the Council, which could be owing to the lack of awareness and trust in this institution among victims of racial discrimination. The Committee regrets that it has not received detailed information on the effectiveness of the public policies adopted by the Council to combat racial discrimination. It also regrets that, to date, not all federative entities have an institution for the prevention of discrimination (art. 2).

**11. The Committee reiterates its previous recommendation<sup>4</sup> and urges the State party to:**

**(a) Continue its efforts to ensure that the National Council for the Prevention of Discrimination has adequate human, financial and technical resources to effectively fulfil its mandate;**

**(b) Strengthen the institutional capacity of the National Council for the Prevention of Discrimination and ensure adequate representation of Indigenous Peoples and people of African descent so that the institution can build trust and effectively handle complaints relating to racial discrimination;**

**(c) Formulate a comprehensive national policy on combating racial discrimination that includes the adoption of a national plan against racism and discrimination, with the effective participation of Indigenous Peoples, people of African descent and other minority groups that continue to face racial discrimination, doing so through the National Council for the Prevention of Discrimination as the entity responsible for developing and promoting policies for the prevention and elimination of discrimination;**

**(d) Intensify its efforts to ensure that each federative entity has a body responsible for receiving complaints relating to racial discrimination and promoting policies and measures aimed at eliminating racial discrimination;**

**(e) Establish appropriate mechanisms for coordination among public agencies and authorities, at both the state and federal levels, that have a mandate to prevent and eliminate racial discrimination;**

**(f) Continue to disseminate information on legislation concerning racial discrimination and inform the population within its territory of the mandate, functions and activities of the National Council for the Prevention of Discrimination in order to increase the Council's visibility and enhance the population's awareness of the Council's complaints mechanism.**

#### **Racial hatred and incitement to racial discrimination**

12. The Committee regrets that, despite its repeated recommendations and the orders of the Supreme Court in decision No. 805/2018 of 30 January 2019, the State party has not yet incorporated the actions described in article 4 of the Convention into its criminal legislation. Furthermore, the Committee is concerned about reports of the dissemination of messages of discrimination and racial hatred targeting Indigenous Peoples, people of African descent or migrants, including, in some cases, by public figures (art. 4).

**13. The Committee reiterates its previous recommendations<sup>5</sup> and recalls its general recommendations No. 15 (1993) on article 4 of the Convention and No. 7 (1985) relating to the implementation of article 4 of the Convention, which state that all provisions of article 4 of the Convention are of a mandatory character and highlight the preventive aspects of article 4 to deter racism and racial discrimination. In this connection, the Committee urges the State party to:**

<sup>4</sup> Ibid., para. 13.

<sup>5</sup> Ibid., para. 11; and [CERD/C/MEX/CO/16-17](#), para. 11.

(a) **Intensify its efforts to expedite the adoption of the amendment to article 149 ter of the Criminal Code, with a view to prohibiting all actions described in article 4 (a) and (b) of the Convention;**

(b) **Ensure the harmonization of state and federal criminal laws in order to bring them into full compliance with all provisions of the Convention and to provide for the adoption of effective measures to prevent and punish the dissemination of narratives and messages of discrimination and racial hatred at both the state and federal levels;**

(c) **Take account of the Committee's general recommendation No. 35 (2013) on combating racist hate speech.**

#### **Constitutional amendment concerning the rights of Indigenous Peoples and people of African descent**

14. The Committee takes note of the information provided by the delegation on the progress made with regard to the adoption of the constitutional amendment to ensure the recognition of Indigenous Peoples and people of African descent as subjects of public law and fully guarantee their rights. However, the Committee is concerned that, according to the information received, although this amendment was the subject of a prior consultation process, the final document submitted by the executive branch to Congress on 5 February 2024 does not adequately reflect the proposals made by Indigenous Peoples, in particular with regard to the right to self-determination and collective rights over their land, territories and natural resources (arts. 2 and 5).

15. **The Committee recommends that the State party accelerate the process of adopting the constitutional amendment to fully guarantee the rights of Indigenous Peoples and people of African descent, recognizing them as subjects of public law. The Committee urges the State party to ensure that the proposals made by Indigenous Peoples, in particular with regard to their right to self-determination and their rights over land, territories and resources, including their collective rights, are adequately reflected in the provisions of the constitutional amendment, in compliance with international standards, especially those contained in the United Nations Declaration on the Rights of Indigenous Peoples and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee also refers the State party to its general recommendations No. 21 (1996) on the right to self-determination and No. 23 (1997) on the rights of Indigenous Peoples.**

#### **Structural discrimination against Indigenous Peoples**

16. The Committee remains concerned about the structural discrimination that Indigenous Peoples continue to face in the State party, which is reflected in the high levels of poverty affecting them and the negative impact this has on the enjoyment of their economic, social and cultural rights. It is particularly concerned about:

(a) The high rates of illiteracy and low levels of educational attainment among Indigenous Peoples, including children and adolescents;

(b) The challenges faced by members of Indigenous Peoples in gaining access to the labour market and the fact that they continue to be frequent victims of economic exploitation, especially Indigenous women domestic workers, who are also at greater risk of falling victim to sexual abuse and exploitation;

(c) The lack of effective access to intercultural health services that take into account the cultural diversity of the population (arts. 2 and 5).

17. **The Committee recommends that the State party strengthen its efforts to:**

(a) **Take concrete action to significantly reduce the high levels of poverty and inequality affecting members of Indigenous Peoples and adopt the necessary special measures, including affirmative action, to eliminate structural discrimination against Indigenous Peoples;**

(b) **Guarantee the availability, accessibility, acceptability and quality of education for Indigenous children through the development of intercultural educational plans that cover the history and culture of Indigenous Peoples and meet the objective of promoting and preserving the cultural identity of Indigenous Peoples, thereby reducing their illiteracy rates;**

(c) **Ensure that Indigenous Peoples have access to the labour market, without discrimination, and that they benefit from fair and satisfactory working conditions, both in law and in practice, including remuneration that makes it possible to attain decent living conditions for them and their families and access to social security, in particular in the case of Indigenous women domestic workers;**

(d) **Establish effective mechanisms for reporting all forms of abuse and exploitation, including sexual exploitation, taking into account the specific challenges faced by Indigenous Peoples, in particular Indigenous women domestic workers;**

(e) **Ensure the accessibility, availability, acceptability and quality of health-care services, taking into special consideration the needs, traditions and cultural specificities of Indigenous Peoples, especially those of Indigenous women;**

(f) **Conduct a comprehensive evaluation of the implementation of the Programme for the Holistic Well-Being of Indigenous Peoples and the Indigenous Education Support Programme, paying due attention to the challenges faced specifically by Indigenous Peoples and the persistent gaps that exist between them and the rest of the population, with a view to taking the necessary corrective measures to ensure the effective enjoyment of their rights without discrimination.**

#### **Free, prior and informed consent**

18. The Committee takes note of the information provided regarding the extension of the right to free, prior and informed consultation and the adoption process for the General Act on the Consultation of Indigenous and Afro-Mexican Peoples and Communities. However, the Committee is concerned that there is still no adequate legal framework for conducting consultation processes to obtain the free, prior and informed consent of Indigenous Peoples. It is seriously concerned about reports that the consultation processes conducted to obtain their free, prior and informed consent have failed to comply with minimum international standards, in the sense that they: (a) did not provide adequate, sufficient and timely information on the potential impact that the measures to be adopted or the development and natural resource exploitation projects would have on the rights of Indigenous Peoples, (b) failed to respect the way in which the affected Indigenous communities were organized and (c) involved the use of pressure and harassment to obtain the consent of the affected Indigenous communities (arts. 2 and 5).

19. **The Committee urges the State party to:**

(a) **Accelerate the process of adopting the draft General Act on the Consultation of Indigenous and Afro-Mexican Peoples and Communities in order to guarantee those communities' right to be consulted on any legislative or administrative measure that could affect their rights, including those related to decision-making, with a view to obtaining their free, prior and informed consent in a way that also takes into account the cultural characteristics and traditions of each community;**

(b) **Guarantee due respect for the right of Indigenous Peoples to be consulted with a view to obtaining their free, prior and informed consent regarding economic, industrial, energy, infrastructure and natural resource exploitation projects that may have an impact on their territories and natural resources, ensuring that such consultations are conducted in a timely, systematic and transparent manner, with representatives selected by the affected communities.**

#### **Impact of development and investment projects**

20. The Committee is concerned about the reports on the impact that development and investment projects are having on the territories and resources traditionally occupied by Indigenous Peoples, which has a particular negative impact on their livelihoods and ways of

life. The Committee is seriously concerned that some investment and natural resource exploitation projects, such as the Maya train project, are continuing despite the concerns and opposition expressed by the affected Indigenous communities. In some cases, investment projects have continued despite court rulings ordering the companies to leave the land, repair the environmental damage and provide compensation to the affected communities (arts. 2 and 5).

**21. The Committee recalls that respect for human rights and the elimination of racial discrimination are a crucial part of sustainable economic development and that both the State and the private sector play a fundamental part in this regard. Accordingly, the Committee recommends that the State party:**

**(a) Ensure that impartial independent bodies carry out human rights impact studies that cover the potential social, environmental and cultural effects of economic development and natural resource exploitation projects in the territories of Indigenous Peoples, with the aim of protecting the traditional ways of life and livelihoods of these Peoples;**

**(b) Ensure that companies operating in the State party carry out human rights due diligence in order to prevent human rights abuses against Indigenous Peoples and that those companies comply with judicial decisions relating to their activities that order the protection of the rights of Indigenous Peoples;**

**(c) Determine, in consultation with the Indigenous Peoples whose territories and resources are affected, the mitigation measures to be put in place, the compensation for damages or losses suffered to be provided and the share in the benefits to be gained from such activities.**

#### **Militarization**

22. The Committee is concerned about the negative impact that the militarization of civilian tasks has on the rights of Indigenous Peoples, people of African descent and migrants. The Committee is also concerned about the active participation of military forces in tasks connected to the implementation of investment projects such as the Maya train project, including construction work, which has led to the perpetration of forms of abuse and violence against Indigenous individuals who have been recruited to assist with such tasks, in addition to sexual violence against Indigenous women (arts. 2 and 5).

**23. The Committee recommends that the State party:**

**(a) Address the problems arising from the involvement of military forces in civilian tasks, including the implementation of economic development and natural resource exploitation projects in which civilians, especially Indigenous Peoples, are involved;**

**(b) Thoroughly, impartially and effectively investigate all allegations of abuse and violence committed by military forces against Indigenous Peoples, people of African descent and migrants, and, in particular, against Indigenous women.**

#### **Internal displacement**

24. The Committee is concerned about the internal displacement caused by violence, land conflicts and the effects of climate change, which has a disproportionate impact on members of Indigenous Peoples. The Committee notes that, during her recent visit to the State party, the Special Rapporteur on the human rights of internally displaced persons found that, for Indigenous Peoples, internal displacement has meant the loss of their social and cultural identity and the link with their ancestral lands and territories<sup>6</sup> (arts. 2 and 5).

**25. The Committee recommends that the State party adopt a national policy for the prevention of the causes of internal displacement that includes the perspective of displaced Indigenous Peoples and follows an intercultural approach, with a view to guaranteeing their protection at all stages of displacement, in particular the enhanced**

<sup>6</sup> [A/HRC/53/35/Add.2](#).



**protection of their rights relating to the link to their ancestral lands. The Committee also recommends that the State party expedite the adoption of the draft General Act on Internal Displacement.**

#### **Lands, territories and resources of Indigenous Peoples**

26. While the Committee takes note of the explanations provided by the delegation regarding the different forms of land ownership, it is concerned that the rights of Indigenous Peoples to the lands, territories and resources traditionally occupied by them have not yet been fully recognized and protected. The Committee is concerned about the persistence of long-running land conflicts that affect Indigenous Peoples and lead to acts of violence against them (arts. 2 and 5).

**27. The Committee recommends that the State party adopt the necessary measures to ensure and protect the rights of Indigenous Peoples to own, use, develop and exercise full control over their lands, territories and resources, including by way of the legal recognition and protection of their collective rights over their lands and territories, in line with international standards.**

#### **Structural discrimination against people of African descent**

28. Although the Committee recognizes the efforts made by the State party to recognize the rights of people of African descent, in particular through the constitutional amendment of 2019, it regrets that these people continue to face discrimination and social exclusion. The Committee is concerned that the State party does not yet have specific measures or policies aimed at combating the structural discrimination affecting people of African descent and that these people are often equated with Indigenous Peoples (arts. 2 and 5).

**29. The Committee reiterates its previous recommendation<sup>7</sup> and urges the State party to:**

(a) **Adopt, with the effective participation of people of African descent and taking into account their specific needs, the special measures necessary to guarantee the effective enjoyment of their human rights;**

(b) **Take all necessary measures to eliminate structural discrimination against people of African descent and ensure that they are protected from all acts of discrimination committed by State agencies, public officials and any other person, group or organization;**

(c) **Apply the Committee's general recommendations No. 32 (2009) on the meaning and scope of special measures in the Convention and No. 34 (2011) on racial discrimination against people of African descent.**

#### **Discrimination based on skin colour**

30. The Committee notes with concern that the results of the recent 2017 and 2022 national discrimination surveys, in which skin colour was included as a variable of discrimination, have reflected the persistent discrimination faced by individuals with brown and black skin, who experience greater challenges in exercising their rights and gaining access to public services (arts. 1, 2 and 5).

**31. The Committee recommends that the State party take the necessary measures to effectively combat discrimination based on colour, ensuring that persons who are victims of discrimination because of their brown or black skin may effectively exercise their rights, in particular their economic, social and cultural rights, and have access to public services without discrimination.**

#### **Multiple and intersecting forms of racial discrimination**

32. The Committee is concerned by the multiple forms of discrimination faced by Indigenous women and women of African descent, in particular with regard to access to

<sup>7</sup> CERD/C/MEX/CO/18-21, para. 17.

employment, education and health, especially sexual and reproductive health information and services. In addition, the Committee remains concerned about the high rates of violence against Indigenous women and women of African descent (arts. 1, 2 and 5).

**33. In the light of its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee urges the State party to:**

**(a) Intensify its efforts to combat the multiple forms of discrimination to which Indigenous women and women of African descent are subjected, including by mainstreaming gender across all policies and strategies on racial discrimination;**

**(b) Take steps to ensure that Indigenous women and women of African descent have access to education, employment and health care, taking into account cultural and linguistic differences;**

**(c) Take steps to prevent gender-based violence, in particular forced sterilizations, against Indigenous women and women of African descent and thoroughly investigate all cases of such violence, including forced sterilizations, ensuring that those responsible are appropriately punished and guaranteeing victims' access to justice and effective and culturally appropriate protection mechanisms.**

#### **Political participation**

34. The Committee is concerned that the participation and representation of Indigenous Peoples and people of African descent in the political life of the State party remains limited, in particular in the case of Indigenous women and women of African descent (art. 5).

**35. The Committee recommends that the State party take effective steps to ensure the full participation of Indigenous Peoples and people of African descent, in particular women belonging to those groups, in public affairs, in both decision-making positions and representative institutions, and at all levels of federal and state government.**

#### **Situation of human rights defenders**

36. The Committee takes note of the information provided by the State party regarding the strengthening of the National Protection Mechanism for Human Rights Defenders and Journalists. Nevertheless, the Committee remains seriously concerned that human rights defenders, including leaders and defenders of the rights of Indigenous Peoples, people of African descent and migrants, are subjected to acts of violence, threats and attacks on their lives (arts. 2 and 5).

**37. The Committee recommends that the State party:**

**(a) Conduct thorough, impartial and effective investigations into all reports of attacks on the lives, physical integrity or freedom of human rights defenders, in addition to acts of violence, threats, harassment, intimidation, bullying and defamation committed against Indigenous leaders and defenders of the rights of Indigenous Peoples and people of African descent;**

**(b) Redouble its efforts to, in consultation with the individuals affected, develop effective protection strategies, taking into account cultural, regional and gender differences and providing adequate human, technical and financial resources for their implementation;**

**(c) Take effective and timely steps to prevent bullying, harassment, disparagement and the criminalization of human rights defenders, in particular Indigenous leaders and rights defenders, through, inter alia, information and awareness-raising campaigns focusing on the fundamental work that they perform, with a view to fostering an environment of tolerance that enables them to carry out their activities free from any intimidation, threats and reprisals.**

#### **Community radio stations**

38. The Committee is concerned that community radio stations continue to be subject to persecution, which significantly limits Indigenous Peoples' rights to freedom of expression



and cultural rights. The Committee is seriously concerned that community communicators belonging to Indigenous Peoples face attacks for denouncing human rights violations or opposing projects that have an impact on their territories. In this connection, the Committee expresses its concern regarding the murder of Samir Flores Soberanes (arts. 2 and 5).

39. **The Committee urges the State party to:**

(a) **Conduct thorough investigations into all attempts on the lives and harassment or persecution of journalists and community communicators, in particular those defending the rights of Indigenous Peoples, and prosecute and duly punish those responsible. In that connection, the Committee encourages the State party to expedite the investigation into the murder of Samir Flores Soberanes;**

(b) **Continue its efforts to ensure that Indigenous community radio stations have the resources necessary for their proper functioning, given the fundamental role they play in the transmission of Indigenous knowledge, culture and traditions.**

#### **Discrimination against migrants**

40. The Committee is aware of the challenges faced by the State party with respect to the large number of migrants crossing Mexican territory. However, it regrets that, despite the commitments made to implement a migration policy based on respect for human rights, migrants, asylum-seekers and refugees continue to be victims of acts of discrimination and serious violations of their rights, including torture, ill-treatment, excessive use of force, enforced disappearance and killings (arts. 2 and 5).

41. **The Committee reiterates its previous recommendation<sup>8</sup> and urges the State party to:**

(a) **Respect and protect the human rights of migrants, ensuring respect for the principle of non-refoulement and giving due consideration to the Global Compact for Safe, Orderly and Regular Migration;**

(b) **Conduct thorough investigations into all acts of discrimination, excessive use of force, abuse of authority and any other offence committed against migrants, ensuring that victims have access to effective judicial remedies and that perpetrators are prosecuted and duly punished.**

#### **Migrant holding centres**

42. The Committee takes note of the steps being taken to expand the capacity of migrant shelters. However, it remains concerned about the widespread use of detention against migrants, mainly in so-called migrant holding centres, which are overcrowded and lack access to basic services such as water, food and medical care. In this regard, the Committee notes with great interest the information provided by the State party's delegation regarding the measures taken following the fire at the migrant holding centre in Ciudad Juárez in March 2023, which include the creation of an inter-institutional working group, the ongoing investigation by the Attorney General's Office and the reparation measures that have been granted to the victims' families. However, the Committee stresses the seriousness of this event, which claimed the lives of 40 migrants, and is concerned that migrants continue to be at risk of serious human rights violations and face difficulties in obtaining access to justice and redress (arts. 2 and 5).

43. **The Committee urges the State party to:**

(a) **Find alternatives to the detention of asylum-seekers and migrants in an irregular situation;**

(b) **Take the measures necessary to ensure that living conditions in migrant holding centres are satisfactory, in accordance with international standards;**

(c) **Continue investigations into the fire that occurred at the migrant holding centre in Ciudad Juárez, ensuring that those responsible are prosecuted and duly**

<sup>8</sup> CERD/C/MEX/CO/18-21, para. 35.

**punished and that the victims have access to fair reparations and guarantees of non-repetition.**

#### **Unaccompanied migrant children**

44. The Committee notes the amendments made to the provisions of the Migration Act concerning the protection of migrant children, in addition to the prohibition of the detention of migrant children in immigration centres. However, it is concerned that, according to some reports, the application of these provisions has resulted in unaccompanied migrant children being returned to their country of origin, with no possibility of initiating the procedure for requesting international protection (arts. 2 and 5).

45. **The Committee recommends that the State party:**

(a) **Guarantee effective protection for unaccompanied migrant children and adopt the measures required to ensure respect for their right to seek asylum and international protection, providing them with the necessary means to facilitate access to the asylum and family reunification procedures and preventing their expulsion from the country;**

(b) **Ensure that the procedure for determining refugee status takes due account of the individual situation of each child and his or her best interests. In this regard, the Committee recommends that the State party establish mechanisms for coordination with the authorities of the United States of America, with a view to facilitating access for unaccompanied migrant children to asylum and family reunification procedures in both countries.**

#### **Migrants from Haiti**

46. The Committee is particularly concerned about allegations that migrants of Haitian origin have been subjected to discriminatory treatment, including assault, detention, ill-treatment and deportation, which affects their right to seek asylum and obtain international protection (arts. 2 and 5).

47. **The Committee recommends that the State party intensify its efforts to prevent and eradicate discriminatory practices, including on the grounds of race, colour, descent or national or ethnic origin, that affect migrants of Haitian origin. The Committee refers the State party to its statement 2 (2023) on the situation of migrants, asylum-seekers and refugees of Haitian origin in the Americas region.<sup>9</sup>**

#### **Access to justice**

48. The Committee takes note of the efforts made by the State party to improve access to justice for Indigenous Peoples and people of African descent, including through the development of protocols for adjudicating from an intercultural perspective. Nonetheless, the Committee remains concerned about:

(a) The small number of complaints of racial discrimination, which could be an indicator that cases of racial discrimination remain unreported, owing in part to the low level of trust that victims of racial discrimination have in the relevant authorities;

(b) The lack of an adequate intercultural perspective within the judicial system and the limited availability of interpreters and advocates with knowledge of Indigenous cultures and languages;

(c) The lack of information on the steps taken to recognize and respect the Indigenous justice system, in line with international human rights law;

<sup>9</sup> Committee on the Elimination of Racial Discrimination, Statement on the situation of migrants, asylum-seekers and refugees of Haitian origin in the Americas region, issued at the 109th session (April 2023).

(d) The allegations concerning the lack of transparency in the implementation of the justice plans aimed at providing redress for violations of the rights of Indigenous Peoples, which has led to conflicts within some Indigenous communities (arts. 2 and 6).

49. **Taking into account its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:**

(a) **Adopt appropriate and effective measures to ensure that all victims of racial discrimination have access to effective legal remedies and adequate reparations;**

(b) **Establish a system to collect disaggregated data on cases of racial discrimination, including on actions taken in the administration of justice;**

(c) **Redouble its efforts to integrate an intercultural perspective into the justice system, increase the accessibility and availability of interpreters and advocates with knowledge of Indigenous languages and cultures and strengthen coordination and cooperation between the ordinary justice system and the Indigenous justice system;**

(d) **Ensure transparency in the implementation of the justice plans adopted to provide redress for violations of Indigenous Peoples' rights;**

(e) **Step up the training of law enforcement officials, prosecutors, lawyers, advocates, judges and judicial system professionals in order to enable them to properly review and effectively investigate cases of racial discrimination, and run campaigns to raise rights holders' awareness of their rights, the remedies available and the legal framework providing protection against racial discrimination.**

#### **Use of mandatory pretrial detention**

50. The Committee notes with concern that the State party has established a list of offences for which the use of pretrial detention is mandatory, without taking into account the special circumstances of each case. The Committee is concerned about reports that the use of this practice has had a disproportionate impact on Indigenous Peoples, especially Indigenous women, and people of African descent. The Committee regrets not having received statistical information, disaggregated by sex and by the grounds of discrimination prohibited under article 1 of the Convention, concerning persons deprived of their liberty (arts. 5 and 6).

51. **The Committee urges the State party to eliminate mandatory pretrial detention both in law and in practice, take the necessary measures to ensure respect for all fundamental legal safeguards of due process for Indigenous Peoples, especially Indigenous women, and people of African descent and guarantee that pretrial detention is used only as an exceptional measure and for a limited period of time. The Committee recommends that the State party collect and provide data on pretrial detainees and convicted individuals, disaggregated by sex, age and ethnic group, and provide data on the mandatory pretrial detention period in its next periodic report. The Committee refers the State party to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.**

#### **Racial profiling**

52. The Committee welcomes the ruling issued by the Supreme Court on 18 May 2022, which declared the migration review procedure provided for in the Migration Act to be unconstitutional. However, the Committee regrets that racial profiling has not yet been expressly prohibited in the State party and is concerned that it remains a widespread practice. Furthermore, the Committee is seriously concerned about reports that the State party maintains migration checkpoints within its territory, which are operated by agents of the National Institute of Migration and members of the National Guard, who, in practice, include members of the armed forces, and that, in most cases, the individuals subjected to this type of check are people of African descent, black people, brown people or Indigenous Peoples, including Indigenous Mexicans and Afro-Mexicans. It is also concerned that these migration

checks have led to human rights violations such as torture, excessive use of force and illegal deportations (arts. 2 and 6).

53. **Recalling its general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, the Committee recommends that the State party:**

(a) **Include in its legislation a prohibition of racial profiling and ensure that the police and other law enforcement officials are provided with clear guidelines aimed at preventing racial profiling during police and migration checks;**

(b) **Establish an effective mechanism to regularly collect and monitor disaggregated data on practices and complaints relating to racial profiling, racial discrimination and instances of racist violence by law enforcement officials, including in the context of migration identity checks;**

(c) **Effectively and expeditiously investigate all incidents of racial profiling, racist abuse, ill-treatment and excessive use of force by law enforcement officials, including the agents of the National Institute of Migration and members of the National Guard, and ensure that those responsible are prosecuted and, if convicted, receive appropriate penalties;**

(d) **Ensure that the victims of excessive use of force or racial profiling by law enforcement officials have access to effective remedies and adequate compensation and face no retaliation for reporting such acts;**

(e) **Take effective measures to prevent the excessive use of force, ill-treatment and abuse of authority by the police against Indigenous Peoples, people of African descent and people with black or brown skin, including by ensuring that appropriate human rights training is provided to law enforcement officials throughout the country, in accordance with the Committee's general recommendation No. 13 (1993) on the training of law enforcement officials in the protection of human rights.**

#### **Combating racial stereotypes**

54. The Committee is concerned that racial stereotypes remain deeply ingrained in Mexican society. The Committee regrets that it has not received specific information on how the history, culture and contributions of Indigenous Peoples and people of African descent have been included in the public education system (art. 7).

55. **Taking into account the importance of education in combating prejudices that lead to racial discrimination and promoting understanding, tolerance and friendship among all groups of society, as established in article 7 of the Convention, the Committee recommends that the State party:**

(a) **Develop and implement, in consultation with Indigenous Peoples and people of African descent, guidelines to combat structural and institutional racism at the federal and state levels, in addition to public awareness campaigns on the negative effects of racial discrimination;**

(b) **Ensure that federal and state educational authorities include the history and culture of Indigenous Peoples and people of African descent and their contribution to the construction of the Mexican State in school curricula at both the primary and secondary levels.**

### **D. Other recommendations**

#### **Ratification of other treaties**

56. **Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights treaties that it has not yet ratified, such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the**

**Rights of the Child on a communications procedure and the 1961 Convention on the Reduction of Statelessness.**

#### **Follow-up to the Durban Declaration and Programme of Action**

57. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

#### **International Decade for People of African Descent**

58. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the International Decade, and considering that the Decade is in its final year, the Committee requests the State party to include in its next periodic report information on the outcome of the measures taken to implement the programme of activities and on the sustainable measures and policies put in place in collaboration with people of African descent and their organizations, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.

#### **Consultations with civil society**

59. The Committee recommends that the State party continue consulting and increasing its dialogue with the National Human Rights Commission and civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in the preparation of the next periodic report and in follow-up to the present concluding observations.

#### **Dissemination of information**

60. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all federal and state bodies entrusted with the implementation of the Convention and publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.

#### **Common core document**

61. The Committee encourages the State party to, if necessary, update its common core document, which dates to 22 February 2017, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006.<sup>10</sup> In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

#### **Follow-up to the present concluding observations**

62. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the

<sup>10</sup> [HRI/GEN/2/Rev.6](#), chap. I.

adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 39 (a) (community radio stations) and 45 (b) (unaccompanied migrant children) above.

**Paragraphs of particular importance**

63. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 13 (a) (racial hatred and incitement to racial discrimination), 33 (c) (multiple and intersecting forms of racial discrimination) and 53 (d) (racial profiling) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

**Preparation of the next periodic report**

64. The Committee recommends that the State party submit its combined twenty-fifth to twenty-seventh periodic reports, as a single document, by 22 March 2028, taking into account the reporting guidelines adopted by the Committee during its seventy-first session<sup>11</sup> and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

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<sup>11</sup> [CERD/C/2007/1](#).