

Children's right to identity in Mexico

97th pre-session ■ Combined Sixth and Seventh Periodic Report ■ CRC/C/MEX/6-7

1 Creation of identity

Birth registration:

- According to UNICEF, there has been progress in birth registration rates in Mexico between 2015 and 2020, with the most recent estimates indicating that the prompt registration rate is now 89.2 per cent and the overall registration rate at 99.5 per cent. According to the same source, the states that need to accelerate efforts to safeguard the right to identity of children are Chiapas, Oaxaca, Campeche, Tabasco and Veracruz. These states have a rate of under 85 per cent of registration in the first year of life. To respond to this situation, in 2018, UNICEF supported some municipal authorities in Chiapas and Guerrero to implement special birth registration campaigns with bilingual messages (indigenous languages and Spanish). In addition, civil registry teams were deployed to provide free birth registration and to issue birth certificates. The 2020 data showed significant progress in the three supported municipalities.¹ UNICEF has also collected and disseminated good practices to advance birth registration throughout the country.²
- During the national policy decreed during the COVID-19 pandemic, the registration of births of children under the age of one fell to -21.58% compared to those in 2019. The decline was accentuated between March and July 2020, dropping to -41.6% on average (compared to the same months in 2019). In May 2020, by agreement of the National System for the Protection of Children and Adolescents (SIPINNA), actions were approved for the care of children and adolescents during the pandemic, including the work of civil registries. Although registrations began to increase, by the end of the year, the decrease in the overall number of prompt registrations remained.³
- Other promising strategies implemented by Mexico to improve birth registration rates have included twinning with the health sector,⁴ the operation of an intersectoral coordination mechanism, the Consejo Nacional de Funcionarios de Registro Civil (CONAFREC),⁵ and the deployment of mobile units reaching out to under-registered populations.⁶

Abandonment:

- Recent estimates place the number of child victims of abandonment and/or neglect at over 1,500. As these numbers are those of children, who were attended in hospitals, this might reflect higher numbers in reality.⁷ According to SOS Children's Villages, in Mexico, over one million children have lost the care of their parents, factors such as domestic and gender violence, malnutrition, poverty, commercial sexual exploitation, drug trafficking, drug use, migration, among others, expose children and their families to a situation of increased vulnerability.⁸

Nationality, statelessness and migration:

- All children born on Mexican territory are Mexican by birth, regardless of the nationality of their parents (Article 30 of the Constitution). However, only since 2021, when a constitutional reform on nationality to the same article was approved, has the right to nationality been guaranteed to children born abroad to a Mexican mother and/or father.
- As UNICEF and UNHCR explain, this constitutional reform ensures the right to identity and nationality without distinction and prevents cases of statelessness.⁹ In addition, several UN agencies noted that the ruling recognised the link between nationality and identity as part of a fundamental right of individuals, making it essential to continue the Mexican state's efforts to realise the right to identity of children born in Mexico of foreign parents.¹⁰
- Indeed, in Mexico, an inter-census study, which was carried out in 2015, highlighted that 93,425 persons of Mexican nationality born abroad declared not having a birth certificate. Of those, nearly 57,000 were born in the Northern American region, most of them in the USA. It is worth highlighting that of these 93,425 persons born abroad and who declared not having a Mexican birth certificate, 97.5% had a right to have a birth certificate issued by the Mexican government. Most of them are adults, but 12.2% were under the age of five years and 34.4% between the ages of five and 17 years.¹¹
- It is also worth mentioning that, since June 2018, the Clave Única de Registro de Población (CURP) is also issued to applicants for refuge and complementary protection on Mexican territory, on the basis of a joint collaborative effort between the General Directorate of National Registration of the Population and Personal Identification (RENAPO), the Mexican Commission of Assistance to Refugees (COMAR) and the National Migration Institute (INM).¹²

Potential considerations:

- *Whereas there has been important progress towards achieving universal birth registration across the country, there are still states that require additional efforts to reach those children most at risk of under-registration. What are the country's plans to achieve this?*
- *Even though the legislation calls for support to families in their child-rearing, what is the country undertaking to support families and to prevent child abandonment?*
- *What measures has the country taken to implement and put into practice the constitutional reform to Article 30 on nationality for children of Mexican nationals born abroad, as well as to continue promoting the enjoyment of the right to identity of children of foreign parents on Mexican territory?*



2 Modification of identity

Alternative care:

- In Mexico, there are approximately 33,000 children and adolescents living in a Social Assistance Centre and deprived of the right to live in a family and community (2020). Despite the provisions of the General Law on the Rights of Children and Adolescents, residential care continues to be the most common alternative care measure for children and adolescents deprived of family care.¹³
- In 2020, UNICEF, together with the International Social Service and the Red Latinoamericana de Acogimiento Familiar (RELAF), undertook an assessment of the situation of alternative care in the country, in order to have the necessary elements and information to build a vision and a roadmap to move towards a comprehensive reform of the care system.¹⁴
- It is worth noting that, in recent years, the operation of foster care programmes has accelerated in several states of the Mexican Republic, mainly with the support of UNICEF and RELAF. This is the case in Aguascalientes, Campeche, Chihuahua, Mexico City, Coahuila, Sonora, Tabasco, Tlaxcala,¹⁵ among others, as well as at the federal level with the National DIF System and the Federal Office for the Protection of Children and Adolescents within the framework of its National Foster Care Programme.¹⁶ Some of these initiatives have also focused on strengthening alternative care, in particular family-type care arrangements for children and adolescents on the move, on the northern and southern borders; in 2019, UNICEF and the government developed an Alternative Care Model for Migrant, Asylum-Seeking and Refugee Children and Adolescents in Mexico.¹⁷
- Supported by RELAF, Sonora has even incorporated the concepts of family relations and identity into its child protection case management protocol.¹⁸

Adoption:

- The adoption of children and adolescents in recent years has benefited from more attention in terms of statistics, which used to be very scarce. Thanks to the Sistema de información por tus derechos; niñas, niños y adolescentes protegidos (of the Sistema Nacional DIF and the PFPNNA), it is possible to know that in the year 2022, there were more than 500 children and adolescents in the process of adoption and/or adopted, for which there is now also a certain breakdown of age, characteristics, sex, education, ethnicity, situation.¹⁹
- It is worth noting that none of these processes or adoptions were international.²⁰ Even in previous years, the number of international adoptions carried out by the National DIF System was limited. For example, in 2020, the National DIF System concluded 12 intercountry adoptions, in 2018 it was only one; mainly to Spain, France, Italy and the United States.²¹

Surrogacy:

- Mexico has seen a surge of surrogacy arrangements in recent years, as 'surrogate pregnancies are not regulated by law in Mexico, but they are not prohibited either'.²² This is occurring despite legal reforms in one of Mexico's most 'well-

known states for surrogacy, Tabasco, in the year 2016, which limits surrogacy practices in the state to Mexican citizens only. GIRE collected evidence on the difficulties of intending parents to obtain a passport for their child born through surrogacy as well as on the denial of birth certificates, which is a condition for the issuance of passports, to prove parentage and to access basic services.²³ The state of Tabasco has established that parentage should be determined in line with the legislation on full adoption (Arts. 92 and 380 Bis 6 of the local Civil Code) and it has been confirmed that Mexican law 'recogni[s]es the gestational mother as the child's legal parent with full parental rights and mandates that the gestational mother be listed on the Mexican state-issued birth certificate'.²⁴ Indeed, whilst Sinaloa - the other state with a practice of surrogacy - establishes parentage with the intending parents upon the prior notification to the state's Civil Registry and Ministry of Health, Tabasco has been resorting to the adoption procedure to enforce the surrogacy contract.²⁵ In response to the country's concern at 'the right of children born to international surrogacy arrangements to know their (genetic and birth) origins'.²⁶ It is worth mentioning that even though the relevant legal instruments do not specifically address this issue, a study concluded that these may be considered personal data linked to the right to identity of the person born from a surrogacy arrangement, which results in the health authorities having to preserve this information under confidentiality and allow access to it.²⁷ In fact, Mexico's Supreme Court has already developed jurisprudence in this regard based on children's right to identity.²⁸

Abduction:

- Mexico has continued to operate its specialised network of child protection judges (Red Mexicana de Cooperación Judicial para la Protección de la Niñez);²⁹ its members essentially cooperate on the implementation of the Hague Conventions relating to child abduction and intercountry adoption.³⁰

Humanitarian situation:

- In Mexico, children and young people between the ages of 0 and 19 years represented 26% of the women and 29% of the men, who migrated internally in the country due to criminal insecurity or violence in 2020. Furthermore, of all the persons, who migrated internally in Mexico due to insecurity or violence until 2020, 12% of the women and 14% of the men were aged 0-11 years old.³¹

Potential considerations:

- *While progress can be seen in the development and implementation of foster care programmes as an alternative to residential care in several states across the country, what is being done to prevent the unnecessary family separation of children and to promote family reintegration?*
- *What actions is Mexico proposing to further strengthen adoption procedures in the country and to ensure minimum international standards in this area?*
- *Given the poorly regulated practice of surrogacy, what initiatives are underway to ensure that surrogacy does not unduly alter the identity of the child born through surrogacy, to ensure that the child has a legal identity, and to prevent the practice from amounting to a sale of a child?*
- *The situation of internal displacement of families and children and adolescents in the country is of concern. In relation to their identity, related family separation and the prevention of child recruitment by criminal groups, what actions is the country taking and what progress has been made in national policy in this area?*



3

Falsification of identity

Child marriage:

- In Mexico, child marriage has been prohibited since 2019.³² However, a recent report published by the government states that the practice continues to occur; in fact, it has even increased in some states in recent years. The national average of women aged 20-24 who were united or married before the age of 18 was 20.8% in 2018 (down from 2014), but in some states, rates are still around or above 30%.³³ The Civil Registry reported only 26 marriages of persons under the age of 18 in 2020 - in comparison to 57,982 in 2011. Although this is a major shift, a recent report by Save the Children suggests that these unions are still happening, albeit informally.³⁴

Trafficking and exploitation:

- Child labour in rural activities in Mexico is also resulting in risks for children. In Mexico, 7.1% of the 29 million children and adolescents between the ages of five and 17, i.e. 2.1 million, are working in prohibited activities, such as domestic work in inadequate conditions (INEGI Child Labour Module, 2017). Of the latter, 1.2 million undertake work that is classified as dangerous or exposed to risks, and 800 thousands are under the age of 15, i.e. the minimum age to enter employment, in accordance with Mexican legislation.³⁵ This may be linked to the absence or falsification of their legal identity to undertake work activities at an earlier age.

Potential considerations:

- *Given the persistence of early child unions, what is the country considering doing to end this practice that is harmful to children and adolescents and their family identity and relationships?*
- *Also, what actions is Mexico taking to ensure that children and adolescents are not working in work that is dangerous and prohibited for their age?*

4

Preservation of identity and access to origins

Adoption:

- The [General Law on the Rights of Children and Adolescents](#) establishes that the competent authorities have the obligation to preserve any information they have regarding children and adolescents, who have been adopted internationally, as well as their origins (art. 31) and that children and adolescents have the right to know their parentage and origins, as far as possible and provided that this responds to the best interests of the child (art. 19.III). For its part, the Civil Code for the Federal District, now Mexico City, establishes in Article 406.II that the judicial resolution of adoption is kept in the appendix of the record, it being absolutely forbidden to give information about it, except when the adoptee of legal age wishes to know his or her family background; if he or she is underage, the consent of the adopter(s) is required and provided that it is by order of the competent judge.

- The government has explained that, in practice, the National and State Systems for the Integral Development of the Family ensure the preservation of the information available to them concerning the child's origins, in particular information regarding the identity of his or her parents as well as the medical history of the child and his or her family; they also ensure the access, with due advice, of the child or his or her representative to this information to the extent permitted by applicable legislation. Therefore, children and adolescents are provided with identifying data, as well as non-identifying data, according to their age and degree of maturity, always with due professional support.³⁶

Potential consideration:

- *The incorporation of the right to identity, including access to origins, into general legislation is a fundamental step; what is being considered to facilitate the enjoyment of this right by adoptees (underage and adults) and to provide them with support in this process?*

5

Restoration of identity

Illegal adoptions:

- Work has been undertaken on mechanisms to prohibit private or independent adoptions. In 2019, the General Law on the Rights of Children and Adolescents was reformed, incorporating Article 30 Bis to add possible offences. Among these, the Law now prohibits "(I) the promise of adoption during pregnancy; (II) private adoption, (...); (III) that the adoption is carried out for purposes of sale, abduction, retention or illicit concealment, smuggling, trafficking, exploitation, child labour or any other illicit act. If any of the aforementioned cases arise once the adoption has been judicially finalised, the competent Office of the Procurator for Protection shall file a complaint with the Public Prosecutor's Office and shall take the necessary measures to ensure the integral well-being of children and adolescents; (IV) contact between the biological parents who relinquished a child or adolescent for adoption and the adopter, the adoptee or any person involved in the adoption (...); (V) the inducement, by any form of compensation or payment to impact or promote the decision to relinquish the child for adoption (...); (VI) the direct or indirect obtaining of undue benefits, material or otherwise, by the adoptee's family of origin or extended family, or by any person, as well as by officials or workers of public or private institutions and authorities involved in the adoption process; (VII) the obtaining of illicit personal gain or benefit as a result of the adoption; (...).
- In addition, the Mexican Central Authorities must make the necessary arrangements to ensure that the adoption is not carried out for the purposes of sale, abduction, illicit retention or concealment, trafficking, exploitation, the worst forms of child labour, in accordance with Article 31 of the General Law on the Rights of Children and Adolescents. Therefore, in the



event that any of the assumptions are presented once the adoption has been judicially concluded, the child protection authority would file a complaint before the Public Prosecutor's Office and take the necessary measures to ensure the comprehensive wellbeing of the children and/or adolescents.³⁷

- The government also explained that the donations are made in kind, based on the needs of children and/or adolescents in the Social Assistance Centres, without taking into consideration whether they are eligible for adoption, and therefore these donations are not related to any adoption procedure.³⁸

Potential consideration:

- *CHIP welcomes the incorporation of possible unlawful acts in the field of adoption into child protection legislation, with a view to preventing such acts and taking action should they arise. However, have there been any recent cases of unlawful or unethical acts in the past? If so, what measures have been taken to ensure the prompt restoration of the identity of illegally adopted persons?*

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