

## **Recommendations for a Mexican Child Protection System**

### **Introduction: Save the Children in Mexico**

Save the Children has operated in Mexico since 1973 and currently promotes and defends Children's Rights through direct implementation of programs in 21 regions throughout 16 federal entities. Working with girls, boys, and adolescents in the most vulnerable social groups, Save the Children is contributing to their comprehensive development through a rights-based approach to education, health, nutrition, and child protection, dealing transversally with issues pertaining to gender, multiculturalism, and climate change. Simultaneously, Save the Children has worked promoting structural changes in the norms and legislation corresponding to Child Protection in the context of Narcoviolence, in Migration, and in Child Labour; Save the Children has also engaged the government in recognizing nutrition as a key part of food security within a wider framework of social protection.

In 2012, Save the Children reached over 185,000 children and their communities in Mexico.

### **Generalities:**

Although at the Federal level Mexico is recognized as being quite progressive in ratifying and integrating the International Human Rights Framework to its own legal framework, there are significant gaps in the implementation of Human Rights on a day-to-day basis, often due to a lack of clarity in the coordination between government agencies, leaving marginalized groups exposed to violations. Amongst these groups, children are particularly at risk of having their Human Rights violated, especially their Protection Rights.

Correspondingly, for the most part, the recommendations presented by Save the Children in this document are aimed at strengthening Children's Protection Rights in Mexico.

## **I. First Part: Implementation of Current International Framework for Children's Human Rights in Mexico's Legal Context**

### **A. Status of the Implementation of Children's Rights in the Legal Context**

- The Human Rights framework in Mexico is very advanced, which includes Children's Rights. Mexico ratified the *Convention on the Rights of the Child (CRC)* on the 21<sup>st</sup> of September, 1990, as well as the first two *Optional Protocols*, although the *Third Optional Protocol on a Communications Procedure* has yet to be signed and ratified. Mexico has also ratified the *UN Standard Minimum Rules for the Administration of Juvenile Justice* (the Beijing Rules), the *United Nations Guidelines for the Prevention of Juvenile Delinquency* (the Riyadh Guidelines), and the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*. Mexico has also ratified *Convention No. 182* of the International Labour Organization.
- In the *Political Constitution of the Mexican United States*, Articles 1, 4 and 73 fully recognize children as right-bearers, ensuring their rights. The *Constitutional Reform* corresponding to October of 2011, particularly the reform of Article 73, opens the opportunity to develop the *General Law for the Guarantee of the Rights of Children and Adolescents*. Currently, in the 31 states of Mexico and its Federal District, there are laws that promote and defend children's rights. However, in many cases, the legislation does not adequately conform to international treaties. The *General Law for the Guarantee of the Rights of Children and Adolescents* would be binding for the states and the Federal District, ensuring a clear definition of attributions

regarding obligations and faculties at each level of government.

## **B. Recommendations**

- Save the Children recommends that the Mexican Government finish its proposal for the *General Law for the Guarantee of the Rights of Children and Adolescents* as soon as possible, ensuring that it completely reflects the *Convention on the Rights of the Child* (CRC) and the *Optional Protocols*. In this way, the 31 states and the Federal District would then be obliged to harmonize their laws with the CRC, corresponding to the previous official recommendations made by the Universal Periodic Review (UPR) Working Group in October of 2009, specifically the recommendations 3, 4, 5, 6, 7, and 41.
- In support of the previous recommendation, Save the Children recommends that through the Special Senate Committee on the Rights of the Child and/or the Permanent Congress Committee on the Rights of the Child, a basic mapping be carried out regarding the compliance of state legislatures in order to establish a baseline upon which the Federal Government can measure progress in Mexico leading up to its next UPR session.
- In order to ensure that the *General Law for the Guarantee of the Rights of Children and Adolescents* completely reflects the Children's Rights, Save the Children recommends that the Mexican Government sign and ratify the *Third Optional Protocol on a Communications Procedure* as soon as possible.

## **II. Second Part: Objective One**

### **A. Violence**

- In Mexico, there are a variety of complex factors that contribute to violations of child protection rights, including contextual issues pertaining to armed violence, human trafficking, disasters, harmful traditional practices, physical and humiliating punishment, and gender violence amongst others. In many cases, violence is stigmatized and therefore hidden, such as domestic violence and sexual abuse. Other types of violence, such as corporal punishment, are culturally accepted by society. Violence is a crosscutting issue, linked to various social sectors such as education, health, justice, the financial sector, employment, housing, and planning.
- In 2010, the homicide rate for children (0-17 years) was 3.6 per thousand. However, the rate amongst adolescents aged 15 to 17 increased from 5.7 per thousand in 2005 to 14.4 per thousand in 2010, generally accepted that this is due to the increase of youth involved in organized crime<sup>1</sup>.
- In the past 30 years, sexual abuse of children has increased 200% especially in the southern region and amongst tourist destinations such as Acapulco and Cancun<sup>2</sup>. In 2011, there were 14,289 formal complaints of child abuse made to authorities<sup>3</sup>.
- Recently in Mexico, the phenomenon known as “bullying” has become considerably prevalent. 11% of primary school Mexican students have reported having threatened a classmate or having

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1 [www.infanciacuenta.org](http://www.infanciacuenta.org), 2012

2 <http://www.derechosinfancia.org.mx>, 2010

3 [www.infanciacuenta.org](http://www.infanciacuenta.org), 2012

stolen from him or her<sup>4</sup>. In different levels of schools, 25.35% of students report having been insulted or threatened at school, while 16.72% report having been hit, while in general, 44.47% of students report having experienced violence of some sort at school<sup>5</sup>.

- One of the most significant challenges of Mexican legal framework relating to violence against children is the lack of precision regarding the legal definition of violence. This has limited prosecutors and the courts in defending children's protection rights, essentially making certain types of violence invisible, especially on a day-to-day level within the family context, such as emotional abuse and neglect<sup>6</sup>.

## **B. Recommendations**

- Save the Children recommends that the Mexican Government meet the recommendations corresponding to the previous official recommendations made by the UPR Working Group in October of 2009, specifically the recommendations 11, 16, 30, 31, 32, 47, and 50 corresponding to violence.
- Within the framework corresponding to the *General Law for the Guarantee of the Rights of Children and Adolescents* (mentioned previously in the First Part), Save the Children recommends that the Mexican Government specifically review federal and state penal laws in order to identify gaps in Child Protection Rights and the feasibility of prosecuting their violations.
- In order to deal with children and adolescents being affected by organized crime, Save the Children recommends that the Federal Government make it binding for state agencies to implement the 2012 Protocol for the Physical and Psychological Protection of Children and Adolescents in Violent Scenarios Related to Organized Crime.

## **III. Third Part: Second Objective**

### **A. Migration**

- Mexico is a country of origin, transit and destination for migrants, both Mexican, Central and South Americans. Generally, the destination is the United States of America (USA). In this phenomenon, the most vulnerable migrants are children and teenagers traveling alone, either looking to rejoin their families or seeking a better future through education or job opportunities, or to escape family violence, trafficking or exploitation.
- Children and unaccompanied teenagers are easy prey for organized crime networks. If caught illegally crossing the border or undocumented, there is also a very high risk of Human Rights violations at the hands of Migration Authorities when being repatriated.
- In 2011, 15,001,000 unaccompanied migrant children were repatriated from the U.S. to Mexico<sup>7</sup>. In 2009, Mexican authorities repatriated 4,632,000 children to their countries of origin. In 2008, Mexican unaccompanied migrant children were from the states of Michoacán (9%), Guanajuato

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4 <http://www.eclac.org/publicaciones/xml/3/44073/RVE104RomanMurillo.pdf>

5 <http://www.eclac.org/publicaciones/xml/3/44073/RVE104RomanMurillo.pdf>

<sup>6</sup> UNICEF

<sup>7</sup> [www.infanciacuenta.org](http://www.infanciacuenta.org), 2012

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(8%), Oaxaca (7%), Guerrero (6.4%), and Puebla (6.3%). The main destinations in the USA were California (32%), Texas (25%), Arizona (10.4%) and New York (3.4%)<sup>8</sup>.

- In Mexico there are three main sources of data regarding unaccompanied migrant children: the Ministry of Foreign Affairs (SRE), the National Migration Institute (INM), and the National System for Integral Family Development (DIF). However, the metrics used by these sources do not completely coincide, making it very difficult to assess the migratory flow.

### B. Recommendations

- Save the Children recommends that the Mexican Government meet the Migration recommendations corresponding to the previous official recommendations made by the UPR Working Group in October of 2009, specifically the recommendations 1, 79, 80, and 81.
- In regards to ensuring that unaccompanied migrant children are adequately protected in line with their Human Rights, Save the Children recommends that the Mexican Government develop a coordination system lead by the DIF with clear responsibilities and procedures in channelling cases from the SRE and the INM, including using the same measurement systems.
- Save the Children recommends that the Mexican Government develop the aforementioned coordination within a larger Mexican Child Protection System (see general recommendations below).

## IV. Fourth Part: Third Objective

### A. Child Labour

- In 2011, there were 3,024,000 children between 5 and 17 years old who worked, representing approximately 10.42% of the child population. 67.9% of them are male and 32% are female<sup>9</sup>. The majority (69%) are between 14 to 17 years old, while 31% are between 5 and 13 years old. Children between 5 and 13 old are prohibited from working according to the Mexican Constitution and to the Federal Labour Law for Appropriate Work Activities<sup>10</sup>.
- Approximately 7 out of 10 working children between 5 and 17 years old live in rural areas<sup>11</sup>. The most serious consequence of child labour is the interruption to education. The dropout rate for working children is 39.1%.

### B. Recommendations

- Save the Children recommends that the Mexican Government fulfil the recommendations corresponding to the previous official recommendations made by the UPR Working Group in October of 2009, specifically the recommendations 70, 73, and 74, corresponding to child labour.

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8 [http://www.unicef.org/mexico/spanish/UNICEF\\_SITAN\\_final\\_baja.pdf](http://www.unicef.org/mexico/spanish/UNICEF_SITAN_final_baja.pdf)

9 [http://www.inegi.org.mx/est/contenidos/espanol/metodologias/encuestas/hogares/resultados\\_mti11.pdf](http://www.inegi.org.mx/est/contenidos/espanol/metodologias/encuestas/hogares/resultados_mti11.pdf)

10 [http://www.inegi.org.mx/est/contenidos/espanol/metodologias/encuestas/hogares/resultados\\_mti11.pdf](http://www.inegi.org.mx/est/contenidos/espanol/metodologias/encuestas/hogares/resultados_mti11.pdf)

11 [http://www.unicef.org/mexico/spanish/UNICEF\\_SITAN\\_final\\_baja.pdf](http://www.unicef.org/mexico/spanish/UNICEF_SITAN_final_baja.pdf)

- Save the Children also recommends that the Mexican Government develop a Mexican Child Protection System while simultaneously strengthening its Social Protection system in order to permit the conditions whereby the under-14 age limit to employment can be implemented without persecuting marginalized children and their families, whose living conditions require them to work in order to improve the dignity with which they live. Otherwise, the prohibition of under-14 working conditions will force children to hide their labour activities and expose them to greater risks of exploitation, instead of improving their living conditions.

## **V. Fifth Part: Fourth Objective**

### **A. Birth Registration**

- Articles 7 and 8 of the Convention on the Rights of the Child correspond to compulsory birth registration. But 2010 data indicates that a significant proportion of Mexican children are still not registered. In 2010 only 79.4% of the population under 1 year of age was registered<sup>12</sup>, meaning that 1 in 5 children in Mexico may not be able to exercise other basic rights, such as health care.

### **B. Recommendation**

- Save the Children recommends that the Mexican Government ensure that birth registration not carry a cost and that the Government develop a mechanism whereby public servants travel to the communities in order to increase birth registration, implementing culturally sensitive strategies, as often the largest impediment is access to this service and discrimination.

## **V. Sixth Part: Fifth Objective**

### **A. Mexican Child Protection System**

- One of the greatest challenges to ensuring children's Human Rights are respected is the lack of a National Child Protection System, that coordinates efforts horizontally and vertically across the different levels of government and agencies in order to protect children from violence, abuse, neglect, and exploitation, as exemplified in the previous parts.

### **B. Recommendations**

- Save the Children recommends that the Special Senate Commission on Children's Rights and the Permanent Commission of the House of Deputies work with experts and Civil Society Organizations to develop detailed proposals for a Mexican Child Protection System.
- Save the Children recommends that these proposals be presented, evaluated, and adopted before December 2014 in order to ensure that during the design of the 2015 budget, financing is assigned for its initial operation.
- Save the Children recommends that within the framework of both commissions and within the development of the Mexican Child Protection System, that the Government aim to meet the recommendations of this document before the next UPR in 2017 approximately.

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<sup>12</sup> [www.infanciacuenta.org](http://www.infanciacuenta.org), 2012