



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
20 September 2011  
English  
Original: Spanish

---

**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Combined fifth and sixth periodic reports of  
States parties due in 2010, submitted in response  
to the list of issues (CAT/C/MEX/Q/5-6)  
transmitted to the State party pursuant to the  
optional reporting procedure (A/62/44, paras. 23  
and 24)**

**Mexico\***, \*\*, \*\*\*

[5 April 2011]

---

\* Mexico's fourth periodic report is contained in document CAT/C/55/Add.12; it was considered by the Committee at its 728th and 731st meetings (see CAT/C/SR.728 and 731) on 8 and 9 November 2006. For the concluding observations, see CAT/C/MEX/CO/4.

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

\*\*\* Annexes to the present document may be consulted in the files of the secretariat.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–13	3
II. Review of the list of issues.....	14–479	4
A. Articles 1 and 4 of the Convention.....	14–89	4
B. Article 2 of the Convention.....	90–251	30
C. Article 3 of the Convention.....	252–261	62
D. Articles 5 to 7 of the Convention.....	262–263	66
E. Article 10 of the Convention.....	264–272	67
F. Articles 12 and 13 of the Convention.....	273–286	68
G. Article 14 of the Convention.....	287–301	69
H. Article 15 of the Convention.....	302–306	73
I. Article 16 of the Convention.....	307–454	74
J. Other.....	455–461	103
K. General information on the human rights situation in the country and the implementation of human rights at the national level.....	462–479	104

## I. Introduction

1. Mexico has been party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter the Convention) since 1986. In 2002 it recognized the competence of the Committee against Torture to receive individual communications and in 2005 ratified the Optional Protocol to the Convention, which establishes machinery for visits to detention centres, namely the Subcommittee on Prevention of Torture.
2. Pursuant to paragraph 1 of article 19 of the Convention, the Mexican Government has submitted four periodic reports to the Committee against Torture, in 1988, 1992, 1996 and 2004 respectively. It also responded in September 2006 to the list of issues to be taken up in connection with the consideration of the fourth periodic report (CAT/C/MEX/Q/4/Add.1). The fourth periodic report was considered by the Committee in November 2006.
3. On the basis of the Committee's recommendations, Mexico sent a follow-up report in September 2008 (CAT/C/MEX/CO/4/Add1) and on 7 January 2010 additional information on the follow-up to the Committee's recommendations.
4. The Mexican Government submits its consolidated fifth and sixth periodic report to the Committee under the new optional procedure established at its 38th session (2007), consisting in the drafting and adoption of lists of issues to be transmitted to the States parties prior to the submission of their corresponding periodic report.
5. The Mexican Government is committed to a policy of openness and transparency and is keen to improve the channels of dialogue and communication with international human rights mechanisms and bodies, including the Committee against Torture.
6. Mexico extends an open and standing invitation to the representatives of international human rights bodies to visit the country. Since 2000, it has received 16 official visits by United Nations machinery, seven official visits by the Inter-American Human Rights Commission of the Organisation of American States (OAS) and three official visits by the Office of the United Nations High Commissioner for Human Rights.
7. The Subcommittee for Prevention of Torture visited our country from 27 August to 12 September 2008 to study the legal and institutional framework and evaluate situations that could constitute a risk of torture in the country's detention centres. Following the visit, the Ministry of Foreign Affairs, in coordination with various state and federal authorities, established the Working Group responsible for implementing the Subcommittee's recommendations, whose main purpose is to analyse the methodology and measures the Mexican State should adopt to ensure that the Subcommittee's recommendations are duly followed up.
8. Mexico has complied with the obligations under human rights instruments by taking legislative measures to give effect to them domestically. In this regard, the National Development Plan 2007-2012 and the National Human Rights Programme 2008-2011 recognize the importance of establishing machinery that will ensure respect for international human rights instruments.
9. It should be pointed out that torture and ill-treatment are expressly forbidden under articles 19, 20 and 22 of the Mexican Constitution, while the Federal Act to Prevent and Punish Torture states that such conduct should be treated as a crime in all the federal entities, whether by means of special legislation or criminal codes.

10. In 2003, to strengthen the efforts of the authorities to combat torture, Mexico incorporated the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), which establishes procedures for reporting, investigating, preserving evidence, carrying out medical examinations, interviewing victims and evaluating the proofs of torture.

11. On the basis of the Istanbul Protocol, the Office of the Attorney General of the Republic has developed a medical/psychological certificate of possible torture or ill-treatment as an additional piece of evidence to be included by the official from the public prosecutor's office in the preliminary enquiry. The system is being implemented in the offices of the state attorneys general.

12. On 11 July 2007, following consultations with civil society, the Mexican State invited the National Human Rights Commission to merge with the National Machinery for the Prevention of Torture. The Commission is entitled to visit any detention centre unannounced and at any time to examine the treatment to which detainees are subject and to assess the physical conditions of their detention with the aim of preventing acts of torture.

13. The Commission is empowered to receive complaints of torture. In such cases, it provides the injured party with comprehensive care through a multidisciplinary team of specialists trained to apply the Istanbul Protocol.

## **II. Review of the list of issues**

### **A. Articles 1 and 4 of the Convention**

#### **1. Response to paragraph 1 of the list of issues (CAT/C/MEX/Q/5-6)**

14. Article 19, paragraph 4, of the Mexican Constitution expressly forbids torture and ill-treatment when it states: "Any ill-treatment during arrest or confinement, any molesting without legal justification, any exaction or contribution levied in prison are abuses which shall be punishable by law and repressed by the authorities".

15. Article 20 likewise provides that: "In every criminal trial, the accused, victim or offender shall enjoy the following guarantees ... II. No one shall be compelled to make a statement. Any kind of intimidation, torture or solitary confinement shall be forbidden and punishable under criminal law. Suspects' confessions will only be valid when made before either the public prosecutor or a judge. In both cases, the suspect's lawyer shall be present. A confession made to any other authority shall not be used as evidence in a court of law".

16. On 27 December 1991, the Official Journal of the Federation published the Federal Act to Prevent and Punish Torture, article 3 of which stipulates that "The offence of torture is committed by a public servant who, by virtue of his office, inflicts on another person severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third party information or a confession or punishing him for an act he has committed or is suspected of having committed, or coercing him into acting or refraining from acting in a particular manner".

17. The Federal Act apart, the offence of torture is governed in Mexico in all the federal entities, whether through special laws or in criminal codes. The States with specific legislation on torture, as described in the following table, are:

- (a) Aguascalientes (14 May 1995);
- (b) Campeche (28 October 1993);

- (c) Coahuila (27 July 1993);
- (d) Colima (13 May 1995);
- (e) Chiapas (9 February 1994);
- (f) State of Mexico (25 February 1994);
- (g) Jalisco (21 December 1993);
- (h) Michoacán (10 March 1994);
- (i) Morelos (22 December 1993);
- (j) Nayarit (27 August 2005);
- (k) Oaxaca (20 November 1993);
- (l) Quintana Roo (13 November 1992);
- (m) Tlaxcala (11 December 2003);
- (n) Veracruz (17 April 1999);
- (o) Yucatán (26 November 2003).

<i>Legal instrument</i>	<i>Provision</i>
Aguascalientes State Law to Prevent and Punish Torture	<p>Art. 3: The offence of torture is committed by any public servant who, acting in an official capacity, subjects a person to severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or coercing the person to act or refrain from acting in a particular manner</p> <p>Art. 4: Anyone committing the offence of torture shall be liable to 3 to 12 years' imprisonment, a fine of 200 to 500 times the minimum per capita daily wage in the State and disqualification from holding any public office, post or assignment for up to twice the term of imprisonment imposed. For the purposes of determining the amount of the fine, reference shall be made to article 30 of the State Criminal Code.</p>
Baja California Criminal Code (10 October 1992)	<p>Art. 307 Bis. - (Model provision) - The offence of torture is committed by any state or municipal public servant acting in his official capacity who, in person or through a third party, subjects another person to severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or from a third person information or a confession, inducing him to act in a particular manner or punishing him for an act he has committed or is suspected of having committed.</p> <p>Penalties or sufferings resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture.</p> <p>Any detainee or accused person shall, immediately upon</p>

<i>Legal instrument</i>	<i>Provision</i>
	<p>request, be examined by a forensic medical expert or a doctor of his choice. The examining physician is required immediately to issue the appropriate certificate and if it is noted that pain or suffering as referred to in this article has been inflicted, this shall be communicated to the competent authorities.</p> <p>The request for a medical examination may be made by the detainee's or accused person's defence counsel or by a third party.</p> <p>No declaration or information obtained under torture can be cited as evidence. Civil servants who learn of an act of torture are required to report it immediately; a failure to do so shall be punishable by a term of imprisonment of from 6 months to 6 years and a fine of from 15 to 60 days' wages.</p> <p>A person found guilty of any of the offences covered by this chapter shall be required to defray the cost of legal advice, medical and funeral expenses, and rehabilitation or any other expenses incurred by the victim or the victim's family as a result of the offence.</p> <p>He shall also be required to make redress and compensate the victim or the victim's dependents for the injury suffered in the following cases: loss of life; impairment of health; loss of freedom; loss of earnings; incapacity to work; loss of or damage to property; impairment of reputation.</p> <p>In determining the relevant amounts, the court shall take account of the extent of the injury caused.</p>
Baja California Sur Criminal Code (reform of 31 March 2008)	<p>Art. 149: The offence of torture is committed by any state or municipal public servant who, in the exercise of his functions, in person or through a third party, subjects another person to severe pain or suffering, coerces him physically or morally, employing terrible threats or insinuations or psychological experiments, for the purpose of obtaining information or a confession or punishing him for an act he has committed or is suspected of having committed.</p> <p>Art. 150: A person found guilty of the offence of torture shall be punishable by two to ten years' imprisonment, irrespective of the penalty incurred if another offence were to result. In such cases, the offender cannot plead obedience to higher authority, and the confession thus obtained shall not be admissible as evidence.</p> <p>Concealment of the offence of torture shall incur the same penalty as that prescribed for the offence itself.</p>
Campeche State Law to Prevent and Punish Torture	<p>Art. 3: The offence of torture is committed by any public servant who, acting in an official capacity, subjects another person to severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third</p>

<i>Legal instrument</i>	<i>Provision</i>
	<p>person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or coercing the person to act or refrain from acting in a particular manner.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture.</p> <p>Art. 4: Anyone committing the offence of torture shall be liable to 3 to 12 years' imprisonment, 200 to 500 days' fine and disqualification from holding any public office, post or assignment for up to twice the term of imprisonment imposed.</p> <p>For the purposes of determining the number of days' fine, the provisions of article 26 of the State Criminal Code shall apply.</p>
Chiapas State Law to Prevent and Punish Torture	<p>Art. 3: The offence of torture is committed by any public servant who, acting in an official capacity, subjects a person to severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or coercing the person to act or refrain from acting in a particular manner.</p> <p>Art. 4: Anyone committing the offence of torture shall be liable to 1 to 12 years' imprisonment, a fine of 100 to 500 times the daily wage and disqualification from any public office, post or assignment for up to twice the term of imprisonment imposed.</p>
Chihuahua Criminal Code (reform of 15 May 2002)	<p>Art. 135: The offence of torture is committed by any public servant who, in the exercise of his duties, in person or through a third party, wrongfully subjects another person to severe pain or suffering, coerces him physically or morally for the purpose of obtaining from him or a third person information or a confession or punishing him for an act he has committed or is suspected of having committed.</p> <p>Penalties or sufferings resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture.</p> <p>Anyone committing the offence of torture shall be liable to 2 to 10 years' imprisonment, a fine of 30 to 200 times his wage, disqualification from any public office, post or assignment for 2 to 8 years, and dismissal.</p>

<i>Legal instrument</i>	<i>Provision</i>
Coahuila State Law to Prevent and Punish Torture	<p>Art. 3: The offence of torture is committed by any public servant who, acting in an official capacity, subjects a person to severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession or punishing him for an act he has committed or is suspected of having committed.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture.</p> <p>Art. 4: Anyone committing the offence of torture shall be liable to 3 to 12 years' imprisonment, a fine of 200 to 500 times the daily wage and disqualification from holding any public office, post or assignment for up to twice the term of imprisonment imposed.</p> <p>For the purposes of determining the number of days' fine, the provisions of article 65 of the Coahuila State Criminal Code shall apply.</p>
Colima State Law to Prevent and Punish Torture	<p>Art. 3: The offence of torture is committed by any public servant who, by virtue of or in the course of his official duties, subjects a person to pain, suffering or damage to his physical or mental integrity, or both, for the purpose of obtaining from him or a third person information or a confession or coercing the person to perform or to refrain from performing a particular act.</p> <p>Distress or penalties that are intrinsic or incidental to, or stemming from, a legitimate act of authority shall not be considered torture.</p> <p>Art. 4: Anyone committing the offence of torture shall be liable to 1 to 10 years' imprisonment, a fine of 200 to 500 times the daily wage and disqualification from holding any public office, post or assignment for up to twice the term of imprisonment imposed, independently of the punishments imposed as a result of other offences. In determining the number of days' fine, the provisions of article 30 of the State Criminal Code shall apply.</p>
Durango Criminal Code (1 April 2004)	<p>Art. 197: A public servant who, in the course of or by virtue of his official duties, subjects a person to physical or mental pain or suffering with the aim of (i) obtaining from him or from a third party information or a confession, (ii) punishing him for an act he has committed or is suspected of having committed or (iii) coercing him to act or refrain from acting in a particular manner, shall be liable to 2 to 6 years' imprisonment and a fine of 200 to 500 times the daily wage.</p> <p>The same punishments shall apply to a public servant who, in the course of or by virtue of his official duties, incites or</p>

<i>Legal instrument</i>	<i>Provision</i>
	<p>authorizes another to commit torture or does not prevent him from doing so; and likewise to an individual who, incited or authorized by a public servant, commits torture.</p> <p>If another offence results in addition to torture, the rules applicable to a combination of offences shall apply.</p> <p>Art. 198: The application to a person of methods intended to destroy the victim's personality or reduce his physical or mental ability, even when these methods do not involve physical pain or mental distress, shall also be understood as torture and shall be subject to the punishments prescribed in the previous article</p> <p>Art. 203: No confession or information obtained under torture can be cited as evidence.</p>
Federal District State Law to Prevent and Punish Torture <sup>1</sup>	<p>The offence of torture is committed by any public servant who, acting in an official capacity, subjects a person to severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he has committed or is suspected of having committed, or coercing him to act or refrain from acting in a particular manner.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture.</p>
Guanajuato Criminal Code (2 November 2001)	<p>Art. 264: A public servant who in the course of his duties, in person or through a third party, intentionally commits violence against a person, whether to obtain information or as an illegal form of enquiry, shall be liable to two to ten years' imprisonment, a fine of one hundred to two hundred times the daily wage, loss of employment or post and permanent disqualification from exercising that or any similar function.</p>
Guerrero Act establishing the Human Rights Commission and the Forced Disappearances Procedure	<p>Art. 53: The offence of torture is committed by any state public servant who, in the exercise of his functions, in person or through a third party, intentionally subjects another person to pain or suffering, coerces him physically or mentally for the purpose of obtaining from him or a third person information or a confession or punishing him for an act he has committed or is suspected of having committed or which it is sought to attribute to him.</p> <p>Distress or penalties resulting solely from legal punishment, or that are intrinsic or incidental to it, shall not be considered torture.</p>

<sup>1</sup> Article 1 states that the law is designed to prevent and punish torture and shall apply to the whole of the national territory in respect of federal law and to the Federal District in respect of ordinary law.

<i>Legal instrument</i>	<i>Provision</i>
Hidalgo Criminal Code (31 December 2007)	<p>Art. 322 bis: A public servant who in the exercise of his duties subjects a person to serious pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third party information or a confession, coercing him to perform or refrain from performing a particular act or punishing him for an act he has supposedly committed or is suspected of having committed shall be liable to three to twelve years' imprisonment, a fine 200 to 500 days' wages, loss of post and disqualification from holding any public post, employment or assignment for up to the maximum stipulated legal period.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority. shall not be considered torture.</p> <p>The same legal punishment shall be applicable to a person who, lacking the status of public servant yet incited or authorized by him, commits acts of torture.</p> <p>A public servant who, in the course of his duties, learns of an act of torture is required to report it immediately; a failure to do so shall be punishable by up to 3 years' imprisonment, 30 to 300 days' fine and suspension from his post for up to the maximum period of legal punishment.</p> <p>The order of a superior or any other authority cannot be invoked as justification for committing the type of offences described in the first paragraph of this article.</p> <p>A person found guilty of any of the offences covered by this article shall be required to defray the cost of legal advice, medical and funeral expenses, and rehabilitation or any other expenses incurred by the victim or the victim's family as a result of the offence. He shall also be required to make redress and compensate the victim or the victim's dependents for the injury suffered in the following cases: loss of life, impairment of health, loss of freedom, loss of earnings, unfitness for work, loss of or damage to property and impairment of reputation.</p>
Jalisco State Law to Prevent and Punish Torture	<p>Art. 2: The offence of torture is committed by a public servant who, acting in that capacity, subjects a person to physical or mental pain or suffering for the purpose of investigating criminal acts or offences or obtaining information or a confession from the victim or a third party, as a means of intimidation and as punishment for an action that supposedly occurred or is suspected of having occurred, or who coerces a person into acting or refraining from acting in a particular manner or for any other purpose.</p> <p>Physical or mental pain and suffering resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be</p>

<i>Legal instrument</i>	<i>Provision</i>
	<p>included in the concept of torture, provided they do not come within the actions prohibited by article 22 of the Mexican Constitution.</p> <p>Art. 3: A person deemed to have committed the offence of torture shall be liable to a punishment of one to nine years' imprisonment, a fine of two hundred to five hundred times the daily wage and disqualification from holding any public post, employment or assignment for up to twice the term of prison imposed. In the case of re-offending, the disqualification shall be permanent. In determining the number of days' fine, the provisions of articles 26 and 27 of the State Criminal Code shall apply.</p>
<p>Michoacán</p> <p>State Law to Prevent and Punish Torture</p>	<p>Art. 1: The offence of torture is committed by any state or municipal public servant who, in the performance or by virtue of his duties, in person or with his encouragement, consent or acquiescence, intentionally subjects a person to serious pain or suffering or coerces him physically, mentally or morally for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he has supposedly committed or is suspected of having committed or coercing him into acting or refraining from acting in a particular manner.</p> <p>The same penalties shall be applicable to a third party who, for whatever purpose, incited or authorized explicitly or implicitly by a public servant, subjects a prisoner to serious pain or suffering, whether physical or mental.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture.</p> <p>Solitary confinement of prisoners designed to achieve the ends referred to in the foregoing paragraphs shall be considered torture.</p> <p>Art. 2: A person committing the crime of torture is liable to three to ten years' imprisonment, a fine of two hundred to five hundred times the daily wage, loss of post and disqualification from holding any public post, employment or assignment for twice the term of imprisonment imposed.</p> <p>If another offence results in addition to torture, the rules applicable to a combination of offences shall apply.</p>
<p>Morelos</p> <p>State Law to Prevent and Punish Torture</p>	<p>Art. 3: The offence of torture is committed by a public servant who, in the performance his duties, intentionally subjects a person to serious pain and suffering, whether physical or mental, with the purpose of obtaining information or a confession from him or a third party or of punishing him for an act he has supposedly committed or is suspected of having committed.</p>

<i>Legal instrument</i>	<i>Provision</i>
Nayarit State Law to Prevent and Punish Torture	Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority shall not be considered torture, provided they do not involve the acts or methods referred to in this article.
	Art.4: A person deemed to have committed the offence of torture shall be liable to a punishment of three to twelve years' imprisonment, a fine of two hundred to five hundred times the minimum per capita daily wage and disqualification from holding any public post, employment or assignment for up to twice the term of imprisonment imposed.
	Art. 3: The offence of torture is committed by a state or municipal public servant who, by virtue of his office, subjects a person to pain and suffering, whether physical or mental, or deprives him of food and water, for the purpose of obtaining information or a confession from him or a third party, punishing him for an act he has supposedly committed or is suspected of having committed or coercing him physically, mentally or morally to act or to refrain from acting in a particular manner in order to derive pleasure for himself or another person, or for any other reason based on some form of discrimination.
	Art. 214: The offence of torture is deemed to have been committed by any state or municipal public servant who, in person or through his subordinates while in the performance of his duties, intentionally causes a person pain or suffering, coerces someone physically or morally to obtain information or some form of confession from him or to induce him to adopt a particular form of behaviour, or punishes him for an act he has supposedly committed or is suspected of having committed.
	The offence of torture is not deemed to have been committed when circumstantial pain or suffering is caused as a result of measures to seize or hold persons or objects.
	Penalties that are the sole consequence of legitimate punishment, whether intrinsic or incidental to it, shall likewise not be considered torture.
	The following rules are applicable to the offence of torture:
	I. A person deemed to have committed the offence of torture shall be liable to two to ten years' imprisonment, a fine of two hundred to five hundred times the minimum general daily wage, loss of post and disqualification from holding any public post, employment or assignment.
	II. If another offence results in addition to torture, the rules applicable to a combination of offences shall apply:
	III. The existence of exceptional circumstances, such as instability and external politics, urgent investigations or

<i>Legal instrument</i>	<i>Provision</i>
	<p>any other public emergency, shall not be invoked as a justification for torture;</p> <p>IV. Any detainee or accused person shall, immediately upon request, be examined by a forensic medical expert or a doctor of his choice. The examining physician is required immediately to issue the appropriate certificate;</p> <p>V. Any statement found to have been obtained under torture cannot be cited as evidence, and procedural law shall require that the defence lawyer be present to validate the statement;</p> <p>VI. Any authority having knowledge of an act of torture is obliged to report it immediately.</p>
Nuevo León Criminal Code	<p>Art. 321 bis: The offence of torture is committed by a public servant who, in person or through a third party and by virtue of his office, subjects a person to serious pain or suffering, whether physical or mental, with the purpose of obtaining from him or another person information or a confession, punishing him for an action he has supposedly committed or is suspected of having committed or coercing him into acting or refraining from acting in a way chosen by the victim or another person.</p> <p>Penalties or suffering resulting solely from legal punishment, or deriving from a legitimate act of authority, shall not be considered torture.</p>
Oaxaca State Law to Prevent and Punish Torture	<p>Art. 1: The offence of torture is committed by a state or municipal public servant who, in the performance his duties, subjects a person to serious pain and suffering, whether physical or mental, with the purpose of obtaining information or a confession from him or another person, punishing him for an act he has supposedly committed or is suspected of having committed or coercing him into acting or refraining from acting in a particular manner in order to derive pleasure for himself or another person, or for any other reason based on some form of discrimination.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture</p> <p>Art. 2: A person deemed to have committed the offence of torture shall be liable to two to ten years' imprisonment, a fine of two hundred to five hundred times the current minimum general daily wage and disqualification from holding any public post, employment or assignment for up to twice the term of imprisonment imposed.</p>
Puebla Social Defence Code	<p>Art. 449: The offence of torture is committed by a public servant who, in the performance his duties, subjects a person to intimidation, isolation and serious pain or</p>

<i>Legal instrument</i>	<i>Provision</i>
	<p>suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he has supposedly committed or is suspected of having committed or coercing him to act or to refrain from acting in a particular manner.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture</p>
<p>Querétaro Criminal Code</p>	<p>Art. 309: The offence of torture is committed by a public servant who, in the performance his duties, subjects someone to serious pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he has supposedly committed or is suspected of having committed, coercing him to act or refrain from acting in a particular manner, or as a means of intimidating the victim or a third party.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture</p>
<p>Quintana Roo State Law to Prevent and Punish Torture</p>	<p>Art. 3: The offence of torture is committed by a public servant who, in the performance his duties, subjects someone to serious pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he has supposedly committed or is suspected of having committed, coercing him to act or refrain from acting in a particular manner,</p> <p>Art. 4: : A person deemed to have committed the offence of torture shall be liable to three to twelve years' imprisonment, a fine of two hundred to five hundred times the daily wage and disqualification from holding any public post, employment or assignment for up to twice the term of imprisonment imposed. In determining the number of days' fine, the provisions of articles 26 and 27 of the Criminal Code of the State of Quintana Roo shall apply.</p>
<p>San Luis Potosí Criminal Code</p>	<p>Art. 282: The offence of torture is committed by a public servant who, in the performance his duties, in person or through a third party, subjects someone to serious pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third party information or a confession, coercing him to perform a particular act, or punishing him for an act he has committed or is suspected of having committed.</p> <p>This offence is punishable by two to ten years' imprisonment, a fine equivalent to forty to two hundred</p>

<i>Legal instrument</i>	<i>Provision</i>
	times the daily minimum wage and disqualification from holding any public office, employment or assignment for twice the term of imprisonment imposed.
Sinaloa Criminal Code	<p>Art. 328: The offence of torture is committed by a public servant who in the performance his duties, in person or through a third party, intentionally subjects a person to serious pain or suffering, whether physical or mental, or coerces him physically or morally for the purpose of obtaining from him or a third party information or a confession, inducing him to perform a particular action, or punishing him for an act he has supposedly committed or is suspected of having committed,</p> <p>Penalties or suffering resulting solely from legal punishment shall not be considered torture.</p>
Sonora Criminal Code	<p>Art. 181: The offence of torture is committed by a public servant who in the performance his duties, directly or through a third party, subjects someone to serious pain or suffering, whether physical or mental, with the purpose of obtaining from him or a third party a confession, information or particular action, or punishing him for an attested or supposed act.</p> <p>The person responsible for the offence of torture shall be liable to two to ten years' imprisonment, a fine of twenty to three hundred times the daily wage, dismissal and, where appropriate, disqualification from holding any public employment, post or commission for a period of two to ten years, independently of the penalty incurred if another offence were to result. In the case of re-offending, the disqualification shall be permanent.</p> <p>Any person participating in person or by order or authorization of a public servant in the crime of torture shall be liable to the same punishment as that specified in the previous paragraph.</p> <p>The exemption of responsibly provided for in section VIII of article 13 of this Code cannot be invoked in the case of the offence of torture.</p>
State of Mexico State Law to Prevent and Punish Torture	<p>Art. 2: The offence of torture is committed by a public servant who, acting in an official capacity and with the aim of obtaining from a suspect or third person a confession, information or the omission of a fact or any other conduct harmful to the victim or a third party, acts any of the following ways: subjects the suspect to blows, mutilations, burns, pain and physical or mental suffering, or deprives him of food and water. The public servant who incites, compels, authorizes, orders and consents to these acts is equally responsible as those involved in committing the offence. Penalties that are the result of legal punishments</p>

<i>Legal instrument</i>	<i>Provision</i>
	<p>or stem from a legitimate act of authority shall not be considered torture.</p> <p>Art. 3: A person deemed to have committed the offence of torture shall be liable to a punishment of three to twelve years' imprisonment, a fine of two hundred to five hundred times the daily wage wages, dismissal from his post and disqualification from holding any other position of the same nature for a period of up to twenty years, without prejudice to the penalties appropriate to any combined offences.</p>
<p>Tabasco Criminal Code</p>	<p>Art. 261: The offence of torture is committed by a state or municipal public servant who in person or through a third party intentionally subjects a person to serious pain or suffering or coerces him physically or morally:</p> <p>I. With the aim of obtaining information or a confession from him or from a third party;</p> <p>II. Inducing him to behave in a particular manner; or</p> <p>III. Punishing him for an act he has supposedly committed or is suspected of having committed.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, shall not be considered torture.</p>
<p>Tamaulipas Criminal Code</p>	<p>Art. 213: A public servant who orders, consents to or intentionally subjects a person to blows, lashes, burns, mutilations and any other type of physical or moral violence with the purpose of obtaining from him or a third party information, a confession of guilt or any other form of conduct that harms the victim and benefits the public servant or a third party shall be liable to three to twelve years' imprisonment, a fine of two hundred to four hundred times the daily wage, loss of office and disqualification for two to fourteen years from holding any other public employment, office or commission.</p> <p>The same punishments prescribed in this article shall be applicable to the public servant who, in the performance of his duties, incites, compels, authorizes or makes use of a third party to subject another person to serious pain or suffering, whether physical or mental, or who fails to prevent such pain and suffering from being inflicted on someone in his custody.</p> <p>The same penalties shall be applicable to a third party who, with whatever purpose, incited or authorized explicitly or implicitly by a public servant, subjects a detainee to serious pain or suffering, whether physical or mental.</p>
<p>Tlaxcala State Law to Prevent and Punish Torture</p>	<p>Art. 2: For the purposes of this law, the offence of torture is committed by a public servant who, by action or omission, subjects a person, directly or through a third party, to:</p>

<i>Legal instrument</i>	<i>Provision</i>
	<p>I. Serious pain and suffering, whether physical or mental, with the purpose of obtaining from him or a third party information or a confession, or punishing him for an act he has supposedly committed or is suspected of having committed;</p> <p>II. Intimidation or coercion so that he shall act, or refrain from acting, in a particular manner;</p> <p>III. Eclipse of his personality or diminution of his physical or mental abilities, even where the methods employed do not cause physical pain or mental distress;</p> <p>IV. Other equally serious damage caused for whatever reason based on some kind of discrimination.</p> <p>The same penalties shall be applicable to a third party who, with whatever purpose, incited or authorized explicitly or implicitly by a public servant, commits any of the categories of offence mentioned above.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority shall not be considered torture.</p> <p>A person responsible for the offence of torture shall be liable to four to fourteen years' imprisonment, a fine of fifty to five hundred times the local minimum daily wage and disqualification from holding any public employment, post or commission for up to twice the term of imprisonment imposed, independently of the penalties incurred if other offences should result.</p>
Veracruz State Law to Prevent and Punish Torture	<p>Art. 2: The offence of torture is committed by a person who wrongfully subjects another to serious pain and suffering, whether physical or mental, with the purpose of obtaining information or a confession from him or a third party, punishing him for an act he has supposedly committed or is suspected of having committed, or coercing him into acting or refraining from acting in a particular manner.</p> <p>Art. 5: A person committing the offence of torture shall be liable to two to twelve years' imprisonment and a fine equivalent to two hundred to five hundred times the minimum daily wage applicable in the economic area at the time the offence was committed.</p>
Yucatán State Law to Prevent and Punish Torture	<p>Art. 4: The offence of torture is committed by a public servant who, acting in that capacity or citing their position, in person or through a third party deliberately inflicts injuries on an accused, indicted, convicted or any other person for the purposes of an investigation or legal procedure concerning criminal acts or offences in order to extract information or a confession from the person</p>

<i>Legal instrument</i>	<i>Provision</i>
	<p>subjected to torture or from a third party, as an intimidatory measure or as punishment for an action or omission in which the person has been, or is suspected of having been, involved, or coerces the person into acting or refraining from acting in a particular manner.</p> <p>Physical or mental pain or suffering resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture, provided they do not come within the offences prohibited under article 22 of the Mexican Constitution.</p> <p>Torture shall be considered a serious offence under article 13 of the Criminal Code of the State of Yucatán, since it has a major impact on fundamental social values.</p> <p>Art. 5: The person responsible for the offence of torture shall be liable to three to twelve years' imprisonment, a fine of two hundred to five hundred times the daily wage and disqualification from holding any public office or commission, independently of the penalties incurred if other offences should result.</p>
Zacatecas Criminal Code	<p>Art. 371: The public servant who in the performance of his duties subjects a person to severe physical or mental pain or suffering for the purpose of obtaining information or a confession from him or a third party or punishes him for an act he has supposedly committed or is suspected of having committed or coerces him or a third party into acting or refraining from acting in a particular manner shall be subject to two to eight years' imprisonment, a fine of one hundred to two hundred quotas and disqualification from holding any public office or appointment for up to twice the term of imprisonment imposed.</p> <p>Distress or penalties resulting solely from legal punishment, whether intrinsic or incidental to it, or stemming from a legitimate act of authority, shall not be considered torture.</p>

18. In 2005, the National Human Rights Commission issued General Recommendation No. 10, addressed to Secretaries of State, the Attorney General of the Republic, the Military Prosecutor-General, Attorneys General of the Federal Entities, Heads of Autonomous Agencies, Governors, Head of the Federal District Government, and Secretaries, Under-Secretaries and Directors-General of Public Security of the Federation and the federal entities, with a view to the adoption of the relevant measures to standardize the criminal offence of torture and, in accordance with the tendency to achieve the best possible protection of human rights, the incorporation of elements from the definition contained in the Inter-American Convention to Prevent and Punish Torture so as to avoid impunity and ensure the effective application of the law.

19. On 18 June 2008, the Official Journal of the Federation published the Decree reforming and supplementing various provisions of the Political Constitution of the United Mexican States (hereinafter 'the Constitution'), providing for an oral, accusatory criminal system, public and adversarial in nature, with unified submission of evidence, and establishing various rights for the victims or aggrieved parties of crimes as well as for the probable culprits.

20. The constitutional reform provides that the Federation, States and Federal District, within their respective areas of competence, shall issue and implement the necessary legal modifications or instruments to incorporate the adversarial accusatory system in their legal frameworks within a maximum of 8 years following its publication so as to give full effect to individual guarantees and human rights.

21. The Ministry of the Interior is undertaking an analysis of the criminal justice system, including issues relating to torture and other cruel, inhuman or degrading treatment or punishment, and an international comparative study highlighting trends in criminal procedure legislation in Mexico and other parts of the world.

22. The Ministry of the Interior is also promoting projects aimed at harmonizing legislation, from both the procedural and substantive standpoints, in order to bring standard definitions and criminal penalties within the Federation and the federal entities into line with international and regional standards.

23. On 2 January 2009, the Official Journal of the Federation published the Decree issuing the General Law on the National Public Security System, which includes provisions of a general nature for public security institutions, such as the requirement to:

(a) Abstain at all times from inflicting or tolerating acts of torture, even when ordered by superiors or when special circumstances are argued, such as a threat to public security, urgent investigations or any other reason; any knowledge of torture must be brought to the immediate attention of the competent authorities;

(b) Treat all persons with respect, abstaining from any arbitrary act and from unduly restricting peaceful actions and demonstrations by the public in exercise of its constitutional rights;

(c) Abstain from ordering or carrying out the detention of any person without complying with the provisions of the relevant constitutional and legal instruments;

(d) Safeguard the life and physical integrity of detainees.

24. On 23 January 2009, the Official Journal of the Federation published the Decree amending, supplementing and repealing certain provisions of the Federal Code of Criminal Procedure, the Federal Act on Combating Organized Crime, the Social Rehabilitation of Convicts (Minimum Standards) Act, the Federal Criminal Code, the Law on the Federal Preventive Police, the Organic Law of the Office of the Attorney General of the Republic,, the Federal Civil Servants (Administrative Responsibilities) Act and the Federal Law on Contentious Administrative Proceedings, including provisions aimed at eradicating conduct conducive to torture, through:

(a) Immediate registration of detentions by the authorities involved in the arrest;

(b) Requiring the Office of the Public Prosecutor to ensure that the fundamental rights of the detainee have not been violated, and to provide for penal and administrative sanctions in the case of a failure to respect those rights;

25. On 29 May 2009, the Official Journal of the Federation published the Decree promulgating the Organic Law of the Office of the Attorney General, requiring it to:

(a) Prevent, by the means at its disposal and within its sphere of competence, the tolerance or acceptance of acts of physical or psychological torture or other cruel, inhuman or degrading treatment or punishment. Public servants who are aware of such conduct should report it immediately to the competent authority;

(b) Treat all persons with respect, abstaining from any arbitrary act and from unduly restricting peaceful actions and demonstrations by the public in exercise of its constitutional rights.

26. On 1 June 2009, the Official Journal of the Federation published the Decree promulgating the Law on the Federal Preventive Police, providing that members of the force should:

(a) Abstain at all times from inflicting or tolerating acts of torture, even when ordered by superiors or when special circumstances are argued, such as a threat to public security, urgent investigations or any other matter; any awareness of torture must be brought to the immediate attention of the competent authorities;

(b) Treat all persons with respect, abstaining from any arbitrary act and from unduly restricting peaceful actions and demonstrations by the public in exercise of its constitutional rights;

(c) Safeguard the life and physical integrity of detainees, and abstain from ordering or carrying out the detention of any person without complying with the provisions of the relevant constitutional and legal instruments.

## **2. Response to paragraph 2 of the list of issues**

27. The draft model law to prevent and punish torture, developed by the Human Rights Programme of the Ibero-American University, Mexico City (PNDH) and the Center for Human Rights & Humanitarian Law of the American University Washington College of Law (AU-WCL), was submitted on 4 September 2006.

28. The model law was based on a study of Mexican legislation at federal and local level prohibiting torture and other cruel, inhuman or degrading treatment or punishment, with the aim of formulating specific recommendations and identifying the necessary reforms to make Mexico's legislation conform to its international human rights commitments.

29. One objective is to incorporate the highest international standards in the field and comparative experience in the federal states with a view to harmonizing practice within the Mexican State.

30. Currently, this draft is undergoing modification by the Ibero-American University, no date having been set for its consideration.

## **3. Response to paragraph 3 of the list of issues**

31. On 18 October 2010, the federal executive issued a preliminary draft Decree amending, repealing and supplementing various provisions of the Code of Military Justice, the Federal Judiciary Act, the Federal Criminal Code, the Code of Criminal Procedure and the Social Rehabilitation of Convicts (Minimum Standards) Act.

32. The draft submitted to the Congress proposed, among other things, the reform of article 57 of the Code of Military Justice so that the crimes of forced disappearance of persons, violation and torture would be placed under the jurisdiction of the federal courts. The initiative also included updating the Federal Criminal Code with regard to the crime of forced disappearance, bringing it into line with the provisions of the Inter-American Convention on Forced Disappearance of Persons.

33. This proposal reflects the need to bring about a transformation in the present system of military justice so as to strengthen the observance, promotion and defence of human rights, in accordance with objective 12 of the National Development Plan for 2001-2012 and strategy 2.4 of the National Human Rights Programme, which provides for reinforcement of the human rights perspective in crime prevention, law enforcement and sentence execution.

34. The main reforms proposed under the initiative include:

(a) Code of Military Justice:

(i) The crimes of forced disappearance of persons, violation and torture referred to in articles 21-A, 265 and 266 of the Federal Criminal Code and articles 3 and 5 of the Federal Act to Prevent and Punish Torture, when committed against civilians, will come under the jurisdiction of the federal courts (art. 57).

(ii) The administration of military justice is to be extended to judges through the creation of sentence-enforcement judges, for which no legal provision currently exists and whose functions will include: ensuring the proper organization of the military penitentiary system, offering proper training to staff within the system, providing prisoners with education and health facilities, and in general supplying them with the facilities necessary for their social rehabilitation. (Art. 1, 76 bis and 76 ter.)

(iii) The establishment of a Military Investigative Police to replace the Military Judicial Police. It is proposed that it should exercise its functions as an immediate auxiliary of the Public Prosecutor in the investigation of crimes. (Art. 47)

(iv) The Military Prosecution Service will be given greater powers to order the protection of witnesses, victims, judges, magistrates, military prosecutors and members of the police in general. The functions of the Military Judicial Police will include:

- Informing the military prosecution service of facts that may constitute a criminal offence;
- Gathering and verifying information received on the acts that are the subject of complaint;
- Helping victims or injured parties and protecting witnesses in cases of offences against freedom and sexual security;
- Preserving evidence from the crime scene;
- Assembling information by interviewing witnesses;
- Making arrests on the assumptions authorized by the Constitution;
- Providing protection for victims, injured parties, judges, magistrates and agents of the military prosecutor and the police in cases where there is a danger to their life and physical integrity;
- In cases where the investigative police require an order to carry out their functions, this should be sought from the Military Prosecution Service.

(v) It is decided that military personnel tried and sentenced for the crimes referred to will be held in military prisons in order to safeguard their physical integrity and prevent them being persuaded to serve the interests of organized crime (art. 129).

(vi) It is suggested that the term ‘deprivation of liberty’ should replace ‘imprisonment’ (‘pena corporal’), the latter being offensive to human dignity.

(b) Federal Criminal Code:

(i) The initiative proposes amendments to articles 215 A and 215 B, considering it restrictive that the current offence provided by law should regard the public servant acting on his own behalf or through another or others as the sole perpetrator of the crime of forced disappearance. It proposes adding the following:

- An individual may be held responsible for the crime of forced disappearance when he acts on the orders of or with the consent and support of a public servant.
- The time-limit for instituting criminal proceedings is increased to 35 years to avoid the perpetrator escaping prosecution
- No amnesty, pardon, early release provisions or substitute punishment of any kind are applicable

(ii) The punishment shall be from 20 to 50 years’ imprisonment when the person responsible is a public servant and from 10 to 25 years when the crime is committed by an individual acting on the orders of or with the consent and support of a public servant.

- Provision is made for modifying the Federal Judiciary Organization Act (art. 50) and the Federal Criminal Code (art. 3, 5 and 198).
- Access to justice is promoted through proposed reforms that create a mechanism to make the victims or injured parties more confident in bringing the case to the attention of the authorities.

(iii) Sentence-enforcement judges should have as their main powers:

- Deciding on pretrial parole, and parole revocation.
- Ruling on requests for sentence reduction.
- Issuing arrest warrants in the context of sentence enforcement.
- Ruling on complaints by detainees concerning punishments imposed on them.

#### 4. Response to paragraph 4 of the list of issues

35. To date, there are four reform initiatives providing for the non-applicability of statutory limitations to certain serious crimes, including torture. The status of these reforms, together with general information concerning them, is to be found in the following table:

<i>Title</i>	<i>Contents</i>	<i>Chamber of origin</i>	<i>Date</i>	<i>Submitted by</i>	<i>Committees in which it circulates</i>	<i>Legislative status</i>
Draft decree amending and supplementing various provisions of the Federal Criminal Code, the Code of Military Justice, the Health Act and the	Aimed at introducing new elements to punish genocide, create a criminal offence of lèse-humanity, classify new forms of conduct as war crimes, and make the statute of	Chamber of Deputies	04/01/2008	Deputy Omeheira López Reyna (PAN)	1.-Deputies - Justice, for opinion 2.-Deputies - National Defence, for opinion	Pending in commissions of the Chamber of Deputies

<i>Title</i>	<i>Contents</i>	<i>Chamber of origin</i>	<i>Date</i>	<i>Submitted by</i>	<i>Committees in which it circulates</i>	<i>Legislative status</i>
Federal Code of Criminal Procedure	limitations non-applicable to these three crimes, as well as to establish the offence of forced sterilization.				3.-Deputies - National Defence, for opinion	
General law to prevent, punish and combat the crime of kidnapping and to amend, supplement and repeal various provisions of the Federal Criminal Code, the Federal Code of Criminal Procedure and the Federal Organized Crime Act.		Chamber of Deputies	23/02/2010	Deputy Dolores de los Ángeles Názares Jerónimo (PRD)	1.-Deputies - Justice, for opinion 2.-Deputies - Budget and Public Accounts, for opinion	Pending in commissions of the Chamber of Deputies
Amending article 215-B of the Federal Criminal Code	Aimed at determining that the crime of forced disappearance of persons is not subject to the statute of limitations.	Chamber of Deputies	06/04/2010	Deputy María Antonieta Pérez Reyes (PAN)	1.-Deputies - Justice, for assent	Pending in commissions of the Chamber of Deputies
Adding article 115 bis to the Federal Criminal Code	Proposes establishing that the crime of pederasty is not subject to the statute of limitations.	Chamber of Deputies	12/05/2010	Senator Silvano Aureoles Conejo (PRD)	1.-Senate - Justice, for assent 2.-Senate - Legislative studies second reading, for assent	Pending in commissions of the Chamber of Deputies

## 5. Response to paragraph 5 (a) of the list of issues

### Guadalajara (Jalisco)

36. On 16 August 2004, the National Human Rights Commission drafted and published its Special Report on the incidents that took place in Guadalajara that year, in which it concluded that public servants in the municipality of Guadalajara and the State of Jalisco had encouraged direct violation of various national and international legal provisions. This had involved abandoning the basic values and principles on which human dignity, physical integrity, legality and legal safeguards depend and on which persons exercising their right to assemble and demonstrate should be able to rely. Legal and logical analysis of the evidence adduced by the National Commission, and of the reports that had been obtained, substantiated claims of human rights violations.

37. In that connection, the Commission had made five proposals to the Constitutional Governor of the State of Jalisco and four proposals to the Mayor of Guadalajara.

38. On 25 August 2004, the President of the National Commission had appeared before a multilateral commission of members of the Congress, to which he had submitted the report in question together with supporting documents. The President of the Commission had welcomed the proposal of the legislators to set up a commission of inquiry to investigate the State Government's refusal to comply with the proposals made in the Commission's Special Report.

#### **San Salvador Atenco (State of Mexico)**

39. The events that occurred on 3 and 5 May 2006 on the outskirts of Texcoco market in the State of Mexico were examined by the following authorities: the Commission, the Supreme Court of Justice, the Attorney General of the Republic and the Attorney General's Mexico City Office.

#### **National Human Rights Commission**

40. On the basis of article 103, part B, of the Mexican Constitution and paragraphs 1, 3, 4 and 6, sections II and VII and sections I and III, of the Law on the National Human Rights, together with paragraph 89 of the Commission's rules of procedure, complaint No. 2006/2109/2/Q was lodged ex officio, calling for an investigation of presumed violations of human rights following events in the municipalities of Texcoco and San Salvador Atenco.

41. The Commission sent its investigators and medical experts to the place where the events had occurred and to the 'Santiaguito' Remand and Social Rehabilitation Centre, to which a number of persons involved in the occurrences had been referred, in order to carry out evaluations, including application of the Istanbul Protocol.

42. On 22 May 2006, the Commission released a preliminary report on the actions taken in the context of the violent events that had occurred in the municipalities of Texcoco and San Salvador Atenco, in which it documented possible human rights violations.

43. On 16 October 2006, the Commission issued recommendation 38/2006, addressed to the Constitutional Governor of the State of Mexico and various federal authorities, on the findings of the enquiry by this independent organization into the events that had taken place on 3 and 4 May 2006 in the municipalities of Texcoco and San Salvador Atenco.

1. Please instruct the official concerned to place the matter before the civil service internal audit unit within the National Migration Institute for it to initiate and define, in accordance with the law, an administrative procedure for investigating public servants in the Institute's regional branch in the State of Mexico and in its Migrant Control and Verification Department.

2. Please give instructions, on the basis of the observations contained in this recommendation and the findings of the investigation of responsibilities referred to in the previous paragraphs, for steps to be taken to restore to the foreigners their violated rights and, as appropriate, for the expulsion procedure to be reviewed, in accordance with the provisions of article 73 of the National Human Rights Commission Act.

44. The Commission concluded from statements by women involved in the events that some police elements had apparently been guilty of conduct amounting to attacks on sexual freedom, particularly during the women's detention and transfer to the Santiaguito Remand and Social Rehabilitation Centre

45. Since such behaviour could involve offences such as sexual abuse and rape, the Commission in its recommendation brought it to the attention of the Mexico City Attorney General so that he could decide on the follow-up to be taken in each particular case.

46. The Commission's recommendation called for an investigation of all that had taken place, including the incidents referred to in the petition. The recommendation also contained a series of specific points for investigation addressed to the authorities of the State of Mexico, who would appear to bear responsibility for the events in question,

47. The Commission's recommendation had been accepted by the Government of the State of Mexico, which had been very active in addressing all the points raised.

48. In its activity report for 2007, the Commission considered that the recommendation had been fully met by the Government of the State of Mexico.

#### **Office of the Attorney General of the Republic**

49. The Office of the Attorney General of the Republic, through its specialized units, duly carried out a special investigation into the sexual assaults referred to by various women detainees in the context of the acts of violence that took place on 3 and 4 May 2006 in various cities of the State of Mexico.

50. The Prosecutor's Office initiated ex officio preliminary investigation (AP/FEVIM/03/05-2006) into the person or persons responsible for the acts in question. On 17 May 2006, it received a formal complaint concerning acts of violence committed against women from San Salvador Atenco in the State of Mexico, namely Mariana Selvas Gómez, Yolanda Muñoz Diosdada, Gabriela Téllez Venegas, Yolanda Domínguez Alvarado, Bárbara Italia Méndez Moreno, Claudia Hernández García and Suhelen Gabriela Cuevas Jaramillo. The investigation by the Prosecutor's Office involved some 350 procedures.

#### **Office of the Attorney General of the State of Mexico**

51. On 15 July 2009, the Office of the Attorney General of the Republic decided it was not competent to pursue the investigation, under the terms of article 50 of the Federal Judicial Authority Organization Act, and it therefore transferred all the records of the preliminary investigation (PGR/FEVIM/03/05-2006) to the Office of the Attorney General of the State of Mexico.

52. In parallel with the inquiries at federal level, the Office of the Attorney General of the State of Mexico initiated ex officio preliminary investigation TOL/DR/I/466/2006 into the probable offence of abuse of authority, among other things, possibly attributable to state agents. This enquiry is ongoing.

### **6. Response to paragraph 5 (b) of the list of issues**

#### **Guadalajara (Jalisco)**

53. On 17 April 2007, a final sentence was passed against **Dagoberto Rivera Servín and others** on a charge of riotous behaviour and infliction of injury. The case (No. 98/2005) was heard before the Fourteenth Criminal Court of the State's first judicial district. An appeal was lodged against the sentence and on 3 October 2008 the Sixth Chamber issued its ruling in the case against Dagoberto Rivera Servín and others, modifying the sentence and finding Dagoberto Rivera Servín guilty of riotous behaviour and infliction of injury and of crimes against the representatives of authority, sentencing him to one year and eight months' imprisonment and a fine of \$875 pesos, subject to a conditional stay of sentence.

54. The case involving **Aarón Alejandro García García** (No. 380/2004-A) was heard before the Tenth Criminal Court in the first judicial district of Guadalajara. In the final

judgement, the accused was sentenced to six months, twenty-three days and eight hours of imprisonment for rioting against the representatives of authority and infliction of injury, subject to a conditional stay of sentence. The sentence became final on 21 December 2006.

55. No report has to date been received concerning a criminal action against any public servant on a charge of torture.

### **San Salvador Atenco**

56. Twenty-two members of the state and municipal police forces were placed at the disposal of the judicial authorities, 16 having been freed under the relevant constitutional remedies.

#### *Trial of Doroteo Blas Marcelo in case number 79/06 before the Criminal Court of First Instance in Tenango del Valle, State of Mexico*

57. On 28 July 2006, in the context of preliminary investigation TOL/DR/I/466/2006, an official of the Mexico State Public Prosecutor's Office instituted criminal proceedings against Doroteo Blas Marcelo (who at the time of the events in question was a member of the state police force) for her alleged criminal responsibility for libidinous acts committed against Ana María Velasco Rodríguez.

58. On 14 August 2006, arrest order No. 1293/2006 was issued against Doroteo Blas Marcelo for her alleged criminal responsibility for libidinous acts committed against Ana María Velasco Rodríguez.

59. On 28 August 2006, the presiding judge ordered the imprisonment of Doroteo Blas Marcelo for her alleged criminal responsibility for libidinous acts.

60. On 5 September 2006, social representatives submitted evidence, accounts of constitutional confrontations and expert criminological and psychological reports concerning Doroteo Blas Marcelo, as well as psychological expertise attesting to the moral harm caused to the injured party, Ana María Velasco Rodríguez.

61. On 26 June 2007, the representative of the State Prosecutor submitted a certified copy of recommendation number 38/2006, issued in connection with complaint 2006-2/09/Q by the Office of the Second Inspector-General of the National Human Rights Commission.

62. On 25 October 2007, the proceedings were declared closed and on 2 May 2008 Doroteo Blas Marcelo was found guilty of criminal responsibility for libidinous acts committed against Ana María Velasco Rodríguez, for which she was sentenced to 3 years, two months and seven days imprisonment and a fine of 1,877.80 pesos.

63. On 9 May 2008, the social representatives lodged an appeal against the sentence on the grounds that it was too lenient.

64. On 15 May 2008, Doroteo Blas Marcelo in turn lodged an appeal against the conviction of 2 May 2008 pronounced by the presiding judge. The Second Unified Criminal Chamber of the State of Mexico High Court confirmed the acquittal of the appellant.

65. In February 2009, the First Criminal Court of First Instance in Tenango del Valle, State of Mexico, ordered the acquittal of Doroteo Blas Marcelo under a writ of *amparo* for the crime of libidinous acts committed against Ana María Velasco Rodríguez, in case number 79/2006.

*Trial of state and municipal public servants in case No. 59/06 heard before the First Criminal Court of First Instance in Tenango del Valle, State of Mexico.*

66. On 16 June 2006, the representative of the Office of the Mexico State Public Prosecutor filed preliminary investigation application TOL/DR/I/466/2006, instituting criminal proceedings against Salvador Pérez Aguirre, Jorge Hernández Ramírez, Ramiro González Lara, Víctor Hugo Bian Arias, Alejandrina Arriaga Sánchez, Armando Reyes Dávila, Juan Carlos Pelcastre Pérez, Sonia Peralta Almazán, Emmanuel Cervantes Cruz, Israel Gil Flores, Armando Ruíz Sánchez, Javier González Cuellar, Erasmo Barrera Hernández, Rodolfo Juárez López, Raymundo Rosas Molina, Jorge Domínguez Gómez and José Martínez Galicia (serving at the time of the events as members of the state security forces), and against Roberto Hernández Romero, Sergio Guillermo González Espinoza, Gustavo Pizano Salinas and Margarita Juana Bernal Núñez (serving at the time of the events as members of the Texcoco municipal police) for their probable responsibility for the offence of abuse of authority committed against the public authorities.

67. On 19 June 2006, the judge ordered the arrest of the aforementioned defendants under case number 987/2006.

68. On 30 June 2006, the order was issued for the imprisonment of Salvador Pérez Aguirre, Jorge Hernández Ramírez, Ramiro González Lara, Armando Reyes Dávila, Juan Carlos Pelcastre Pérez, Sonia Peralta Almazán, Emmanuel Cervantes Cruz, Israel Gil Flores, Javier González Cuellar, Erasmo Barrera Hernández, Rodolfo Juárez López, Raymundo Rosas Molina, Jorge Domínguez Gómez, Víctor Hugo Bian Arias, Alejandrina Arriaga Sánchez and José Martínez Galicia (serving at the time of the events as members of the state security agency), and of Roberto Hernández Romero, Sergio Guillermo González Espinoza, Gustavo Salinas Pizano and Margarita Juana Bernal Núñez (serving at the time of the events as members of the Texcoco municipal public security department) for their probable responsibility for the crime of abuse of authority committed against the public administration.

69. On 7 and 14 July 2006, in support of the charge of full criminal liability, the social representative offered as evidence all the records contained in the preliminary investigation, including:

- (a) The extended declaration by the 11 complainants;
- (b) The extended declaration by the accused;
- (c) The testimonies of Antonio Serrano, Jorge Almaraz Mancilla and Agustín Delgadillo;
- (d) The constitutional confrontations between the complainant María Patricia Romero Hernández and the accused, namely Gustavo Salinas Pizano, Sergio Guillermo González, Roberto Hernández Romero y Margarita Juana Bernal Núñez (serving at the time of the events as members of the Texcoco municipal police);
- (e) A private collection of all the video recordings associated with the writs issued during the enquiry phase
- (f) Expert criminological and psychological reports;
- (g) Copies of recommendation No. 38/2006 concerning dossier No. 2006/2109/2/Q issued by the National Human Rights Commission.

70. On 10 December 2007, the order was made to free Alejandrina Arriaga Sánchez and Víctor Hugo Bian Arias for lack of evidence, their responsibility for the crime of abuse of authority being unproven.

71. On 9 January 2008, in accordance with the *amparo* order issued in safeguard proceedings No. 751/2007-III, the imprisonment order of 2 May 2007 was declared void and a decree was issued in favour of the defendants, freeing them for lack of evidence.

72. All the evidence having been presented, the pretrial hearing was declared closed and the investigation complete on 27 November 2009, and the official of the public prosecutor's office assigned to the case made her concluding statement in which she substantiated her punitive claims against Roberto Hernández Romero, Sergio Guillermo González Espinoza, Gustavo Salinas Pizano, Margarita Juana Bernal Núñez and José Martínez Galicia for the offence of abuse of authority, the terms of the accusation being shown to the accused and their lawyers.

73. The acquittal was based on the following arguments:

“...this decision concludes as to the lack of evidence to substantiate the offence of abuse of authority attributed to the accused ROBERTO HERNÁNDEZ ROMERO, SERGIO GUILLERMO GONZÁLEZ ESPINOZA, GUSTAVO SALINAS PIZANO, MARGARITA JUANA BERNAL NÚÑEZ and JOSÉ MARTÍNEZ GALICIA, in the absence of legal certainty that those concerned had acted as they did without there being legitimate cause to justify the use of violence in the face of the behaviour of the rioters, given that the court's power of discretion does not extend to assigning certainty to a body of evidence in which this is lacking, nor should it lead the court to ignore or overlook the myriad inconsistencies in the evidence presented and, therefore, the lack of evidence to justify a guilty verdict”.

74. On 19 February 2010, the judge in criminal case No. 59/2006, heard in the First Criminal Court of the First Instance in the judicial district of Tenango del Valle, State of Mexico, dismissed the case against Roberto Hernández Romero, Sergio Guillermo González Espinoza, Gustavo Salinas Pizano y Margarita Juana Bernal Núñez, members of the municipal police force of Texcoco de Mora, and José Martínez Galicia, a member of the state security agency, on the grounds that the charge that members of the force concerned were guilty of the offence of abuse of authority against the public administration was unproven.

75. The public prosecutor in the case lodged an appeal, and the case remains within the legal deadline for presenting the corresponding grievances.

## **7. Response to paragraph 5 (c) of the list of issues**

76. On 6 February 2007, on the basis of article 27 of the Constitution, the Supreme Court decided to exercise its powers of enquiry in relation to the events that had taken place in the municipalities of Texcoco and San Salvador Atenco on 3 and 4 May 2006. Under the provision in question, the supreme legal authority has the power to verify “any act or acts constituting a grave violation of any individual rights”.

77. The purpose of the Supreme Court's enquiry was to examine the actions of the various authorities in order to establish whether they might have been guilty of serious violations of individual rights, without pronouncing on the legality of the action taken, in the context of the events concerned.

78. The Supreme Court set up a Commission of Enquiry, which began by analysing the different levels of involvement by the authorities and took into account the strictly operational scope of policing activity.

79. The commissioners emphasized that in drawing up their preliminary report they had investigated whether the events that had taken place in the two cities had involved violations of individual rights, whether anyone had ordered such violations and whether they were the result of a state strategy, a situation getting out of control or the inadequate

training of police, while at the same time attempting to identify the number and rank of those who had participated in the events.

80. The Commission of Enquiry submitted its report on 13 March 2008, and the document was voted upon and approved in the First Chamber of the Supreme Court on 30 June 2010.

81. The Supreme Court decided that there had been, in general terms, serious violations of individual rights in the events that had occurred on 3 and 4 May 2006 in Texcoco and San Salvador Atenco in the State of Mexico, according to the findings of the Court's enquiry and having regard to the regulations governing the police force in Mexico.

82. It also decided that "there is no objective evidence to show that the serious violations of individual rights were the result of deliberately unlawful instructions and orders to that effect, nor to support the case that the different authorities in charge of police operations had set out to cause damage, nor that they had adopted and employed measures in preparation for the attacks suffered by the supporters of the People's Front in Defence of the Land. Consequently, there was no firm evidence to show that the violations in question had been the result of a state strategy".

83. It also decided that the authorities had a duty to broaden and deepen its investigation into who might have been involved in the serious rights violations concerned. It also noted that "the serious violations of individual rights deriving from the facts investigated were the result of the inadequate rules governing the use of force by the police, the shortcomings in police training and failings in the planning, execution and supervision of the police operations".

84. It also laid down legal standards for the use of force by the police, which will serve as parameters and reference marks for establishing the existence or otherwise of violations of individual rights.

85. With regard to the nature of the violations, the Supreme Court decided that "the authorities concerned, within their respective areas of responsibility, should decide whether the police abuses thus highlighted, which in some cases amounted to cruel and inhuman treatment, also constituted acts of torture".

86. This decision was forwarded to the Governor of the State of Mexico, the Municipal Mayor, the Mexico State Attorney General's Office, the State Secretariat of Public Security and the National Institute for Migration.

#### **8. Response to paragraph 5 (d) of the list of issues**

87. In compliance with this recommendation, the National Institute for Migration took the following measures:

(a) It referred the matter to the Institute's internal oversight body to initiate administrative proceedings against the officials of the Institute's regional branch in the State of Mexico and its Control and Verification Coordination Centre. The internal audit body, in an agreement signed 29 August 2008, closed the file for lack of evidence of responsibility on the part of officials in the institution concerned;

(b) Concerning the second part of the recommendation, the Control and Verification Coordination Centre recommended that the various foreigners involved in the violent events of 3 and 4 May 2006 in the municipalities of Texcoco and San Salvador Atenco in the State of Mexico should be expelled within one month, and should be banned from returning to Mexico without an appropriate re-entry permit, having satisfied itself that those concerned were involved in prohibited activities in the town of San Salvador Atenco.

88. The Ministry of Public Security, for its part, found the recommendation unacceptable on the grounds that that members of the Federal Preventive Police who had participated in the operations in the municipality of San Salvador Atenco in the State of Mexico on 3 and 4 May 2006 had acted in accordance with the constitutional principles of legality, efficiency, professionalism and integrity, with full regard to the human rights of the demonstrators and those arrested in the process of flagrantly committing offences, and that they has acted with appropriate prudence, without excessive use of force other than that strictly necessary to detain those caught in the act of committing probably criminal behaviour. Having regard to the provisions of article 138, section 1, of the rules of procedure of the National Human Rights Commission, it therefore found that the recommendation was not acceptable.

89. As for the Mexico State Govern, it was considered there had been total compliance with the recommendation in keeping with article 138, section II, of the Commission's rules of procedure.

## **B. Article 2 of the Convention**

### **1. Response to paragraph 6 of the list of issues**

90. On 23 November 2009, the Inter-American Court of Human Rights ruled against the United Mexican States in the case of Rosendo Radilla Pacheco, ordering among other things that Mexico should adopt the relevant legislative reforms to bring article 57, section 2, subparagraph (a), of the Code of Military Justice into line with international standards.

91. In compliance with this ruling, the Mexican State is examining possible measures to be taken with regard to article 57 of the Code of Military Justice in light of the Court's decision.

92. Military Tribunals apply the Federal Act to Prevent and Punish Torture as soft law only in cases where a member of the military commits the offence of torture while on or for reasons of active duty.

### **2. Response to paragraph 7 of the list of issues**

93. On 18 June 2008, the Official Journal of the Federation published the decree amending and supplementing various provisions of the Political Constitution of the United Mexican States, namely articles 16 to 22, sections XXI and XXIII of article 73, section VII of article 115 and section XIII of part B of article 123. In accordance with its stated motives, the main aim of this reform is to transform the security and criminal justice system, both federal and state, from a mixed to an adversarial system so as to ensure full compliance with the individual guarantees and human rights enshrined in the Constitution and international treaties.

94. The reform of criminal law in Mexico should be viewed on two levels, federal and state. Despite the fact that the constitutional changes published on 18 June 2008 in the Official Journal of the Federation will have an impact in the federal entities as well as in the Federation, it is hoped that the results will be different in each sphere. It is for this reason that the constitutional provisions make a series of exceptions to the accusatory system, which will only be applicable to the federal authorities, who are responsible for the prosecution of organized crime (preventive custody, pretrial evidence, special prisons). To coordinate the reform effort, the Coordinating Council responsible for implementing the criminal justice system was created on 13 October 2008, as a government body consisting of representatives of the three levels of federal and state government responsible for directing and designing the relevant strategies to give effect to the new model of justice embodied in the above-mentioned constitutional reform, the aim being that its operation

and application should be comprehensive, coherent and effective throughout the country in compliance with the principles laid down in the Constitution.

95. Between its establishment in June 2009 and January 2011, the Council met on seven occasions and the agreements concluded have included its Technical Secretariat's training and dissemination programme, the strategy for implementing the constitutional reform in the federal entities, and the guidelines for allocating the resources earmarked for implementing the reform at state level.

96. In the same way, the Technical Secretariat of the Coordinating Council for Implementing the Criminal Justice System was set up with responsibility for carrying out the Council's decisions, for cooperating with the federal and local authorities in implementing the new criminal justice system and for channelling specialized economic support and assistance to the federal entities. It has approached the reform process along five main lines, namely standardization, interagency relations, training and dissemination, technical assistance, and administration. These form the basis for the relations and work with the institutions and actors responsible for carrying out the reform

97. In the standard-setting sphere, the Technical Secretariat has played an energetic role in coordinating the efforts of various branches of the federal executive in formulating a draft Federal Code of Criminal Procedure, with the help of analysis and comments by the Coordinating Council. By order of the Council, the draft was submitted to the legal counsel of the federal executive to complete the formalities relating to the explanatory memorandum, transitional arrangements and other provisions considered necessary to enable the draft to be submitted to the head of the federal executive and for it to be submitted in turn by him as a draft law to the Congress.

98. The parties involved in this implementation process include not only government authorities but also representatives of civil society. The task of the Federal Government, through the Secretariat of the Coordinating Council, is accordingly to coordinate the efforts of the:

- (a) Offices of the State and Federal Attorneys General
- (b) State Tribunals and Supreme Court of Justice;
- (c) State and Federal Ministries of Public Security;
- (d) State Congresses and Congress of the Union;
- (e) Public Defenders;
- (f) Universities;
- (g) Human rights commissions;
- (h) Civil society organizations.

99. In this context, the Secretariat has pursued various activities geared to the particular circumstances in 27 of the country's 32 States. These have included developing the implementation strategy for the federal entities, in the form of a handbook containing national and international best practices together with relevant thematic approaches and including two key technological planning tools: simulation and localization models. It has also carried out diagnostic and follow-up visits in 20 federal entities and organized planning workshops in six of them.

100. In the sphere of international cooperation, the Secretariat has developed various projects with foreign governments, in particular the Governments of Canada and Chile. In each of these projects it has carried out a wide range of activities, including planning workshops, discussion forums and international seminars and training courses for judges,

ombudsman, prosecutors and lawyers, as well as offering technical advice on topics such as prison reform. It has also developed important links with other foreign governments, which have made it possible to undertake learning missions to Colombia and Costa Rica, and is preparing to launch other programmes in collaboration with various international organizations.

101. In another field, it has developed a national training programme providing standardized guidelines for the whole country and establishing quality and performance criteria. It has also organized numerous training courses for justice system officials throughout the country. In addition, framework programmes have been developed for training officials and for graduate and postgraduate studies in educational institutions, and a training committee has been set up to promote high quality by including a methodology for validating study plans and programmes and to ensure the supply of trainers and teachers through a specialized certification process.

102. In the technical assistance field, a programme on reorganization of the criminal justice system in Mexico has been developed in order to guide existing institutions in their new functions and activities, together with the new ones needed to meet the requirements of an accusatorial, adversarial system. An architectural model and guidelines exist for designing and planning courtrooms and adjacent services for oral hearings, as well as a set of draft ICT standards.

103. The General Law on the National Public Security System, published on 2 January 2009 in the Official Journal of the Federation, contains provisions on:

(a) The duty of the State to develop comprehensive policies on the social prevention of crime and the causes of crime and antisocial conduct, as well as programmes and measures to promote cultural and civic values in society and inculcate respect for legality and victim protection;

(b) The duty of the Federation, the States, the Federal District and the municipalities to supply, exchange, systematize, consult, analyse and update information on public security;

(c) The formulation of proposals for national programmes on public security, the promotion of justice and crime prevention, in keeping with the relevant legislative provisions;

(d) Draft guidelines for the social prevention of crime through crosscutting prevention policies of a permanent and strategic nature;

(e) Public participation in crime prevention activities;

(f) The inclusion of crime prevention contents in educational, health and social development programmes and, more generally, in the different programmes of the federal agencies and entities, and collaboration with the States, the Federal District and the municipalities on the same subject;

(g) The responsibility of police institutions to prevent administrative offences and carry out inspection, monitoring and highway supervision in their districts;

(h) The obligation of police institutions to ensure that their members act in strict compliance with duty in order to safeguard the physical integrity and rights of individuals, prevent crime and preserve freedoms, order and public peace.

104. At the state level, in the period from 2004 to the present, eight of the 32 federal entities have carried out reforms to their legislation and have begun to implement the new accusatory system of criminal justice in our country, namely: Baja California, Chihuahua, Durango, State of Mexico, Morelos, Nuevo León, Oaxaca and Zacatecas; four have already

introduced legal reforms and will begin implementing them in 2011: Guanajuato, Hidalgo, Yucatán and Puebla; 13 federal entities are in the planning phase: Campeche, Chiapas, Colima, Distrito Federal, Guerrero, Jalisco, Michoacán, Querétaro, San Luis Potosí, Sonora, Tabasco, Tamaulipas and Tlaxcala; while seven federal entities are at the initial stage of implementation, showing some progress in the planning phase and isolated institutional efforts: Aguascalientes, Baja California Sur, Coahuila, Nayarit, Quintana Roo, Sinaloa and Veracruz.

105. The manner in which constitutional reform in its second transitional phase should proceed was left open, whether on a regional basis or by type of offence. The majority of States have opted for the territorial approach, enabling them to detect shortcomings and make practical adjustments in step with progress in the implementation schedule in other regions.

### **Progress in the operational phase of the reforms in the federal entities**

#### *Baja California*

106. Legislation is already in place in Baja California under the new criminal justice system. The Code of Criminal Procedure came into force on 11 August 2010 in the municipality of Mexicali. Implementation will be gradual, beginning with the municipality of Mexicali, followed by Ensenada (August 2011) and finally Tijuana, Playas de Rosarito and Tecate (August 2012).

107. The entity has made substantial progress in infrastructure, training, technological systems, selection of legal officials and social communication. It already possesses a set of comprehensive organic and substantive norms.

#### *Chihuahua*

108. Chihuahua was the first federal entity to begin the comprehensive reform process. The new system of criminal justice is currently operating throughout the State, but the first stage in its implementation began on 1 January 2007 when it came into force in the judicial district of Morelos (which includes the municipality of Chihuahua); a year later the new system came into operation in the judicial district of Bravos (which includes the municipality of Chihuahua); and finally on 1 July 2008 in the rest of the 12 judicial districts. It was decided to begin in the municipal capitals since they are the places where the best trained staff are located.

109. In this entity the whole legislative package was adopted, including the organic and substantive norms. It has also made considerable progress in the areas of training, dissemination, infrastructure and equipment.

#### *Durango*

110. In Durango, the new system of criminal justice came into force on 14 December 2009 in the district with the largest number of judicial cases, which has Durango as its capital and includes the municipalities of Durango, Mezquital and part of San Dimas. It was subsequently introduced in the district that has Ciudad de Gómez Palacio as its capital and then progressively in the rest. On 19 April 2010 the first oral hearing took place in the federal entity.

111. In the case of Durango it was also decided to introduce a comprehensive legislative package, including substantive and organic legislation. It has made substantial progress in the areas of dissemination, reorganization, equipment and infrastructure.

*State of Mexico*

112. Implementation of the new criminal justice system in the State of Mexico began in 2009, together with legal and institutional strengthening of the administration of justice.

113. The accusatorial, adversarial and oral proceedings established under the new Code of Criminal Procedure of the State of Mexico, in force since October 2009, is based on the human rights principles enshrined in the Mexican Constitution and in international treaties:

(a) The presumption of innocence at all stages of the proceedings, so long as the guilty verdict has not finally been pronounced;

(b) Equality before the law without regard to nationality, gender, ethnic origin, creed or religion, political ideas, sexual orientation, economic or social position or other circumstances with discriminatory implications;

(c) Respect for the defendant's dignity, physical integrity and privacy, especially freedom of conscience, domicile, correspondence, papers and objects, as well as private communications;

(d) The precautionary measure of deprivation of personal liberty is applied exceptionally and must be proportional to the right it seeks to protect, the danger it tries to avoid and the punishment or security measure that could ultimately be imposed;

(e) The inadmissibility of evidence obtained through torture, threats or violations of fundamental rights;

(f) The establishment of restorative justice through an agreement based on consideration of the individual and collective needs and responsibilities of the parties, and the rehabilitation in the community of the victim and the offender through mediation, conciliation and arbitration;

(g) The strengthening of due legal process through a proper defence by a lawyer with professional legal qualifications, freely chosen from the start of any police, prosecution or judicial procedure;

(h) Observance of the provisions of the Law on Indigenous Rights and Culture of the State of Mexico, with reference to offences committed by indigenous communities or peoples prejudicial to legal rights of these communities or peoples or to those of any of their members.

114. The process of institutional modernization began in 2009, in accordance with the new Organization Act of the Office of the Attorney General of the State of Mexico and the regulations implementing it, which came into force in March and December 2009 respectively. Their main elements include:

(a) Introduction of the system specializing the investigative function by type of offence and of the system of territorial organization, having regard to the forms of organized crime, as well as the nature, complexity and incidence of ordinary offences subject to control and oversight. The systems in question operate through prosecutor's offices with specialized functions (kidnapping, homicide, robbery with violence and serious injury, intentional offences by police forces, intentional offences against women, offences by public servants, and electoral offences); and through regional prosecutor's offices covering the territory of the entity concerned;

(b) Reinforcement of the administrative responsibilities and structures of the General Commissariat of the Judicial Police, and the substantive investigation, litigation and inspection units;

(c) Introduction of a specific set of rules governing the selection, admission, development, training, renewal, evaluation, recognition and separation of public servants, the service of officials of the prosecution service, experts and judicial police; and the establishment of rules of conduct and a special disciplinary code for judicial police, in accordance with the Public Security Act;

(d) Regulation of the management of judicial police investigations, with the cooperation of police officers and experts, the latter with technical autonomy;

(e) Extension and definition of the precautionary measures that the judicial police can impose to safeguard criminal procedure and protect or restore the rights of the victim or injured party.

115. The State Attorney General issued Agreement No. 22/2009 laying down general guidelines for the conduct of investigations and registering of detainees, to be observed by officials of the Prosecution Service of the Office of the Attorney General of the State of Mexico. This administrative mechanism regulates application of the precautionary measure of deprivation of personal freedom, which is exceptional in character and subject to judicial control.

116. With regard to the investigation of torture, the Office of Special Prosecutor for Intentional Crimes by Police Forces came into operation in August 2009, with responsibility for investigating crimes involving members of all police corporations.

#### *Morelos*

117. In Morelos the new system of criminal justice is already functioning in the first, fifth and sixth judicial districts, which includes the state capital. The third stage was planned in principle for 1 February 2010 but has been postponed to 14 February 2011 in the second, third, fourth and seventh judicial districts. Morelos already has revised legislation and a policy and technical implementing body.

118. Progress in equipment, infrastructure and training. There is a need to strengthen dissemination and information and communication technologies.

#### *Nuevo León*

119. In Nuevo León implementation was not subject to territorial criteria but rather involved a group of offences, that is to say, there was a gradual transition depending on the seriousness of the crimes identified in the state substantive code. The first stage began in November 2004 with non-intentional minor offences; the second began in April 2006, including serious actionable offences and minor ex officio prosecutable offences carrying a maximum of three years' imprisonment; and the third dates from March and June 2007 and includes the crimes of family violence, bigamy, non-life-threatening injury and certain types of robbery. A political and technical implementing body already exists and there have been various amendments to state legislation.

#### *Oaxaca*

120. The new system of criminal justice is currently functioning in the region of Tehuantepec and La Mixteca. The original idea was to implement it gradually in six stages. The first stage began on 9 September 2007 in the territory of the Isthmus of Tehuantepec, the second on 9 September 2008 in La Mixteca and so on successively at yearly intervals in the regions of Costa, Cuenca and Valles Centrales, culminating on 9 September 2012 in Cañada and Sierra. However, implementation of the third stage (in the coastal region) has twice been postponed for lack of resources, and is now scheduled for May 2011, meaning

that the timetable has had to be adjusted. The state of Oaxaca has already amended its legislation and adjusted its political implementing body

121. Oaxaca is notable for having introduced a new system of justice for adolescents throughout the State, with specialization in all the institutions concerned. Special mention should be made of the leadership given in this area by the President of the State's Supreme Court of Justice, not only with regard to local implementation efforts but also as a fervent promoter throughout the country of its results and the experience gained.

#### *Zacatecas*

122. In Zacatecas the new system of justice came into force in the capital's judicial district on 5 January 2009. The plan was for it to enter into force gradually on 1 July 2012 in districts two and seven, and on 7 January 2013 in the other districts. However these phases have been postponed. Zacatecas already has a technical and political body for implementing the new system of criminal justice and has revised its legislation.

123. Zacatecas has made significant progress in the training field but does not have a body responsible for implementation.

#### **Progress in States where entry into force will take place in 2011**

#### *Guanajuato*

124. On 3 September 2010, the Official Journal of the State of Guanajuato published the new Law of Criminal Procedure for the State of Guanajuato, which prescribes the entry into force of the accusatory system of criminal procedure in four stages in different territorial areas: on 1 September 2011 in the region comprising the municipalities of: Atarjea, Comonfort, Doctor Mora, Dolores Hidalgo Cuna de la Independencia Nacional, Guanajuato, Ocampo, San Diego de la Unión, San Felipe, San José Iturbide, San Miguel de Allende, San Luis de la Paz, Santa Catarina, Tierra Blanca, Victoria and Xichú; on 1 January 2013 in the region comprising the municipalities of Abasolo, Cuerámbaro, Huanímaro, Irapuato, Jaral del Progreso, Pénjamo, Pueblo Nuevo, Romita, Salamanca, Silao and Valle de Santiago; on 1 January 2014 in the region including the municipalities of Acámbaro, Apaseo el Alto, Apaseo el Grande, Celaya, Coroneo, Cortazar, Jerécuaro, Moroleón, Salvatierra, Santa Cruz de Juventino Rosas, Santiago Maravatío, Tarandacuao, Tarimoro, Uriangato, Villagrán and Yuriria; and on 1 January 2015 in the region comprising the municipalities of León, Manuel Doblado, Purísima del Rincón and San Francisco del Rincón.

#### *Hidalgo*

125. Implementation in Hidalgo was planned to take place in four stages throughout its 17 judicial districts, but although it was due to start in 2011 no dates have yet been fixed. The draft decree containing the Code of Criminal Procedure for the State of Hidalgo has already been referred to the Security and Justice Commission of the Congress by the head of the Hidalgo executive branch, and a new Organic Law of the Prosecutor's Office, Organic Law of the Judicial Branch and Law on Crime Prevention have already been promulgated.

126. There has been important progress in the areas of infrastructure, training and profiling of the new personnel in the criminal justice system.

*Puebla*

127. On 11 January 2011 the new Code of Criminal Procedure of the State of Puebla was adopted unanimously in the State Congress, together with modifications to the State Constitution, and there have been advances in the training field.

*Yucatán*

128. On 19 March 2010 the Congress adopted in plenary the constitutional and legal reform bill in the field of security and justice, which provides for the introduction of the new accusatory system. Its transitory article 16 stipulates that the secondary legislation necessary for the proper functioning of the new oral accusatory penal system, foreseen in articles 2, 62, 63, 64, 73, 85 bis, 86 and 87 of the reform decree, will be approved and published at the latest by 31 May 2011

129. The legal measures involving secondary reforms have already been taken and passed to the Commission for the Implementation of the Security and Justice Reform, and it is hoped that they will be adopted in the first quarter of 2011.

**Progress of States at the planning stage**

130. The political will to begin implementing the reform is apparent in the federal entities currently at the planning stage. This is reflected in the fact that they all have a political body composed of the representatives of the three Powers of the Union, namely the executive, the legislative and the judicial branches, responsible for coordinating measures to implement the new criminal justice system. We also find that the majority of them have made progress in the training of legal officials, in the area of infrastructure and equipment and some of them also already have alternative justice laws and/or mediation centres.

**Progress of States at the initial stage**

131. The federal entities in question are still in the process of negotiating implementation measures and, while some progress has been made in the training field, they have not advanced in the framing or reform of the laws secondary and supplementary to the Constitution and the CPP.

**3. Response to paragraph 8 of the list of issues**

132. The reform of Mexico's justice system as a whole provides for a series of specific safeguards to ensure the effective application of due process in general and respect for standards of proof in particular. The constitutional reform of June 2008 marks a definite advance by prescribing clearly and unambiguously that the hearing should take place in the presence of the judge, who should not be able to delegate to anyone the presentation and evaluation of evidence, thereby excluding absolutely the possibility that other officials might perform essentially jurisdictional tasks.

133. By prescribing that judges should evaluate the evidence freely and logically, as well as furnish the legal basis for their rulings, the reform introduces a system based on the critical evaluation of evidence, replacing one based on the assessment of legal proof and moving in the process towards a more effective and accurate weighing of evidence. This process, because it is public, will be subject to the scrutiny not only of those party to or involved in the trial, who will be able to exercise their respective legal remedies, but also society as a whole since it will be able, the proceedings have been made public, to scrutinize judicial decisions in a more open manner, allowing civil society bodies greater scope to properly monitor legal rulings.

134. It is likewise forbidden to take account of background evidence not presented during the oral hearings, so as to ensure that the views of trial judges are not based on preconception and that they assess at first hand, with their own senses, the probative value of precedent and of evidence placed before the court by witnesses in support of their arguments, without the interference of anticipated proof.

135. The reform provides for an absolute separation between the judge dealing with the case at the investigation and intermediate stages and the one in charge of the case at the oral hearings, thereby ensuring the impartiality of the court, which will only know about the facts as distinct from background evidence. It is also clearly established that the submission of arguments and evidence shall be public, adversarial and oral in nature, with a view to ensuring that the trial judge receives the best possible information.

136. In keeping with the presumption of innocence, the reform affirms that the burden of proof in demonstrating guilt rests with the prosecution. It follows that if the evidence adduced by the prosecutor does not fully convince the court of the involvement of the accused in a punishable offence, it must absolve the latter, in accordance with the principle that no one may be found guilty except by decision of an impartial court persuaded of the guilt of the accused person.

137. The supervisory judge has a mandate not to place value on unlawful evidence, excluding it from the opening of the oral hearings at the intermediate phase, and the oral trial judge should similarly exclude such evidence if it is established that it was obtained without regard for fundamental rights.

138. Although the process is complex, the Technical Secretariat is helping to train all those concerned, in conjunction with local authorities in the federal entities.

139. The public nature of the trial clearly means that the sentences at the end of the oral proceedings should be explained at a public hearing.

#### **4. Response to paragraph 9 of the list of issues**

140. The Federal Act to Prevent and Punish Torture states:

“Article 3: The offence of torture is committed by a public servant who, by virtue of his office, inflicts on another person severe pain or suffering, whether physical or mental, for the purpose of obtaining from him or a third person information or a confession or punishing him for an act he has committed or is suspected of having committed, or coercing him into acting or refraining from acting in a particular manner.”

“Article 4: Anyone committing the offence of torture shall be liable to 3 to 12 years’ imprisonment, 200 to 500 days’ fine and disqualification from any public office, post or assignment for up to twice the length of the term of imprisonment imposed. For the purposes of determining the amount of the fine, reference shall be made to article 29 of the Criminal Code for the Federal District in respect of Ordinary Law and for the entire Republic in respect of Federal Law.”

“Article 5: The foregoing punishments shall apply to a public servant who, in the performance of his duties and for any of the purposes referred to in article 3, incites, compels, authorizes or makes use of a third party to inflict serious pain or suffering, whether physical or mental, on another person, or who fails to prevent such pain and suffering from being inflicted on a person in his custody

The same punishments are applicable to a third party who, for whatever purpose, incited or authorized explicitly or implicitly by a public servant, inflicts serious pain or suffering, whether physical or mental, on a prisoner.”

141. The Federal Criminal Code established various types of criminal offence by public servants who, in the exercise or by virtue of their functions, commit excesses that infringe on the legal rights of those under their authority, specifically their personal liberty, including:

(a) The offence of abuse of authority foreseen in article 215:

“...The offence of abuse of authority is committed by public servants who engage in any of the following forms of conduct:

VI. When in charge of any establishment responsible for enforcing prison sentences or institutions, for the social reintegration or custody and rehabilitation of minors and for preventive or administrative detention receives someone without legal authorization as a prisoner, detainee, arrestee or internee or holds them in custody without informing the appropriate authority of the fact; denies that the person concerned is detained, if this is the case; or does not comply with the order for the individual’s release by the competent authority;

VII. When, being aware of a case of unlawful imprisonment, does not report it immediately to the competent authority or end it immediately if empowered to do so;

XIII. Forces a defendant to confess by means of solitary confinement, intimidation or torture;

XV. Fails to record the corresponding detention or delays without justification placing the detainee at the disposal of the appropriate authority...”<sup>2</sup>

(b) The offence of enforced disappearance foreseen in article 215-A and 215-B:

“Article 215-A: The offence of enforced disappearance is committed by any public servant who, regardless of whether or not he participated in the legal or illegal detention of a person or persons, abets or wrongfully maintains their concealment under any form of detention.”

(c) Offences against the administration of justice foreseen in article 225:

“...IX. Refusing without justification to hand over a detainee suspected of a crime when the order in question is in keeping with the Constitution and relevant legal provisions, in cases where the law makes it obligatory to do so; or taking a criminal action not preceded by a report, charge or complaint;

X. Detaining an individual during the pretrial investigation apart from the cases prescribed by the law or retaining him for longer than the time prescribed in the Constitution;<sup>3</sup>

XI. Failing to grant conditional release on request where legally appropriate;

XII. Obliging the defendant to confess through the use of solitary confinement, intimidation or torture;

<sup>2</sup> This clause was included in the penal miscellanea published in the Official Gazette of the Federation of 23 January 2009.

<sup>3</sup> This clause was included in the penal miscellanea published in the Official Gazette of the Federation of 23 January 2009.

XIII. Not recording the defendant's initial statement within 48 hours of his arrest without justified cause, or concealing the name of the accuser, the nature and reason for the charges or the offence with which he is charged;

XIV. Prolonging preventive detention beyond the legal time-limit for the offence in question;

XVI. Unjustifiably delaying compliance with the legal order for release of a detainee;

XVII. Not ordering the imprisonment or release of a detainee within 72 hours of his arrest, unless the person has himself requested an extension of the time-limit, in which case a new date will be fixed;

XX. Ordering the detention of an individual for a crime that does not merit imprisonment, or in cases where there has been no prior information, charge or complaint; or detaining a person without bringing the detainee before the judge in keeping with paragraph 3 of article 16 of the Constitution;

XXVII. Failure to order the release of an accused person, issuing a committal order, when the offence is not punishable with a custodial or alternative sentence;

XXX. Detaining someone without fulfilling the constitutional requirements and the corresponding legal provisions..."<sup>4</sup>.

(d) Procedural provisions:

(i) Article 128, paragraph (f), of the Federal Code of Criminal Procedure provides that the suspect has a right when he is detained or voluntarily presents himself at the prosecutor's office to be granted release on request. Article 134, paragraph 6, of the Federal Code of Criminal Procedure provides that where a person is detained beyond the time-limits prescribed under article 16 of the Constitution (48 or 96 hours in the case of organized crime), it will be presumed that he has been placed in solitary confinement and the statements of the suspect will not be valid;

(ii) Article 161 of the Federal Code of Criminal Procedure stipulates that in order to extend the constitutional time-limit for making a committal order, notice must be given to the authority responsible for the establishment in which the suspect is detained, under the terms of article 19, paragraph 2, of the Constitution (currently article 4), which states:

"...The deadline for making a committal order can be extended only at the request of the suspect, in keeping with the law. Any prolongation of custody prejudicial to the detainee will be punished under criminal law. The person in charge of the establishment where the suspect is interned who does not receive an authorized copy of the committal order or preventive custody order or of the request for an extension of the constitutional deadline should draw the judge's attention to the fact on the expiry of the deadline and if he does not receive the copy concerned within the next three hours should release the suspect..."

(iii) This provision is also contained in article 164 of the Federal Code of Criminal Procedure.

---

<sup>4</sup> This clause was included in the penal miscellanea published in the Official Gazette of the Federation of 23 January 2009.

142. The Ministry of Public Security has taken various legislative initiatives to establish a national public security system able to provide society with confidence, respect and above all security. In this regard, there has been overall progress in the following areas in keeping with the objectives of the National Development Plan for 2007-2012.

143. The General Law on the National Public Security System, published in the Official Journal of the Federation on 2 January 2009, is aimed at:

(a) Ensuring the division of responsibilities and effective and efficient coordination between the Federation, the Federal District, the States and the municipalities for the integration, organization and promotion of the National Public Security System referred to in article 21 of the Constitution;

(b) Establishing and strengthening coordinating bodies within the National Public Security System, including: the National Public Security Council as the main body for discussion, consultation and policy definition; the National Conference of Judicial Officers; the National Conference of Ministers of Public Security; the National Conference of the Penitentiary System; the National Conference of Municipal Public Security; and the Executive Secretariat of the National Public Security System, which is to have national information, crime prevention and civic participation centres and certification and accreditation centres;

(c) Preparing for the introduction of the Administrative Register of Detainees. Police institutions should notify the National Information Centre immediately of all detainees through the Standard Police Report. The administrative register of detainees should contain at least the following data: 1) name and, where appropriate, nickname of the detainee; 2) physical description of the detainee; 3) reason for detention and the general circumstances, place and time of its occurrence; 4) name of the person(s) involved in the detention and, where appropriate, rank and place of attachment 5) place to which the detainee will be transferred;

(d) Laying the bases for the Comprehensive Police Development System, consisting of a set of structured and interrelated rules and processes that include: the Professional Police Career Service, professional development schemes, certification of those schemes, and the disciplinary code for members of police institutions;

(e) Regulating national public security information so that the Federation, the States, the Federal District and the municipalities supply, exchange and systematize information in order to update their databases periodically and accurately;

(f) Defining and enforcing administrative, civil and criminal responsibilities through a chapter on the liability of federal, state and municipal public servants for the management and improper use of federal aid funds for public security;

(g) Creating effective mechanisms to enable society to participate in the planning and supervision of public security.

144. The Federal Police Law, published in the Official Gazette of the Federation on 1 June 2009, assigned a wide range of crime prevention powers to the police as well as the authority to carry out investigations. The aims of the law continue to be to safeguard the life, integrity, security and rights of the individual and to preserve freedom, public order and peace, applying the policy of public security with regard to the prevention and combating of crime.

## 5. Response to paragraph 10 (a) of the list of issues

145. The objective of *arraigo* (short-term detention) is to ensure that the accused is available throughout the pretrial investigation or during criminal proceedings involving the offence of negligence or other offences where preventive imprisonment is not applicable.

146. The constitutional reform of the criminal justice and public security system in 2008 restricted the application of *arraigo* to serious offences and organized crime (the latter coming under federal jurisdiction) and made it subject to strict legal controls. It can only be ordered by a specialized federal judge at the request of the Office of the Federal Prosecutor in cases where it is strictly necessary to the success of the investigation by enabling the prosecution service to construct a properly substantiated case, evidence to support a charge being complex and difficult to obtain in the case of organized crime, or where it is certain that those concerned will attempt to flee justice, making it necessary for them to remain in custody.

147. The legal procedures to which those held in preventive custody in the Federal Investigation Centre are subject are continuously supervised by an appointed official of the Federal Prosecutor's Office (not involved in the preliminary enquiries at the origin of the precautionary measure), who ensures at all times that the registers are kept in compliance with legal requirements.

### *Opinion of the Federal Judiciary*

148. In January 1999, the Federal Judiciary maintained (in opinion I.1°P J/12) that *arraigo* did not affect personal freedom as such, but only the freedom of movement of those subject to such a precautionary measure, for which provision was made in article 11 of the Constitution, and that it could therefore be included in secondary legislation.

149. In November 1999, that argument was overturned by contradictory ruling No.78/99, which established that *arraigo* constituted an interference with personal freedom since it entailed restricting a person's movement to a building and was thus a measure subject to suspension.

150. The jurisprudence in question opened the possibility that suspension could be granted in *amparo* proceedings contesting the *arraigo* order, but did not rule on the constitutionality of such an act of authority.

151. On 19 September 2005, the Supreme Court meeting in plenary session declared by a majority of eight votes, in its ruling on action for unconstitutionality No. 20/2003 submitted by the Chihuahua Congress, that article 122 bis of the Code of Criminal Procedure of the State of Chihuahua, providing for *arraigo* as a precautionary measure, was unconstitutional in that it violated the right of freedom enshrined in article 16 of the Constitution.

152. The main argument in this ruling was centred on the fact that *arraigo* did not simply involve a restriction of freedom of movement but that it obliged someone to remain in a building with no possibility of leaving it, that it immobilized him and that the precautionary measure therefore amounted to deprivation of freedom.

153. On the other hand, three justices took a different view, maintaining that *arraigo* was a measure that restricted freedom of movement.

154. While this Supreme Court ruling was not constitutionally binding since, under article 43 of the Act implementing Sections I and II of article 105 of the Constitution, the reasons contained in the preambular paragraphs on which the operative paragraphs of the judgement were based were not consistent: it did constitute an important precedent in that it advanced two separate arguments concerning the impact of *arraigo* on freedom of movement and personal liberty.

*Existing federal law*

155. Under article 2, section III, of the Federal Code of Criminal Procedure, the federal public prosecutor is empowered to request the courts to impose precautionary *arraigo*, holding or restraint orders where these are essential for preliminary enquiries, as well as any associated search warrants.

156. Article 133 bis also provides that the courts can order the suspect to be placed under house arrest (*arraigo domiciliario*) at the request of the prosecutor in the case of serious offences, provided it is necessary for the success of the investigation, the protection of persons or property or when there is a well-founded risk that the suspect may evade justice. House arrest may be extended for the period strictly necessary, which must not exceed 40 days.

157. For its part, article 205 of the Federal Code of Procedure empowers the courts to decide unilaterally, on the basis of a hearing with the suspect, on the *arraigo* order during the criminal proceedings, subject to the constitutional terms and time-limits.

158. Article 12 of the Federal Act on Combating Organized Crime provides for *arraigo* for this type of offence, which may be decreed by the judge at the request of the prosecutorial authority who should indicate in his request the place, time, form and methods concerned, so long as it is necessary for the success of the investigation, for the protection of persons or property, or when there is a well-founded risk that the accused may escape the administration of justice. The measure should not exceed 40 days and should be subject to the scrutiny of the federal public prosecutor and the police under his immediate command and control during the investigation. The term of the *arraigo* may be extended only upon a showing by the prosecutorial authority that the causes which gave rise to it still exist, and may not in any event exceed eighty days.

*State legislation*

159. Under the constitutional reform of 18 June 2008, various federal entities have incorporated the accusatory trial system, eliminating the *arraigo* provision for ordinary crimes at the informal stage of investigation. However, some of these federal entities, such as Zacatecas, retain a similar provision called 'preventive detention or house arrest' (*arraigo o arraigo domiciliario*) in the criminal trial phase, which is ordered by the supervisory judge but differs inasmuch as it respects the suspect's right to a hearing. Finally, it is important to note that federal entities with an accusatory model such as Morelos provide for *arraigo* in the case of organized crime.

160. Other entities such as the Federal District, which have not introduced the adversarial justice system, currently retain this provision for both organized crime and serious offences.

161. This situation is consistent with transitional article 11 of the Decree of 18 June, which provides that until such time as the accusatory system comes into force agents of the Public Prosecutor's Office, which is responsible for drawing up the law, can request the judge to order the house arrest of the suspect in the case of serious offences for a maximum of 40 days, provided the measure is necessary for the success of the investigation, the protection of persons or property or when there is a serious risk that the suspect may evade justice. So that while the process of legislative reform at federal or local level is underway, *arraigo* can still be applied under these conditions

*Legislative processes*

162. The Joint Commissions on Constitutional and Justice Issues advanced the following justification for the *arraigo* provision, necessary for guidance and understanding of the accusatory criminal justice system.<sup>5</sup>

“...*Arraigo*. An innovatory proposal is undoubtedly to include in the Constitution a precautionary measure to prevent the suspect from evading the control of the public prosecutor initially and the courts subsequently, or from hampering the investigation or affecting the integrity of those involved in the conduct of the enquiry.

It is clear that the growth of organized crime, including transnational crime, has placed traditional legal and procedural institutions at great risk, which is why the legislator has broadened the spectrum of effective measures to counteract its impact on the perception of public insecurity, *arraigo* being one such measure.

This provision involves depriving an individual of personal freedom through a judicial order during the pretrial investigation or the criminal trial itself so as to prevent the suspect from escaping from the place of investigation, evading authority or affecting persons involved in the events that are the subject of the enquiry. There is also a provision for detention in the house of the person under investigation or in another location, including the area in which he lives, the first having been used in the case of crimes considered serious by the law, and the second only for persons suspected of belonging to organized crime, always with prior judicial authorization.

The measure is most useful when applied to individuals living clandestinely or not in the place of investigation, and particularly when they are members of complex criminal organizations that can easily evade checks on cross-border movements or where there is reason to believe that they will use their freedom to obstruct authority or affect the agencies responsible for assembling evidence, and against whom an arrest warrant cannot yet be obtained because of the complexity of the enquiry or the need to await the arrival of evidence by way of international cooperation.

However, the Supreme Court issued a ruling on unconstitutionality action No. 20/2003 initiated by Chihuahua State legislators against the Congress and Governor of that State, declaring article 122 bis of the former state code of criminal procedure to be invalid, arguing essentially that it constituted a restriction on the right of personal freedom not foreseen in the Constitution, which was inadmissible having regard to the principal affirmed in article 1 of the Constitution providing that exceptions to that right should be identified in the Constitution itself.

It is therefore proposed that the *arraigo* provision should be incorporated in article 16 of the Constitution with exclusive reference to the investigation of organized crime, specifying those cases to which it would apply, the authority requesting it, the person authorizing it and the length of time for which should be granted, leaving the judge to decide on the place and other conditions of application and leaving open the possibility of extending the order for a similar period subject to justification of the measure, thereby covering all aspects of an exception to the individual right of personal freedom.

It accordingly endorses the proposal to incorporate the *arraigo* provision for investigations and trials involving organized crime, in the latter case where preventive detention is no longer an option, subject to the terms and conditions stipulated by the judge and in keeping with the relevant legal provision, for a period of up to 40 days with the

---

<sup>5</sup> The preceding arguments were taken up in the Senate's minute of 13 December 2007.

option of an extension for a further 40 days and provided the circumstances that justified its initial authorization are still applicable.

Finally, on a matter distinct from the transitional arrangements pending the introduction of the new system, provision is made for a temporary article 10, designed to regulate house arrest.

The transitional nature of this precautionary measure reflects the fact that it is considered inappropriate or unnecessary under the accusatory criminal systems.

However, it has to be recognized that its sudden disappearance would deprive federal and local law-enforcement authorities of a tool for which most other codes provide and which should therefore remain at least until the accusatory criminal justice system comes into force.

To avoid the indiscriminate use of this measure, it has been thought appropriate to stipulate in this transitional provision in which precise circumstances and for what maximum period it can be used..."

163. Concerning the High Court ruling on the *arraigo* provision, it should be noted that this predated the constitutional reform of 18 June 2008, which among other things gave the provision constitutional status in the case of organized crime. That is to say, the High Court ruling was issued before the constitutional reform came into effect, at a time when application of this provision was not yet constitutional with reference to organized crime.

164. In September 2005, the National Human Rights Commission welcomed the High Court ruling declaring house arrest of a penal nature to be unconstitutional since its everyday and highly irregular use offended human rights and contravened the presumption of innocence of suspects. The Commission expressed the wish to see the High Court ruling extended to the country as a whole and not confined to the State of Chihuahua as was currently the case, since the use of this procedure by various prosecutors' offices to maintain alleged offenders in custody for long periods when there was insufficient evidence to place them before a judge immediately opened the way to all kinds of abuses by elements of the police, who went unpunished.

## 6. Response to paragraph 10 (b) of the list of issues

165. The United Nations Convention against Transnational Organized Crime states in article 2, subparagraphs (a) and (c):

*"Use of terms*

For the purposes of this Convention:

(a) 'Organized criminal group' shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit; (...)

(c) 'Structured group' shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure; (...)"

166. During the legislative process related to the constitutional reform published in the Official Journal of the Federation on 18 June 2008, it was stated:

"... Definition of organized crime. Since the 1990s when the concept of 'organized crime' was included for the first time in the Constitution, the aim was to establish special rules and on occasion exceptions to the provisions applicable to the generality of defendants in criminal proceedings, reflecting the need for new and more powerful legal tools to enable

the investigating authorities to prosecute and punish members of these eminently criminal enterprises, which had been gaining much more influence and power than traditional criminal groups.

Unfortunately, this criminal phenomenon has been growing exponentially not only in Mexico but worldwide, which has spurred the international community to come up with a Convention that would establish, standardize and coordinate machinery to combat a form of criminality that threatens the sovereignty and viability of States. In this way the United Nations Convention against Transnational Organized Crime - also known as the Palermo Convention after the city in which it was adopted - was adopted and came into force. Mexico has ratified this Convention, of which it is a State party.

The Convention in question covers measures of various kinds, but more specifically rules for investigating, prosecuting and punishing this type of crime, which because of the power it commands calls for procedural restrictions on the traditional freedoms accorded to a defendant in a criminal trial, which is why our country opted to establish most of the specific rules applicable to this crime in the form of the special law passed by Congress, to which it gave constitutional status in only a few cases.

While the Supreme Court's interpretation of certain articles of the Federal Law Against Organized Crime has tended to align them with individual, and therefore constitutional, freedoms, the fact of placing strong emphasis on the accusatorial character of the criminal procedure envisaged, and of explicitly including various principles and fundamental rights previously only implicit in the Constitution, has made it necessary to incorporate a number of special rules applicable to organized crime, involving a certain restriction of the corresponding rights in order to comply with article 1 of the Constitution, which stipulates that exceptions to the fundamental rights recognized therein should be contained within the charter itself. As a result, references to organized crime throughout the articles in the substantive part of the text are more frequent, since it is appropriate, in the interests of clarity and to make it accessible to all the inhabitants of the country and thereby foster legal certainty, that the supreme standard-setting instrument should establish in general terms what is meant by organized crime.

The text therefore embodies a definition that is essentially a synthesis of the main concepts contained in the existing legal framework, one that defines the scope of the restrictions on individual rights, leaving it open for secondary legislation to broaden the scope of the rights restricted in principle by the constitutional definition, it being well known that while rights are established in the Constitution they can be expanded in second-rank legislation, as could be the case with a legal definition containing more elements than those provided for in the aforementioned constitutional paragraph.

It is important to bear in mind that the definition contains elements enabling a distinction to be drawn between this type of offence and the traditional forms of criminal association, the goal of the latter being to commit the crimes covered by the relevant legal provision, rather than all types of crime..."

167. In incorporating the definition of organized crime in the Constitution, the corresponding modifications were made to the secondary legislation, which involved replacing the wording "When three or more people agree to organize or organize themselves to carry out ...", in article 2 of the Federal Act against Organized Crime, by the phrase "When three or more persons effectively organize themselves to carry out...", the mere agreement to organize being an atypical circumstance and the aim being to approximate more closely to the definition found in the benchmark international instrument.

## 7. Response to paragraph 10(c) of the list of issues

168. The 2008 amendments to the Constitution relating to criminal law and public security restricted the application of arraigo to serious offences and organized crime (the latter in the federal sphere) and made it subject to strict legal controls.

169. The Federal Code of Criminal Procedure also sets out the valid requirements for recourse to this provision in order that it shall not serve as a pretext for illegal and arbitrary detention, establishing in this regard:

“...**ARTICLE 133 Bis:** The judicial authority can, at the request of the public prosecutor, order the suspect to be placed under house arrest in the case of **serious offences**, provided it is **necessary for the success of the investigation**, the **protection of persons or property** or when **there is a well-founded risk that the suspect may evade justice**. The public prosecutor and his deputies will be responsible for ensuring due compliance with the order of the judicial authority

House arrest shall last for the time strictly necessary, **and shall not exceed forty days**.

The person concerned may request that the arraigo order be rescinded when the causes that gave rise to it are no longer applicable. In this case, the judicial authority shall hear the public prosecutor and the person concerned and decide whether the order should or should not be maintained...”

“...**ARTICLE 205:** When by the nature of the offence or the relevant sentence the suspect should not be remanded in custody and there are reasons to suppose that he may attempt to evade justice, the public prosecutor may request the judge, with the support of reasoned arguments, or the judge may himself decide ex officio, following a hearing with the suspect, to issue an arraigo order, the nature and duration of which will be decided by the judge, which can in no case exceed the maximum period prescribed in article 133 bis, whether in the case of a pretrial investigation or in the process for which there is a constitutional time-limit for the matter to be resolved...”

## 8. Response to paragraph 10(d) of the list of issues

170. Statistical information on requests for arraigo granted from 1 April 2001 to 25 February 2010 are annexed to this report, together with information on the criminal cases assigned to district courts where the preliminary enquiries included an arraigo measure decreed by federal criminal court judges specialized in the issuing of search warrants, arraigo orders and communication intercepts between 5 January 2009 and 3 March 2010.<sup>6</sup>

## 9. Response to paragraph 11 of the list of issues

171. The following table provides data on alleged offenders registered in ordinary courts of the first instance for the offence of torture, by year of registration from 2005 to 2008.<sup>7</sup>

<i>Constitutional deadline order</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
<b>Total</b>	<b>4</b>	<b>9</b>	<b>4</b>	<b>7</b>
Detention order	4	9	4	6

<sup>6</sup> Source: Council of the Federal Judiciary.

<sup>7</sup> Source: National Institute of Statistics. Department of Socio-Demographic Statistics. Judicial Statistics

Committal for trial	0	0	0	1
Release for lack of evidence	0	0	0	0

172. The following table provides data on convicted criminals registered in ordinary courts of the first instance for the offence of torture, by year of registration from 2005 to 2008.<sup>8</sup>

<i>Sentence</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
<b>Total</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>3</b>
Conviction	1	0	0	3
Acquittal	0	2	2	0

173. In accordance with the National Human Rights Commission Act and its rules of procedure, the Commission has a nationwide remit to receive, hear and investigate complaints about alleged human rights violations by federal public servants. When the same event involves public servants of both the Federation and the federal or municipal entities, competence rests with the Commission. The task of investigating the complaints lies with its general inspection units, which are responsible for following the complaint through to its conclusion.

174. The CNDH received 54 complaints of torture in the period from 2007 to 2010. Of these complaint procedures, 43 have been concluded and 11 are pending.

175. The reasons for conclusion of the procedures were as follows:

<i>Reason for conclusion</i>	<i>Number of complaints</i>
Recommendation	23
Complaint withdrawn	13
Resolved by joinder	7

176. The 23 recommendations made in this period were:

<i>Number</i>	<i>Authority</i>	<i>Status</i>
1/08 on the case of Amado Ramírez Dillanes, Genaro Vázquez Durán y Leonel Bustos Muñoz.	Office of the Attorney General of the Republic. Government of the State of Guerrero.	Full compliance. Compliance unsatisfactory.
29/08 on the case of José Fausto Gálvez Munguía.	Ministry of Defence.	Compliance unsatisfactory.
30/08 on the case of Óscar Cornejo Tello, in the municipality of Morelia, Michoacán.	Ministry of Defence.	Compliance unsatisfactory.
31/08 on the case of Fausto Ernesto Murillo Flores, in	Ministry of Defence.	Compliance unsatisfactory.

<sup>8</sup> *Ibid.*

<i>Number</i>	<i>Authority</i>	<i>Status</i>
the municipality of Naco, Sonora State.		
32/08 on the case of Jesús Picazo Gómez.	Ministry of Defence.	Full compliance.
33/08 on the case of Antonio Paniagua Esquivel, in the municipality Tanhuato, Michoacán State.	Ministry of Defence.	Compliance unsatisfactory.
38/08 on the case of minor A1.	Michoacán State.Government	Partial compliance.
55/08 on the case involving the torture of A1.		Partial compliance.
67/08 on the case involving the torture of A1 and A2.	Ministry of Defence.	Partial compliance.
13/09 on the case of Ausencio González Gómez, Felipe Nery Marmolejo Muñoz, Erika Yazmín Pérez Martínez and Karen Esperanza Pérez Martínez.	Ministry of Defence.	Partial compliance.
16/09 on the case of the arrest and transfer of the journalist Lidia Cacho Ribeiro.	Puebla State Government. Quintana Roo State Government.	Partial compliance. Partial compliance.
31/09 on the case of José Carrasco Soto.	Ministry of Defence.	Partial compliance.
33/09 on the case of Adrián López Hernández, Saúl López Hernández and Silvia Ana Luisa Senties Lucio.	Ministry of Defence.	Partial compliance.
48/09 on the case of Román García Hernández, in the municipality of San Dionisio Ocotepc, Tlacolula, in Oaxaca State.	Ministry of Defence.	Partial compliance.
52/09 on the case of Manuel Acosta Villarreal, Sinhué Samaniego Osorio, Jesús Arnoldo González Meza and José Alberto	Ministry of Defence.	Partial compliance.

<i>Number</i>	<i>Authority</i>	<i>Status</i>
Rodríguez Reyes.		
71/09 on the case of Ramón Ortiz Ríos, Ramón Ortiz Miranda and René Canales Ortiz.	Ministry of Defence. Office of the Attorney General of the Republic.	Partial compliance. Not accepted.
13/10 on the case of V1.	Federal Public Security Secretariat.	Partial compliance.
42/10 on the case involving the torture of "V1".	Ministry of Defence.	Partial compliance.
50/10 on the case involving the torture of V1 and V2.	Ministry of Defence.	Accepted without proof of compliance.
52/10 on the case of "V".	Ministry of Defence.	Within the time-limit for a reply.
57/10 on the case involving the aggravated torture of "V1", "V2", "V3" y "V4".	Ministry of Defence.	Partial compliance.
77/10 on the case involving the aggravated torture of V1, cruel treatment of V2 and aggravated illegal detention of V1, V2 y V3.	Ministry of Defence.	Within the time-limit for a reply.
79/10 on the case involving the deprivation of life of V1, torture of V2 and aggravated cruel treatment of V3.	Ministry of Defence.	Within the time-limit for a reply.

177. Fifteen recommendations were made during the period in question.

178. In the period from 2007 to 2010, the Commission received 3380 complaints of cruel, inhuman or degrading treatment. Of these complaints, 2936 have been brought to a conclusion and 445 are pending.

179. The reasons for these complaints being brought to a conclusion are as follows:

<i>Reason</i>	<i>Number of complaints</i>
Guidance to the complainant	1,620
Unsubstantiated	761
Complaint withdrawal	158
Amicable settlement	119
Complainant showed no interest in proceeding	109
Complaints merged	76
Recommendation	57

Resolved following procedure	23
No jurisdiction	13

#### 10. Response to paragraph 12 of the list of issues

180. The Mexican State is the first country to have completed the process of putting the Istanbul Protocol into practice, which involves integrating the medical principles of effective documentation and investigation with the legal provisions applicable to the offence of torture during, both during the investigation phase conducted by the public prosecutor's office and the investigation by a judge.

181. With the integration of the Istanbul Protocol, the Official Journal of the Federation on 18 August 2003 published Agreement No. A/057/03 issued by the Attorney General of the Republic, which lays down institutional guidelines to be followed by staff of the Federal Public Prosecutor's Office, forensic physicians and medical examiners of the Attorney General's Office in applying the medical/psychological certificate of possible torture or ill-treatment. This primer containing basic international guidelines for investigating and documenting torture, designed in particular for government officials carrying out forensic examinations, has been the source of theoretical, methodological and practical knowledge that is fundamental for effectively performing the functions attaching to this specialized field of professional expertise, working in association with law enforcement agencies to establish the historical truth regarding the facts under investigation.

182. From 2008-2010 the Istanbul protocol was implemented in 80 cases of possible torture (2008:23 cases; 2009:23 cases and 2010:34 cases).

183. To date, 12 States have been trained and have legislation in the field: Aguascalientes, Baja California, Chiapas, Chihuahua, Federal District, Durango, Guanajuato, Michoacán, Morelos, Nuevo León, Querétaro and Tabasco.

184. Similarly, 18 States have been trained and are in the process of including the medical/psychological certificate in their legislation: Baja California Sur, Campeche, Coahuila, Colima, State of Mexico, Guerrero, Hidalgo, Nayarit, Oaxaca, Puebla, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tamaulipas, Tlaxcala, Yucatán and Zacatecas.

185. The Attorney General visited the States of Coahuila, Hidalgo, Tlaxcala, Querétaro, Guerrero, Morelos, Nuevo León and Michoacán to hold working meetings with the heads of the State Human Rights Commissions and State Attorneys General with the aim of receiving information on complaints, recommendations, pretrial investigations and criminal cases involving torture.

186. For further details on the application at national level of the medical/psychological certificate, see the table below on the agreements between the Offices of the Attorney General of the Republic and the State Attorneys General.

<i>State</i>	<i>Instrument</i>	<i>Date of publication</i>
Aguascalientes	No agreement	
Baja California	01/2008, establishing the institutional guidelines to be followed by officials of the public prosecutor's office, medical experts and professionals elected by the detainees or prisoners and the institution's other staff.	1 August 2008
Campeche	Circular C/002/2010, establishing performance guidelines for officials of the public	8 February 2010

<i>State</i>	<i>Instrument</i>	<i>Date of publication</i>
	prosecutor's office and forensic medical experts and psychologists within the institution.	
Chiapas	01/2005, establishing the institutional guidelines to be followed by public prosecutors, forensic medical experts and the institution's other staff.	10 June 2005
Chihuahua	Agreement PGJE/01/05, establishing the performance guidelines for officials of the public prosecutor's office, forensic medical experts and the institution's other staff on the use of the medical/psychological certificate of possible torture or ill-treatment.	13 October 2005
Coahuila	Completion of the second stage of the training course on the use of the medical/psychological certificate, which has yet to be issued.	
Durango	Handbook on investigating and documenting torture and cruel, inhuman and degrading treatment.	First quarter 2007
Federal District	A/008/2005, establishing performance guidelines for officials of the public prosecutor's office and forensic medical experts and psychologists on the use of the medical/psychological certificate.	13 December 2005
Guanajuato	1/2005, to instruct officials of the public prosecutor's office, forensic medical experts, psychologists and the other staff in the office on the use of the certificate.	17 June 2005
Guerrero	No agreement.	
Jalisco	Possesses a State Law to Prevent and Punish Torture, which is applicable throughout the federal entity.	
Michoacán	002/2006, establishing performance guidelines for officials of the public prosecutor's office and forensic medical experts and psychologists on the use of the certificate.	23 August 2006
Oaxaca	No agreement.	
Puebla	No agreement.	
Quintana Roo	Agreement A/002/2010, establishing the institutional guidelines for forensic medical experts in the Quintana Roo Attorney General's Office on the use of the medical/psychological certificate on possible	21 May 2010

<i>State</i>	<i>Instrument</i>	<i>Date of publication</i>
	torture or ill-treatment.	
Sinaloa	In the process of organizing both the agreement and the certificate.	
Sonora	No agreement.	
State of Mexico	Agreement 21/2007, C. Attorney General of the State of Mexico, establishing the institutional guidelines to be followed by officials and secretaries of the public prosecutor's office, forensic medical experts, psychologists and the other staff in the Mexico State Attorney General's Office on the use of the medical/psychological certificate of possible torture or ill-treatment.	14 February 2008

187. The Attorney General's Office is planning carry out visits to the States of Morelos and Querétaro in December to conduct a training course for a second generation of public servants in the offices of the State Attorneys General. He also plans to visit the State of Tabasco to interview staff of the State's Human Rights Commission and Supreme Court with the aim of collecting data on presumed acts of torture.

188. A data base and archive on cases of torture are also available through the register of requests for application of the medical/psychological certificate on possible torture or ill-treatment, comprising the following information: internal audit number; date of application for certificate; name and function of requesting authority; number of the investigation file and/or related pretrial investigation; name of person to whom the certificate applies; gender; age; type of torture involved; municipality in which the acts occurred; date of the event; authority identified as responsible; service, name and signature of the designated doctor, name and signature of the designated psychologist; format of certificate used, date of delivery of certificate and result of the examination.

189. From 2009 to the present, courses have been provided on the following topics: constitutional justice and the defence of human rights; awareness raising and prospects in the gender field; human rights, a global vision; human rights and gender equity; Ninth National Mediation Congress; diploma course on torture and human rights syndrome. A total of 104 public servants were trained up to 22 March 2010

190. Within the general framework of promoting and protecting human rights, the Attorney General's Office has carried out the following human rights training activities in cooperation with the State Attorneys General:

- (a) In 2008:
  - (i) 22-25 April and 28-30 April in Baja California;
  - (ii) 26-27 May in Sinaloa.
- (b) In 2009:
  - (i) 24-27 March in Veracruz;
  - (ii) 8-9 June in Nayarit;
  - (iii) 8-11 September in Jalisco.

191. Since in many cases State Attorney General's Offices are constantly renewing their staff, the Attorney General's Office carries out training of second-generation staff. Such training was provided on the following dates in the following States:

- (a) 7 to 9 July 2009 in the State of Baja California;
- (b) 25 to 28 August 2009 in the State of Chiapas;
- (c) 28 to 30 April 2010 in the Office of the Chief Prosecutor of the State of Coahuila;
- (d) 19 to 21 May 2010 in the State of Nayarit;
- (e) 14 to 16 July in the State of San Luis Potosí;
- (f) 10 to 12 November 2010 in the Office of the Attorney General of the State of Nuevo León.

192. The main training courses provided by the Attorney General's Office included:

- (a) Course on the issuing of the medical/psychological certificate on possible torture or ill-treatment;
- (b) Course on detention;
- (c) Workshop on human rights in the context of the administration of federal justice;
- (d) Seminar on human rights with regard to public security and the administration of justice;
- (e) Seminar on caring for the victims of crime;
- (f) Seminar on human rights and gender equity;
- (g) Seminar on non-discrimination and the rights of the disabled;
- (h) Seminar on the human rights of indigenous peoples.

193. In the period from January 2007 to November 2010, the Attorney General's Office thus organized a total of 494 human rights training activities, attended by 19,714 officials and representing 4315 course hours in all.

194. In the case of the course on the issuing of the medical/psychological certificate on possible torture or ill-treatment, the Attorney General's Office organized a total of 39 training activities, attended by 1432 officials and amounting to 332 course hours in all.

195. In 2009, the Ministry of Defence distributed the Istanbul Protocol to all its units, offices and facilities. This was in accordance with the Federal Law to Prevent and Punish Torture, which is applicable by way of soft law by bodies with jurisdiction over military matters in the areas within their competence and in the circumstances stipulated by the aforesaid law.

196. With regard to the application of the Istanbul Protocol, there have been three pretrial investigations leading to military personnel being charged with torture, which resulted in three criminal cases being heard by military judges.

197. At the state level, the Institute of Expert Services of the State of Mexico has made progress in implementing the Istanbul protocol. It produced on a collegiate basis the General Guide to Medical-Legal Examinations for establishing medical certificates and the Basic Technical Guide to age determination, aimed at ensuring that examinations are carried out with complete respect for individual and human rights.

198. These guides cover the authorization of body surface inspection and the inclusion of a paragraph in the certificate describing the response mechanism manifested by the person being examined as well as the treatment received by the staff carrying out the detention or examination.

199. From 9 to 11 September, a course on the putting the Istanbul protocol into practice was organized by the Government of the State of Jalisco in coordination with the State Attorney General's Office.

#### **11. Response to paragraph 13 of the list of issues**

200. The medical-psychological certificate is established by specialized experts from the Attorney General's Office and has complete probative value and validity in Mexican criminal proceedings, to the advantage of alleged victim of torture.

201. Under military jurisdiction and in accord with article 225 of the Federal Code of Criminal Procedure, article 548 of the Code of Military Justice provides that experts should be chosen from among persons officially appointed and paid to perform such functions. If no official experts are available, they should be appointed from among persons exercising a teaching function in national schools in the branch concerned, or from among public servants or technicians working in government establishments or agencies.

202. Articles 522 (section III) and 533 to 544 of the Code of Military Justice stipulate that recourse must be had to experts whenever specialized knowledge is required to examine a person. The experts are to be designated by the parties to the military criminal proceedings, and when appearing before the military judge in charge of the case they must announce the post they occupy and undertake to deliver the corresponding certificate within the legal time-limit allowed by the court, since the certificate has to be ratified once it is submitted.

203. Where necessary, if there is a divergence between the certificates submitted by the two parties, the experts concerned will be called to an arbitration hearing for them to resolve their difference of view if possible; and if they are unable to do so the judge will appoint a third arbitration expert to give an opinion, which the judge will then assess according to the rules laid down in the Code of Military Justice.

#### **12. Response to paragraph 14 of the list of issues**

204. The Office of the Attorney General complies fully with article 5, section V, subparagraph (a), of its Organic Law, which stipulates that the institution shall: "promote among its officials a culture of respect for individual freedoms and human rights established by Mexican law and the international treaties to which the United Mexican States are party".

205. Training and promotion activities relating to a culture of human rights are based on two specific programmes:

(a) An institutional programme on human rights training and educational services;

(b) An institutional programme for the promotion of a culture of human rights.

206. It is currently developing a training project on the application of the Istanbul Protocol, aimed at medical and psychological experts in the various State Attorney General's Offices, designed to address the following topics:

(a) Promoting the effective application of the Federal Act to Prevent and Punish Torture regarding the examination of torture victims;

(b) Ensuring due compliance with Mexico's international treaty commitments regarding the administration of justice, with particular emphasis on the subject of torture;

(c) Promoting implementation of the Istanbul Protocol and its effective application in all the States of the Republic.

207. With regard to the course on detention, it is aimed in particular at ensuring that staff in the institution update their knowledge with a view to preventing arbitrary detention and other practices in breach of human rights. In the period from December 2006 to February 2010, 49 such courses were held, attended by 1685 participants and totalling 416 course hours

208. The Attorney General's police unit has increased and broadened its knowledge in the field of human rights; in 2009 it trained a total of 504 public servants, and in the month of January 2010 a total of 21 officials.

209. Under its "Programme for promoting and strengthening human rights and international humanitarian law", the Ministry of Defence has introduced a course/workshop on medical examination and documentation of torture and forensic investigation of suspicious deaths resulting from human rights violations. From 2008 to 2010, five such courses/workshops were held.

210. Through academies serving all its personnel, the Secretariat of the Navy has made provision for promoting and strengthening human rights and international humanitarian law. From 30 November to 12 December 2009, three members of the Navy Health Service and one from the Navy Justice Department attended the course/workshop on the medical examination and documentation of torture and forensic investigation of suspicious deaths resulting from human rights violations, an activity organized by the Ministry of Defence.

211. The Ministry of Defence also continues to operate its programme on the promotion and strengthening of human rights and international humanitarian law, under which all military personnel are provided with courses, lectures and talks on preventing and eradicating torture, with special emphasis on the Federal Act to Prevent and Punish Torture and the Istanbul Protocol.

212. In keeping with the National Human Rights Programme, the Ministry of Defence has also implemented its human rights programme for 2008-2012, involving the following activities:

(a) Devising and implementing a training programme for staff in the military prison system on the observance and application of the Istanbul Protocol, aimed at preventing and eradicating torture;

(b) Devising and implementing a training programme for personnel authorized to make arrests and those working in places of detention on the observance and application of the Istanbul Protocol, the Optional Protocol to the Convention against Torture and other international human rights instruments, with the aim of preventing and eradicating torture.

213. It has organized various workshops on the implementation of the Istanbul Protocol. These workshops are geared to preventing and analysing the physical and psychological torture of interns when entering, exiting and during their stay in federal centres; cooperating on this question with national and international mechanisms, civil society organizations and other specialized international bodies; ensuring that medical examinations in internment centres are consistent with the Istanbul Protocol; and responding to the need for information and to complaints by investigating bodies in accordance with international standards.

214. In the period 2005 to 2007, seven workshops on implementation of the Istanbul Protocol were organized jointly by the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of the Interior, the Office of the Attorney General of the Republic, the

National Human Rights Commission, the State Executive and Judicial Authorities, the State Human Rights Commissions and the Office of the United Nations High Commissioner for Human Rights, resulting in the training of 795 public servants.

215. In the period from 2006-2008, the Ministry of Defence organized 59 courses, workshops, lectures and seminars for senior and middle management and rank-and-file staff in the federal police force, providing training for 3878 individuals.

216. The Ministry of Defence has a distance education programme aimed at meeting the initial training, updating, specialization and further training needs of public servants. This project involves using the National Education Videoconferencing Network with the collaboration of the National Autonomous University of Mexico and other distinguished academic centres in the country. On 28 November 2009 it organized its fourth video conference on the prevention of torture in the police service, reaching a total of 2973 senior and rank-and-file staff in the federal police force.

217. At the state level, 372 public servants in the State of Mexico were trained in the period 2007-2009 in the application of the Istanbul Protocol and use of the medical-psychological certificate in cases of suspected torture and/or ill-treatment, with the collaboration of the Office of the Attorney General of the Republic. The course-workshops were attended by experts, agents of the prosecution service and the judicial police as well as staff of the Institute for the Care of Crime Victims and Department of Human Rights.

218. In 2010, the Human Rights Commission of the State of Mexico organized a course-workshop on the rights of detainees, conducted by expert staff from the Institute and focused on the detection and investigation of torture, due to be attended by 365 experts attached to the Expert Services Institute.

219. The Human Rights Commission is endeavouring to disseminate knowledge of the Istanbul Protocol, and to that end conducts workshops on application of the Protocol addressed to personnel of human rights commissions or offices of the state's attorney for human rights of the federal entities, with the aim of imparting to lawyers or inspectors, doctors and psychologists of said entities a knowledge of the Protocol so that they will be qualified to diagnose and detect signs of torture.

220. From 2007 to 2009, five workshops were held in Nuevo Vallarta, Nayarit; Ciudad Obregón, Sonora; La Paz, Baja California Sur; and Tijuana and Mexicali in Baja California. The last four workshops were held at the invitation of the Sonora State Human Rights Commission, the Baja California Sur State Human Rights Commission and the Baja California State Procurator's Office for Human Rights and Civic Protection.

221. In the period 2007 to 2010, the National Human Rights Commission continued distributing its Istanbul Protocol dossier, entitled *Always on the Side of the Victim*, to members of the armed forces, justice administration officials and participants in the various training activities organized by the Commission. In 2010 the second edition of the dossier was published.

222. In 2010, the Commission continued to organize diploma courses on human rights, on the armed forces and human rights and on human rights, public security and the administration of justice, dealing with the prevention of torture and the Istanbul Protocol. The following training courses and workshops on torture were also held:

(a) Lectures on the basic concepts of victimology, including the functions and powers of the Commission's Programme for Victims of Crime and the issue of torture, aimed at staff in the Office of the Assistant Attorney General for Human Rights, Victim Care and Community Service in Mexico City and branch offices of the Attorney General of the Republic in the States of Nayarit, Baja California Sur, Querétaro, San Luis Potosí, Tlaxcala, Coahuila, Veracruz and Yucatán;

(b) A series of lectures on human rights, public security and the administration of justice, organized in the cities of Mexicali, Ensenada and Tijuana in May, June, July, August, September and October 2009, on topics such as detention procedures from the standpoint of human rights, the legal framework concerning the use of force and firearms, and the legal framework regarding the prevention of torture;

(c) Five seminars held in the city of Tepic, Nayarit, on human rights and the administration of justice in January, February, March, May and August 2009, intended to ensure that staff, investigators and experts in the state attorney general's office are aware of the legal human rights framework governing the police function and detention, as well as issues relating to the investigation and documentation of torture and/or ill-treatment in the Mexican judicial setting and basic questions concerning the victims of torture and abuse of power;

(d) Human Rights and Public Security Seminar held from 4 to 6 December 2009 in the city of Culiacan, Sinaloa. Aimed at senior officials in the State Secretariat of Public Security, it covered topics such as codes of conduct for officials responsible for ensuring compliance with the law, use of force and firearms, torture and victims of crime;

(e) Courses to examine general and specific recommendations on torture and the use of force and firearms for officials responsible for compliance with the law, aimed at members of the judicial police and investigators in the State of Mexico;

(f) Sixteen diploma courses in human rights, under the heading of continuing education and including the module "Torture and the Istanbul Protocol". Participants in these courses included public servants concerned with the administration of justice, public security, the armed forces and education at the three levels of government, parliamentarians, members of the legislature, academics, researchers, students, professionals and members of non-governmental organizations.

223. The National Human Rights Commission also organized training activities with the Attorney General's Office in the Federal District and regional offices in Baja California, Coahuila, Morelia, Tabasco, Tamaulipas, Tlaxcala, Veracruz and Yucatán. In this context, Commission trainers gave lectures, including one entitled "Use of the medical-psychological certificate in cases of possible torture and/or ill-treatment".

224. To mark the Universal Periodic Review of Mexico by the Human Rights Council in 2009, the Commission organized panels and seminars in the Federal District; Cuernavaca, Morelos; San Cristóbal de Las Casas, Chiapas; La Paz, Baja California Sur; and Hermosillo, Sonora, to highlight the recommendations made to Mexico, including those relating to the topic of torture.

### **13. Reply to paragraph 15 of the list of issues**

225. On 6 October 2008, the Law on Juvenile Justice came into force in the Federal District regulating the reform of article 18 of the Constitution, which provides for a new system of juvenile justice. The new system comes under the jurisdiction of specialized judges dependent on the Federal District's High Court of Justice, while the function of public defender comes under the Federal District Government.

226. The Ministry of Public Security physically handed over 789 adolescents in residential care and an equal number of dossiers. At the same time, 1859 dossiers of adolescents in outside care were sent to the Federal District Government. It also handed over property and assets including computer systems, databases, furniture, equipment and property located in San Fernando, Periférico Sur and Obrero Mundial, the latter housing the premises of the Minors Council as well as the six diagnostic and treatment centres and the

Board of Commissioners coming under the Ministry of Public Security's Decentralized Agency for Prevention and Social Rehabilitation.

227. Following the promulgation of the reform of article 18 of the Constitution on juvenile justice, the National Human Rights Commission recognized the importance of verifying compliance with its provisions favourable to offenders. In 2006 it accordingly submitted a special report on the question, and has subsequently followed up both the irregularities highlighted in the report as well as the conclusions it drew. Its aim was to ensure that the necessary measures were taken to avoid violations of the human rights of adolescents in conflict with the criminal law as the result of a failure to apply the reform in question, in contravention of the provisions of the Constitution as well as the relevant international treaties ratified by Mexico.

#### **14. Response to paragraph 16 of the list of issues**

228. On 13 September 1999, article 102, paragraph B, of the Mexican Constitution was amended to establish a non-jurisdictional human rights system consisting of the National Human Rights Commission and 32 state and Federal District human rights commissions or procurators (public human rights bodies).

229. The Commission is an organization with managerial and budgetary autonomy, legal personality and independent assets, whose formal mandate is to protect, observe, promote, study and disseminate the human rights protected by the Mexican legal system.

230. In accordance with the Mexican Constitution, the National Human Rights Commission Act and the Commission's internal rules of procedure, the body has a nationwide remit to receive, hear and investigate complaints about alleged human rights violations by federal public servants. It should be noted that when the same event involves both federal public servants and federal or municipal entities, competence rests with the Commission. The task of investigating complaints falls to its team of Inspectors-General, who are responsible for following the complaint through to its conclusion.

231. Once the investigation is concluded, if it is found that human rights violations by public servants have occurred, a recommendation is drawn up, analyzing the facts, arguments and evidence, together with the proofs and procedures followed, in order to determine whether public servants have violated the human rights of those concerned by engaging in illegal, unreasonable, unjust, inappropriate or erroneous acts and omissions. The recommendation should indicate the measures taken to restore the fundamental rights of those concerned and, where appropriate, to repair the loss and damage sustained. The President of the Commission approves and issues the recommendation drafted by the inspectors.

232. The recommendations are public and non-binding. The Commission is also authorized to file charges and complaints to the appropriate authorities.

233. In accordance with the constitutional article mentioned, the Commission is not competent in electoral, labour and jurisdictional matters.

234. The Commission's President is elected by a vote of two thirds of the members present in the Senate or, when it is in recess, by the Standing Commission of the Congress, with the same qualified voting. The President has a five-year term of office, and he may be re-elected for one further term. He submits an annual activity report to the Powers of the Union.

235. As regards the state human rights commissions and procurators' offices, it is for the legislatures or congresses of the federal entities to legislate in the matter, in their respective spheres of competence.

236. The state commissions and procurators offices are independent of the National Human Rights Commission and are responsible for safeguarding the human rights protected by the Mexican legal system and hearing complaints against acts or omissions of an administrative nature by any authority or local public servant.

237. Human rights bodies in the federal entities submit non-binding public recommendations and reports and complaints to the competent authorities. They are competent in electoral, labour and jurisdictional matters.

238. The heads of these local bodies have different titles since they may be presidents, procurators or commissioners according to the legislation of each federal state. In the case of 24 state commissions or offices of the Attorney General, their heads are appointed by the Congress or local legislature (in the case of the Federal District it is the Legislative Assembly). In four cases, the election takes place in the Congress or the local legislature on the basis of a short list submitted by the state executive; in two, the election takes place in the Congress or the local legislature on the basis of a proposal by the state executive; and, in two, the appointment is made by the local executive with the approval of Congress.

239. In the case of alleged human rights violations that exclusively concern authorities or public servants in federal or municipal entities, such complaints are in principle dealt with by organizations for the defence of human rights in the entity concerned. However, there is an exception to this principle since the National Human Rights Commission can take up the complaint and continue processing it, in which case it will be the Commission itself that, where appropriate, issues the corresponding recommendation.

240. Jurisdiction is asserted in this way when the alleged human rights violation is of wider concern than to the federal entity alone and affects national public opinion, always supposing that the issue is by its nature particularly serious. The Commission can also assert jurisdiction at the express request of one of the local bodies or when the head of the local body is prevented from dealing with the affair.

241. When asserting jurisdiction in a dispute initially within the remit of a local body, the Commission must issue an agreement signed by its President. This jurisdiction agreement is notified immediately by the relevant Commission inspector to the local body as well as to the authority identified as allegedly responsible. At the same time, the local body is required to hand over all the written records and materials in its possession relating to the subject of the jurisdiction agreement.

242. On the basis of the aforementioned constitutional article, the Commission is responsible for examining any irregularities concerning the recommendations, decisions and omissions of the equivalent organizations in the federal entities. To this end, the National Human Rights Commission Act provides for two kind of remedy: the complaint and the challenge. The Commission's decision on these irregularities is not subject to appeal.

243. The complaint procedure can be initiated by complainants or accusers who have suffered serious wrong through the omissions or inaction of local organizations with respect to cases submitted to them. The challenge procedure concerns final decisions taken by state human rights organizations or final responses by local authorities concerning compliance with recommendations that they themselves have issued. Exceptionally it is possible to challenge agreements among state organizations when, in the judgement of the Commission, the procedures followed by those organizations patently violate the rights of the complainants or accusers, and those rights must be protected immediately.

244. Public organizations for the protection and defence of human rights in each of the 32 federal entities of the Mexican Republic came together with the National Human Rights

Commission in September 1993 to form the Mexican Federation of Public Bodies for the Protection of Human Rights.

245. The objectives of the Federation include: strengthening the autonomy, independence and moral authority of public organizations for the protection of human rights so as to further the prompt and effective protection and defence of the fundamental rights underpinning the Mexican legal system; establishing and promoting coordination measures, of national and international scope, geared to the protection, academic study, promotion, observance and dissemination of human rights and the exchange of experience on the conduct of the procedures adopted by partner organizations in investigating complaints, with a view to optimizing observance of the principles of immediacy, simplicity, concentration and rapidity.

246. Members of the Federation meet periodically and to facilitate its work the Mexican Federation has been divided into four areas:

(a) Northern zone: Baja California, Baja California Sur, Chihuahua, Coahuila, Nuevo León, Sinaloa, Sonora and Tamaulipas;

(b) Eastern zone: Hidalgo, State of Mexico, Morelos, Querétaro, San Luis Potosí, Tlaxcala, Puebla and Federal District;

(c) Western zone: Aguascalientes, Colima, Durango, Guanajuato, Jalisco, Michoacán, Nayarit and Zacatecas;

(d) Southern zone: Campeche, Chiapas, Guerrero, Oaxaca, Quintana Roo, Tabasco, Veracruz and Yucatán.

247. In keeping with its mandate and as technical secretary of the federal steering committee, the Commission is assisting with the work in all areas.

248. Mention should be made of the Commission's important role as National Mechanism for the Prevention of Torture in Mexico. To fulfil this commitment at federal level, the Commission signed a cooperation agreement with the Ministry of the Interior, the Ministry of Foreign Relations, the Ministry of National Defence, the Secretariat of the Navy, the Ministry of Public Security, the Office of the Attorney General of the Republic and the Ministry of Health with the aim of providing the necessary facilities to carry out inspections in places of detention under the jurisdiction of the said authorities.

249. In order to bring legal standards into line with international treaty commitments, the Commission has taken steps to amend article 61 of its internal rules of procedure. At its 228th regular session on 12 June 2007, the Commission's Advisory Council approved the amended article in question, which was published in the Federation's Official Gazette on 28 June 2007.

250. Under article 61 of the Commission's rules of procedure, its third general inspection team is responsible for coordinating the Commission's activities in exercising the powers conferred on the National Mechanism for the Prevention of Torture by the Optional Protocol. To coordinate these activities, the Commission strengthened its structure through the creation of a directorate responsible for exercising the powers and responsibilities devolving upon the National Mechanism.

251. In the case of places of detention under the responsibility of state and municipal authorities, the Commission in its role as National Mechanism carries out supervisory visits in cooperation with staff from the state human rights commissions. In that connection, it has signed 15 general cooperation agreements for the prevention of torture and other cruel, inhuman or degrading treatment or punishment with organizations in Aguascalientes, Baja California, Baja California Sur, Campeche, Coahuila, Colima, Durango, Jalisco, Michoacán, Puebla, Querétaro, Sinaloa, Sonora, Tabasco and Yucatán.

## C. Article 3 of the Convention

### 1. Response to paragraph 17 of the list of issues

252. Under the legislation in force in Mexico, the power to order the expulsion of a foreigner in the situations defined in article 33 of the Constitution and article 125 of the Population Act lies with the Federal Executive.

253. In practice, this power is exercised through the National Institute for Migration, which, in pursuance of the Population Act regulations, conducts expulsion proceedings in accordance with article 27, paragraph VI, of the Federal Administration Organization Act and its own internal regulations.

254. The expulsion procedures described in article 33 of the Constitution differ from those laid down in article 125 of the Population Act in that the former is an exceptional measure which the Federal Executive is exclusively empowered to take and to which the remedies of *amparo* and review are not applicable, while the latter is an administrative measure against which the two remedies may be invoked.

255. The Supreme Court has ruled that, even where article 33 of the Constitution is applied, the head of the Federal Executive must furnish grounds for the measure, which is why *amparo* proceedings are also admissible. The ruling was as follows:

“Although article 33 of the Constitution gives the Federal Executive exclusive power to expel from the country any foreigner whose continued presence it considers undesirable, immediately and without the need for prior judicial proceedings, the high official taking that step is not exempted from the obligation, which is incumbent on every authority in the country, to furnish the legal basis for the measure he is taking, this on account of the distress caused by deportation, since that safeguard is enshrined in article 16 of the Constitution itself. Consequently, his acts may not be arbitrary but must comply with the rules laid down in the Constitution and the law. This being the case, under article 103, paragraph 1, proceedings against such decisions based on safeguards are admissible. To that end the procedures established by the applicable laws and regulations must be followed.”<sup>9</sup>

256. This opinion was reaffirmed in 2005 in the following terms:

“...Nullity proceedings are admissible [...] even in cases where a foreigner is ordered to leave the country; the foregoing derives from the fact that, in relation to such measures, federal fiscal legislation does not lay down requirements for granting of suspension of the measure appealed against which are stricter than those provided for in the *Amparo* Act, since its consequences are not to be confused with those of expulsion ordered by the President of the Republic in pursuance of article 33 of the Constitution, in which case proceedings for enforcement of rights would be admissible without the requirement of previous exhaustion of all other remedies or legal means of defence, given that where such a measure is taken article 123, paragraph 1, of the law on *amparo* provides for outright suspension”.

257. In April 2009, the Chamber of Deputies approved the draft decree modifying the title of chapter 1 and amended various articles of the Constitution with regard to human rights, including the aforementioned article 33. The amendment is under discussion in the Senate.

---

<sup>9</sup> Foreigners: their expulsion must be justified. Diederichsen Trier Walter. SJF XCV, p. 720, First Chamber, 28 January 1948. Unanimous (five votes).

258. The amendment in question is the following:

“Article 33. Foreigners are persons who do not possess the qualifications specified in article 30. They can exercise their rights under the Constitution. The Federal Executive has exclusive powers, following a judicial hearing, to expel from the country any foreigner whose continued presence it considers undesirable. The law will govern the administrative procedure as well as the place and duration of detention. Decisions relating to this procedure shall be definitive and unassailable”.

259. It should be noted that, if the proposed amendment is adopted, the fourth transitory article provides that the legislation referred to in article 33 of the Constitution must be issued within a maximum of one year following the entry into force of the corresponding decree.

## 2. Response to paragraph 18 of the list of issues

260. Applicants by nationality registered in the period de 2004-2010:

<i>No.</i>	<i>Country or territory of origin</i>	<i>Holders</i>	<i>Dependants</i>	<i>Total</i>
1	Afghanistan	2	0	2
2	Albania	2	0	2
3	Algeria	2	0	2
4	Angola	4	0	4
5	Argentina	1	0	1
6	Armenia	2	0	2
7	Austria	1	0	1
8	Bangladesh	44	0	44
9	Belize	1	0	1
10	Bolivia (Plurinational State of)	2	1	3
11	Brazil	7	0	7
12	Burkina Faso	1	0	1
13	Burundi	1	0	1
14	Cameroon	21	0	21
15	Central African Republic	3	0	3
16	Chile	1	1	2
17	China	36	0	36
18	Colombia	219	65	284
19	Congo	4	1	5
20	Costa Rica	1	0	1
21	Côte d'Ivoire	6	0	6
22	Cuba	250	17	267
23	Czech Republic	1	1	2
24	Democratic People's Republic of Korea	1	0	1
25	Democratic Republic of the Congo	15	2	17
26	Dominican Republic	10	0	10
27	Ecuador	11	0	11
28	El Salvador	245	103	348

<i>No.</i>	<i>Country or territory of origin</i>	<i> Holders</i>	<i> Dependants</i>	<i> Total</i>
29	Eritrea	242	4	246
30	Ethiopia	225	6	231
31	Former Yugoslav Republic of Macedonia	4	0	4
32	Gabon	1	0	1
33	Georgia	3	0	3
34	Ghana	10	1	11
35	Guatemala	98	72	170
36	Guinea	10	1	11
37	Guyana	4	0	4
38	Haiti	231	15	246
39	Honduras	320	123	443
40	India	117	1	118
41	Iran (Islamic Republic of)	13	4	17
42	Iraq	44	22	66
43	Ireland	1	0	1
44	Israel	1	0	1
45	Jamaica	3	0	3
46	Kazakhstan	1	0	1
47	Kenya	1	0	1
48	Kosovo	1	0	1
49	Laos	1	0	1
50	Lebanon	3	0	3
51	Liberia	16	4	20
52	Moldova	2	1	3
53	Morocco	2	0	2
54	Myanmar	20	0	20
55	Nepal	24	1	25
56	Nicaragua	67	14	81
57	Nigeria	25	0	25
58	Norway	1	0	1
59	Pakistan	4	0	4
60	Palestine	2	0	2
61	Panama	4	0	4
62	Paraguay	1	0	1
63	Peru	18	4	22
64	Romania	7	2	9
65	Russia	3	0	3
66	Saudi Arabia	1	0	1
67	Senegal	3	0	3
68	Serbia	1	0	1
69	Sierra Leone	2	0	2

<i>No.</i>	<i>Country or territory of origin</i>	<i> Holders</i>	<i> Dependants</i>	<i> Total</i>
70	Somalia	88	1	89
71	South Africa	3	3	6
72	Spain	1	0	1
73	Sri Lanka	50	3	53
74	Sudan	13	0	13
75	Syria	1	0	1
76	Tanzania	1	0	1
77	Togo	1	0	1
78	Trinidad and Tobago	2	0	2
79	Tunisia	1	0	1
80	Turkey	11	0	11
81	Turkmenistan	1	0	1
82	Uganda	2	0	2
83	Ukraine	6	0	6
84	United Kingdom of Great Britain and Northern Ireland	1	0	1
85	United States of America	11	0	11
86	Uruguay	1	0	1
87	Uzbekistan	2	0	2
88	Venezuela (Bolivarian Republic of)	9	1	10
89	Zimbabwe	3	0	3
	<b>Total</b>	<b>2,639</b>	<b>474</b>	<b>3,113</b>

## 261. Recognized by nationality registered in the period 2004 to 2010:

<i>No.</i>	<i>Country or territory of origin</i>	<i> Holders</i>	<i> Dependants</i>	<i> Total</i>
1	Algeria	1	0	1
2	Angola	2	0	2
3	Armenia	1	0	1
4	Brazil	1	0	1
5	Burundi	1	0	1
6	Cameroon	5	0	5
7	China	3	0	3
8	Colombia	84	48	132
9	Congo	2	1	3
10	Côte d'Ivoire	2	0	2
11	Cuba	4	0	4
12	Democratic Republic of the Congo	10	0	10
13	El Salvador	8	13	21
14	Eritrea	64	1	65
15	Ethiopia	37	3	40
16	Ghana	1	1	2

<i>No.</i>	<i>Country or territory of origin</i>	<i> Holders</i>	<i> Dependants</i>	<i> Total</i>
17	Guatemala	4	7	11
18	Guinea	4	0	4
19	Haiti	122	8	130
20	Honduras	8	6	14
21	India	8	0	8
22	Iran (Islamic Republic of)	4	4	8
23	Iraq	12	17	29
24	Jamaica	1	0	1
25	Kosovo	1	0	1
26	Liberia	1	0	1
27	Myanmar	19	0	19
28	Nepal	4	0	4
29	Nicaragua	2	0	2
30	Nigeria	5	0	5
31	North Korea	1	0	1
32	Palestine	1	0	1
33	Peru	1	0	1
34	Russia	1	0	1
35	Saudi Arabia	1	0	1
36	Senegal	3	0	3
37	Somalia	37	1	38
38	South Africa	1	0	1
39	Sri Lanka	19	0	19
40	Sudan	3	0	3
41	Turkey	5	0	5
42	Uganda	1	0	1
43	Uzbekistan	2	0	2
44	Venezuela (Bolivarian Republic of)	4	1	5
45	Zimbabwe	2	0	2
	<b>Total</b>	<b>503</b>	<b>111</b>	<b>614</b>

#### **D. Articles 5-7 of the Convention**

##### **Response to paragraph 19 of the list of issues**

262. International human rights legislation under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and the Inter-American Convention to Prevent and Punish Torture protects a series of rights related to torture and inhuman or degrading treatment:

- (a) The right to be protected from torture;
- (b) The duty to prosecute torturers;

(c) The right not to be expelled, returned or extradited to another State where one might be in danger of being tortured;

(d) The right of victims to obtain redress, fair compensation, including rehabilitation;

(e) The right of victims to make a complaint, to have it impartially investigated, and to be protected from retaliation for making complaints.

263. The rights established in the aforementioned international instruments are duly reflected in national legislation with regard to torture, including the Political Constitution of the United Mexican States, the Federal Act to Prevent and Punish Torture and state laws and various amendments to state criminal codes, which embody some very significant rights such as legal safeguards, which must be properly observed and respected by authority to guarantee the physical and mental integrity of all persons and the prohibition of any form of solitary confinement, intimidation or torture of any kind.

## **E. Article 10 of the Convention**

### **Response to paragraph 20 of the list of issues**

264. The Ministry of Defence is working jointly with the Mexico Office of the United Nations Commissioner for Human Rights on a work plan for the training of military personnel by that office with a view to developing impact indicators and implementing a pilot programme on human rights, international humanitarian law and gender equity.

265. Under the Programme for the Promotion and Strengthening of Human Rights and International Humanitarian Law, focus is also being placed on the issue of torture. Military personnel together with members of the International Red Cross Committee, the National Human Rights Commission and state human rights commissions are participating actively as lecturers and teachers of programmed courses.

266. A Ministry of Defence programme of the same name contains general guidelines prescribing strict respect for human rights by military personnel in all their spheres of activity.

267. The Navy Secretariat likewise deals in general terms with the topic of human rights, the conduct of its personnel being regulated in all their fields of activity by strict observance of and respect for human rights.

268. The Ministry of Public Security, through the Prison Academy and pursuant to articles 5, subparagraph X, 40, 47 and 29, subparagraph IV, of the General Law on the National Public Security System, assigns to the National Conference of Secretaries of Public Security the task of drafting the framework programme for the professionalization of police institutions, whatever their particular function.

269. On the basis of the National Agreement for Safety, Justice, and Rule-of-Law, the Ministry of Public Security in May 2009, through the Under-Secretary for the Federal Prison System, introduced the basic training course for entry into the federal prison system for security and custody personnel, prison technicians and administrative staff.

270. This course operated in conjunction with courses on trainer training, prisoner classification and advanced police techniques, among others, taught by national and foreign instructors in both territories (El Salvador; Santa Fe, New Mexico and Colorado, United States).

271. The basic training course lasts three months, consisting of six weeks of academy-based instruction in theory and techniques and six weeks of practical work at federal social

rehabilitation centres in various areas, providing the students with knowledge and practical experience of the principles and regulations of the prison system; management of prison security; conditions of security and insecurity; management of the internal and external relations of detention centres; levels of security; social rehabilitation programmes and treatment; and security techniques.

272. In addition, the National Prison System Conference at its second meeting in November 2009 recognized and emphasized the importance of the training, development and professionalization of the prison system's main capital, its human resources in the form of dedicated men and women with a commitment to public security and to service of the prison system and who have committed themselves to strengthening institutional programmes of staff selection, training, professionalization and development.

## **F. Articles 12 and 13 of the Convention**

### **1. Response to paragraph 21 of the list of issues**

273. The Ministry of Public Security has a Programme to Respond to Complaints involving Alleged Human Rights Violations, which is aimed at receiving and investigating complaints and charges of alleged violations of human rights possibly committed by officials of the Ministry of Public Security and its decentralised bodies and, where appropriate, punishing those responsible.

274. The complaints department is responsible for documenting and taking all necessary steps to clarify the facts. It cooperates with the internal oversight bodies and the Federal Prosecutor's Office and, where appropriate, with the judicial system to identify administrative, civil and/or criminal responsibilities in the matter. From 1 December 2006 to 30 March 2010, the department received 3050 such complaints.

275. The increase in the number of complaints is due mainly to two factors: a growth in the strength and an increase in the activities of the Federal Police. From 1 December 2006 to the present, the Federal Police increased in numbers from 11,000 to just over 30,000, principally on the basis of joint operations to re-establish public security and peace, particularly in Michoacán, Tijuana, Guerrero, Tamaulipas, Chiapas-Campeche-Tabasco, Chihuahua, Monterrey, Veracruz, La Laguna, Culiacán-Navolato, San Luis Potosí, Cancún and Aguascalientes, as well as other operations (involving drug-trafficking, kidnapping, piracy, smuggling, roads, borders, airports, strategic sites, fuel theft, trafficking in protected species and precious timber, etc.).

276. With the aim of preventing human rights violations by members of the Federal Police, there has been an increase in training activities and the promotion of a culture of human rights, so that recruits are made aware of international and national human rights and humanitarian law standards on entry into the force and subsequently through continuous in-service training.

277. Despite the increase in the number of complaints, only 14 cases resulted in specific recommendations and one in a general recommendation; that is to say, less than 0.5 percent of the total number of complaints received in the period covered by this report.

278. The Ministry of Public Security also has a programme for receiving and following up general and specific recommendations by the National Human Rights Commission, the Inter-American Commission on Human Rights and other bodies for the defence of human rights, which is aimed at to orchestrating and furthering compliance with the recommendations made to the Ministry, whether from national human rights bodies or from the inter-American and international human rights system.

## 2. Response to paragraph 22 of the list of issues

279. The investigations carried out on the basis of recommendations by the National Human Rights Commission to the Ministry of Public Security resulted in the following proceedings:

<i>Measures</i>	<i>Status of proceedings</i>	<i>Public servants involved</i>
Trial	1 sentenced	2
Investigation	1 postponed	37
	1 no criminal action taken	
	4 pending	
	1 no pretrial investigation	
Internal oversight body	1 archived	28
	7 pending	

280. On 6 October 2010, a constitutional reform bill to establish a Unified Police Command was signed and sent to Congress, which instituted measures to modernize and strengthen the Federal Police.

281. Within this framework, support was granted for infrastructure development, acquisition of state-of-the-art technology, improved schemes for professionalization, training and confidence monitoring as well as improvements in police living conditions.

282. The reform aims to bring order to the responsibilities and command structure of the local police and in this way to ensure better coordination and standardized systems of recruitment, selection and confidence checks as well as of recognition, promotion, benefits and income of the police nationwide.

283. The reform proposes that each State should have a police force under the single command of the Governor, who would appoint the head of the force.

284. The state police will be responsible for safeguarding the integrity, rights, freedoms and property of individuals, for preserving and re-establishing order and public peace, for preventing violence and crime, for reacting immediately when crime is committed, and for punishing administrative offences.

285. The municipal police will also be under the command of the Governor, who will appoint the chief of the force on the proposal of the head of the municipality concerned. This provision will facilitate coordination of the state and municipal forces and between them and the Federal Police.

286. Another proposal was that a Metropolitan police force might be established in appropriate parts of the different States to ensure greater effectiveness and efficiency of police action and avoid a lack of coordination between different bodies within the municipal area.

## G. Article 14 of the Convention

### 1. Response to paragraph 23 of the list of issues

287. The aims of the Department for Victim Support of the Ministry of Public Security include:

(a) Preventing and diagnosing physical and psychological torture of victims of the abuse of power;

(b) Creating and implementing specialized models of medical and psychological support for victims of torture and/or cruel, inhuman or degrading treatment;

(c) Providing torture victims with legal guidance on obtaining redress for the abuses suffered, and punishing those responsible in cooperation with the relevant prison and administrative authorities;

(d) Applying for an injunction in favour of the victims;

(e) Certification of medical and psychological staff responsible for caring for victims in the use of the Istanbul protocol.

288. The Comprehensive System for Supporting Victims of Crime is aimed at providing specialized multidisciplinary assistance to the victims of crime, abuse of power and violence; to claim compensation for the harm suffered; and to empower and lend resilience to the victim as well as to prevent re-victimization. Through the Victim Care Centre, seven support modules and six mobile units working in coordination with the district municipal authorities offer the following services:

(a) Legal guidance to victims throughout the court proceedings in the case of sexual offences and family violence, including supporting the victim in handling legal procedures;

(b) Twelve self-help and restorative justice groups have been set up and are functioning;

(c) Provision of a free and confidential telephone service for victims through the number 01800 90 AYUDA (29832), as well as option 6 of 088 and option 6 of 01 800 4403 690, offering psychological and legal help for victims of an illegal act. A total of 27,345 calls have been received in this way;

(d) Creation of a national databank on missing persons, which works with the relevant authorities to discover their whereabouts through the web page [www.ssp.gob.mx](http://www.ssp.gob.mx) and the telephone number 01800 32 AYUDA (29832). The federal entities that have joined the databank are: Chiapas, Chihuahua, Colima, Durango, Hidalgo, Jalisco, Michoacán, Morelos, Nayarit, Oaxaca, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tamaulipas, Tlaxcala and Veracruz; it also has the participation of other social actors such as Canal Once TV;

(e) This bank has a register of 1188 missing persons and has been visited by 78,302 persons;

(f) The mobile victim support units have been present for a total of 273 days in 12 districts of the Federal District and 28 municipalities in various federal entities.

289. The Programme of Mediation as an Alternative Method of Peaceful Conflict Resolution has carried out a number of activities:

(a) The High Court of the State of Nuevo León has officially recognized thirty-seven Ministry of Public Security officials as mediators;

(b) Organization of 353 talks, courses and community workshops on mediation, attended by 14,998 participants.

290. From September 2008 to July 2009, it developed and printed under its communications strategy visual and play materials on torture prevention, the culture of legality, insecurity and crime prevention, human trafficking and youth sensors.

291. The Ministry of National Defence has taken measures to compensate and restore alleged victims to their previous state, that is to say, provide them with medical and psychological support and rehabilitation.

292. It has done so on the basis of articles 20, section C, subsections III and IV, and 113 of the Mexican Constitution; articles 8, subsections I and XXIV, 12 and 14 of the Federal Law on the Administrative Responsibilities of Public Officials; article 32 of the Federal Criminal Code; articles 495, 500 and 502 of the Federal Labour Act, relating to articles 1913, 1915, 1916 and 1927 of the Federal Civil Code, which stipulates that the State is liable for reparation of damage caused by public servants in the performance of their duties and that redress shall consist, at the choice of the aggrieved party, in restoration of the pre-existing situation, where this is possible, or in the payment of damages.

293. The outcome of the three criminal cases against military personnel mentioned in question 12 was as follows:

(a) In the first, the beneficiaries rejected the offer of compensation, including redress for psychological and medical damage;

(b) In the second, each of the beneficiaries received a cash payment as compensation for the moral and material damage, as well as a payment for funeral expenses;

(c) In the third, an indemnity was paid as compensation for damage as well as an indemnity for funeral expenses.

294. The National Human Rights Commission has a Crime Victim Support Programme (Províctima). The main aims of this programme, which came into operation on 21 February 2000, are:

(a) To support crime victims and aggrieved parties through the services it provides;

(b) To establish collaborative links with public and private institutions engaged in this work in order to promote the updating of legislation and public policies so as to ensure full realization of the rights of crime victims as provided in the Mexican legal system and relevant international instruments;

(c) To promote a culture of respect and civilized treatment as well as support for this group of persons by disseminating materials in various media as well as organizing and participating in academic forums;

(d) To encourage the signing of agreements among the federal entities for the establishment of networks of comprehensive support for crime victims, aimed at ensuring better and more effective coverage, optimizing resources, developing and bringing services closer to society, and helping to ensure that support is immediate, professional and free of charge.

295. In 2007, the Programme undertook the following activities in support of crime victims:

### **Victim support**

#### *Access to services*

PROVÍCTIMA/TEL	1,893
PROVÍCTIMA/SEDE	170
PROVÍCTIMA/WEB	440
PROVÍCTIMA/VA	6
<b>Total</b>	<b>2,509</b>

**Services provided**

Legal assistance	2,432
Psychological help	107
Support	39
Information	79
<b>Total</b>	<b>2,657</b>

296. In 2008, the Programme undertook the following activities:

**Care for victims***Form of access to services*

PROVÍCTIMA/TEL	1,709
PROVÍCTIMA/ SEDE	177
PROVÍCTIMA/WEB	141
PROVÍCTIMA/ VA	62
<b>Total</b>	<b>2,089</b>

**Services provided**

Legal assistance	1,959
Psychological help	223
Support	59
Information	921
<b>Total</b>	<b>3,162</b>

297. In 2009, the Programme undertook the following activities in support of crime victims:

**Care for victims***Form of access to services*

PROVÍCTIMA/TEL	1,908
PROVÍCTIMA/ SEDE	147
PROVÍCTIMA/WEB	84
PROVÍCTIMA/ VA	24
<b>Total</b>	<b>2,163</b>

**Services provided**

Legal assistance	2,082
Psychological help	72
Support	39
Information	66
<b>Total</b>	<b>2,259</b>

298. In 2010, the Programme undertook the following activities in support of crime victims:

### Care for victims

#### *Form of access to services*

PROVÍCTIMA/TEL	1,977
PROVÍCTIMA/ SEDE	209
PROVÍCTIMA/WEB	150
PROVÍCTIMA/VA	78
<b>Total</b>	<b>2,414</b>

### Services provided

Legal assistance	2,349
Psychological help	60
Support	57
Information	31
<b>Total</b>	<b>2,497</b>

299. It should be emphasized that most of the topics in this programme are focused on crime victims and their families and only a small number on the accused.

300. On 27 March 2007, the National Human Rights Commission issued General Recommendation No. 14 on the rights of crime victims, addressed to the Attorney General of the Republic, the Military Prosecutor-General and the Attorneys General of the federal entities, the Ministries of Public Security and Public Health, the Government of the Federal District and federal entities, and the Presidents of the High Courts and Supreme Courts of the federal entities.

301. This General Recommendation by the Commission seeks to ensure that victims receive due care, in the sense not only of reviewing their situation as a highly vulnerable sector of the population but also highlighting their fundamental rights, which the State as guarantor should protect, and the guidelines that should be followed in order to meet their needs, as laid down by the Constitution and international human rights instruments. It should be noted that this recommendation by the Commission was issued in accordance with the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

## H. Article 15 of the Convention

### Response to paragraph 34 of the list of issues

302. The basic legal safeguard of the defendant under the new criminal procedure is the presumption of innocence and the right to remain silent as a general rule. This is explicitly stipulated in article 20, section B, paragraphs I and II, of the Constitution, which states that the accused person is presumed innocent until such time as he has been declared guilty in a verdict delivered by the judge in the case and that he has the right to make a statement or to remain silent. From the time he is detained, he will be informed of the reason for his detention and of his right to remain silent, which cannot be used against him. The role of

the judge is therefore clear, with regard to respecting the safeguard of remaining silent and that this cannot be held against the defendant by interpreting it as suspicious conduct.

303. This provision makes it a criminal offence to place the accused person in solitary confinement or subject him to intimidation or an act of torture. This is reaffirmed in the constitutional clause that states that any proof obtained through a failure to respect fundamental rights shall be declared null and void and thereby excluded from the criminal procedure. It is furthermore prescribed, as a way of giving effect to the preceding provision, that any confession made in the absence of the defence counsel shall have no evidential value.

304. While it is true that the procedural codes have not been established in all the federal entities and that it is therefore necessary to be alert to definitions by each sovereign legislator that may admit pretrial evidence, we can make a projection on the basis of the entities that have already established their code as to what they will understand by pretrial evidence: Chihuahua, for example, has specified in its legal rules that if the witness declares himself unable to attend the oral trial hearing because he is far removed from the place, is living abroad, has reason to fear for his life, is prevented from testifying because of physical or mental disability, or because the participant or witness concerned are at risk and it would otherwise be impossible to protect them, or for any similar reason, the parties can request the judge or, where appropriate, courts conducting oral criminal proceedings to receive their statements in advance.

305. The request to submit evidence in advance can be made from the time when the complaint is first lodged up to the holding of the hearing in question. Pretrial evidence is that recorded in the registers containing the statements of co-defendants attesting to acts attributable to a third party or a co-defendant.

306. The general rule is that evidence should be submitted at the trial hearing and that it is only possible in restricted cases for the submission to be made at a hearing prior to the oral trial proper, based on the normal caseload in comparative legislations.

## **I. Article 16 of the Convention**

### **1. Response to paragraph 25 of the list of issues**

307. In the period between 21 January 1993 and December 2008, investigations were carried out in 447 recorded cases of murders of women, including 418 pretrial investigations<sup>10</sup>; of the registered homicides, 292 were solved.

- a) 201 cases resulted in a court sentence;
- b) 4 are ongoing;
- c) 20 were closed;
- d) 17 were referred to the juvenile courts.

308. Since October 2004, information on the murder of women has been systematized, the data available from this date up to December 2008 revealing 105 recorded murders of women:

- (a) 61 of these cases were solved;
- (b) 37 condemnations were passed by the courts;

---

<sup>10</sup> A pretrial investigation can involve more than one murder victim.

- (c) In 21 of the murders, the accused are in the process of being tried;
- (d) In four of the murders, the trial was discontinued because of the death of the accused;
- (e) The rest remain under investigation.

309. Between 1 January 2009 and 8 March 2010, there were 25 recorded cases of apparent femicide<sup>11</sup>. As matters stand, judgements have been passed by a court in three of these cases, six remain under trial and 16 are being investigated by the public prosecutor.

310. The Chihuahua Supreme Court is carrying out a close examination of the legal cases in which a woman was involved as passive victim. Sentences have been passed in over 207 cases and 60 trials involving women are currently in progress. The Information Unit of the Supreme Court of Justice has been given the task of following up each of the current proceedings and keeping the relevant information up to date, as well as coordinating with other branches of the Executive and Legislative undertaking the same analysis.

## 2. Response to paragraphs 25(b) and 26 of the list of issues

311. The Federal Government, through the Office of the Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons attached to the Attorney General's Office is preparing a legislative reform bill aimed at broadening the jurisdiction of the state authorities in investigating the crime of trafficking in persons in those cases seen as having a particularly serious social impact or where private interests inimical to the enforcement of justice are seen to be affecting the normal progress of the enquiry, thereby hindering prosecution of the crime.

312. For their part, officials of the Chihuahua Court of Justice such as judges and magistrates have been given training to improve a and dissemination of the Convention on the Elimination of All Forms of Discrimination against Women through the following courses:

- a) Human Rights and the Interpretation of International Human Rights Law in the Local Setting, organized from 12 to 16 March 2007 by the Office of the United Nations Commissioner for Human Rights;
- b) The Administration of Justice with a Gender Focus, organized in September 2008 by the National Women's Institute;
- c) Courses organized by the Centre for Women's Human Rights.

313. This training is aimed at supporting officials in their juridical activities in order to comply with our country's various commitments with respect to international organizations.

314. At the same time, the Criminal Code of the State of Chihuahua includes the following provision:

---

<sup>11</sup> Femicide is understood as "the murder of women by men for the sole reason that they are women" (*Glosario de Términos sobre la Violencia contra la Mujer*, produced by the Consultoría para la Elaboración de un Marco Conceptual para el diseño de Políticas sobre la Violencia contra las Mujeres (Mexico, Ministry of the Interior, National Commission to Prevent and Eradicate Violence against Women, 2009). A broader definition refers to "murders committed against women on account of their gender, motivated by hate, pleasure, rage, evil, jealousy, a sense of power and the urge to control women and exterminate anyone regarded as inferior", Caputi and Rudell, 1992:14, quoted in Monarrez Fregoso Julia, *Feminicidio sexual sistémico: víctimas y familiares*, Ciudad Juárez, 2003-2004, doctoral thesis in the social sciences, speciality women's studies and gender relations, Mexico, September 2005, Universidad Autónoma Metropolitana.

## **CHAPTER ONE**

### **DOMESTIC VIOLENCE**

#### *Article 193*

Anyone committing an act of abuse of power or deliberate omission, aimed at dominating, controlling or aggressing physically, psychologically, economically or sexually, within or outside the home, a person to whom he/she is or has been joined by bonds of marriage, consanguinity, affinity or civil contract; guardianship or wardship; or any affective or sentimental relationship; or with whom he/she has or has had any kind of affective or sentimental relationship shall be subject to one to five years' imprisonment and, where appropriate, a ban on attending or residing in a particular place or to psychological treatment, independently of the punishment applicable to any other offence.

The acts of violence to which this article refers are to be understood in terms of the State Law on the Right of Women to a Life Free from Violence.

The education or training of a minor will in no case be regarded as justification for a form of mistreatment.

Prosecution of this offence shall be mandatory.

## **CHAPTER I**

### **DISCRIMINACIÓN**

#### *Article 197*

Anyone who, on grounds of age, sex, civil status, pregnancy, race, ethnic origin, language, religion, ideology, sexual orientation, colour of skin, nationality, social origin or situation, work or profession, economic situation, physical characteristics, disability or state of health or any other pretext that offends human dignity and seeks to nullify or detract from individual rights and freedoms shall be punishable by six months' to 3 years' imprisonment or 25 to 100 days of community work and a fine of 50 to 200 days' pay:

I. Provokes or incites to hatred or violence;

II. Refuses someone a service or facility to which he or she is entitled. For the purposes of this provision, everyone is held to be entitled to services or facilities that are offered to the public in general;

III. Humiliates or excludes a person or group of persons;

IV. Denies or restricts employment rights or access to such rights without due cause.

In the case of a public servant who, on the grounds stated in the first paragraph of this article, refuses or delays a person access to a procedure, service or facility to which he/she is entitled, the punishment prescribed in the first paragraph of this article shall be increased by one half and the official concerned shall moreover be liable to suspension, dismissal and disqualification from holding any public position, employment or commission for the same length of time as the term of punishment imposed.

Any measure designed to protect socially underprivileged groups shall not be considered discriminatory.

This offence shall be liable to prosecution following a complaint.

### 3. Response to paragraph 26(a) of the list of issues

315. Under the decree published in the Official Journal of the Federation on 1 June 2009, the Commission to Prevent and Eradicate Violence against Women (CONAVIM) was created as the body responsible for carrying out the tasks assigned to it by the Ministry of the Interior. These mainly concerned the drawing up of public policies relating to the prevention, treatment, punishment and eradication of violence against women.

316. The most significant achievements promoted by the (former) Commission for Ciudad Juárez and the CONAVIM Ciudad Juárez Office in the period 2008-2010 included:

#### (a) Law enforcement and the administration of justice

317. The Attorney General's Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons created a purpose-built shelter offering comprehensive care and protection to victims of trafficking, which as well as providing the same type of services as other care centres organizes workshops in support of therapy treatment, leisure activities, work and educational motivation, basic aspects of hygiene, health and sexuality as well as comprehensive childcare and cultural anthropology services.

318. From 16 February 2010, the Federal Investigation Agency of the Attorney General's Office carried out a programme in the State of Chihuahua aimed at enforcing pending judicial orders, a measure regarded as a way of eradicating the trafficking of women, child prostitution, procuring, pornography, child pornography, kidnapping, drug dealing, drug trafficking and trafficking in persons as well as ending police complicity in crime networks.

319. In 2008, the Ministry of Public Security promoted a gender equity programme in the State of Chihuahua, with the participation of 6759 persons trained through 140 talks on the prevention of family violence, aimed at the general public and in particular women in the cities of Juárez, Buenaventura, Guadalupe, Ahumada, Praxedis G. Guerrero and Ascensión.

320. The Office of the Chihuahua State Attorney General produced and circulated in 2009 the document entitled "Murders of Women in Ciudad Juárez. Justice means fighting impunity". It made public the data on women murdered in the period from 1993 to 2008, together with statistics on cases solved, the number of those detained, omissions and negligence punished, unsolved cases of missing women, among other significant data.

#### b) Victim support

321. Some of the most important achievements in the period 2008-2010 were:

(a) In 2009, 414 women were treated in the Specialized Victim Care Service, according to the National Centre for Gender Equity and Reproductive Health of the Ministry of Health;

(b) Between 2008 and 2010, CONAVIM took 6590 measures to care for women in Ciudad Juárez, Chihuahua.

322. With regard to missing women, while not empowered to undertake policing or investigative activities, the Juárez Commission and currently CONAVIM have both participated in various tasks of coordination with other authorities, with the aim of contributing to the prevention of violence against women and generating strategies and measures for preventing and eradicating such violence and, in particular, helping the families of victims.

323. An example was the participation of the CONAVIM Juárez Office in the Alba Protocol, an interagency response and coordination protocol involving federal, state and municipal authorities in the event that a woman or girl goes missing in the municipality of Juárez, which is aimed at coordinating the efforts, resources and activities of the various

local authorities in order to locate promptly women and children reported missing in Ciudad Juárez, Chihuahua State.

324. The Juárez Commission and currently the CONAVIM Juárez Office have formed part of the group of authorities at the three levels of government constituting the Alba Protocol, meeting in the premises of this decentralized body in Ciudad Juárez, Chihuahua.

**c) Strengthening the social fabric and public policies from a gender standpoint**

325. Some of the most important achievements in the period 2008-2010 were:

(a) While the federal programme “We are all Juárez. Let’s rebuild the City” was not a strategy deriving from the Coordination and Liaison Subcommittee for the prevention and eradication of violence against women in Ciudad Juárez or the 40-point programme, it did help to strengthen various areas of public policy in which Ciudad Juárez lagged behind. The programme in question, with its six main emphases – security, the economy, work, health, education and social development – and including the participation of the general public and civil society bodies, is designed to impact directly on the quality of life of the city's inhabitants, in particular women and children. (The programme’s website may be consulted at <http://www.todossomosjuarez.gob.mx>).

(b) In 2009, the Chihuahua Women’s Institute created the State Network for the Treatment and Prevention of Family Violence, which is composed of agencies of the three branches of government and civil society organizations and is mainly aimed at combining efforts to help prevent violence against women and provide those subject to violence with comprehensive care.

(c) In 2008, the Ministry of Education printed 45,000 posters warning against discrimination and publicizing the rights of young and expectant mothers, 12,600 such notices being distributed in the State of Chihuahua. In Ciudad Juárez, the delivery of these materials was linked to a talk for school staff.

(d) In 2008, the National Institute for Migration distributed 4593 copies of the migrants’ passbook and 4594 copies of the preventive guide for migrant women.

(e) Since the establishment of the Coordination and Liaison Subcommittee, the various government entities in the State of Chihuahua have become more professional and specialized in their areas in responding to violence against women. The former Attorney General of the State of Chihuahua moreover initiated a process of reconstruction and professionalization in the previous six-year period as well as creating a forensic genetics laboratory in Ciudad Juárez, the first of its kind in the country.

(f) The greatest challenge has been the prevention of violence against women in Ciudad Juárez, since the State of Chihuahua, and Ciudad Juárez in particular, has been swamped in recent years by a wave of violence related to organized crime, making it even more difficult to eradicate stereotypes that foster and perpetuate violence and discrimination against women.

(g) With regard to caring for female victims of violence and the families of murdered or missing women, one of the main emphases in the work of CONAVIM in Juárez has continued to be caring directly for women in situations of violence and the families of murdered or missing women. This work has made it possible to build a relationship of closeness and respect with the families and users of the institution’s services

326. Through its office in Ciudad Juárez, CONAVIM undertook the following activities in 2008.

*Legal assistance*

327. A programme of legal advice and assistance to families and women in situations of violence was implemented. This includes assistance to all the families of murdered or missing women and women subject to violence requesting the institution's services.

328. Some of the main activities involve:

(a) Providing legal advice and support in criminal court proceedings, including reviewing case files, interviews with judges and/or agreements secretaries, presence during expanded statements, submitting evidence and handling additional documentation in support of the victim's statement;

(b) Submitting documentary evidence to the public prosecutor's offices in support of women in situations of violence;

(c) Negotiating police protection with the municipal Secretariat of Public Security in support of women in situations of violence;

(d) Recourse to Bar Associations and the Legal Office of the Autonomous University of Ciudad Juárez to seek assistance for families and victims in various judicial formalities;

(e) Providing legal help and support in family court proceedings, dealing with maintenance allowances, adoptions, conciliation talks and file reviews;

(f) Submission of applications for birth certificates to state civil registry office;

(g) Accompanying persons wishing to submit or withdraw reports of disappearances to the Joint Prosecution Service of the State Attorney General's Office;

(h) Providing legal assistance to the families of femicide victims on various subjects, such as probate proceedings;

(i) Helping women victims of violence to submit complaints to the office of preliminary investigations of the State Attorney General's Office.

*Social and administrative procedures*

329. A programme has been developed to assist women victims of violence and their families in their administrative dealings with the various local and federal agencies, including;

(a) Assisting with requests to the Social Development Department and the Office of the Coordinator for Citizen Services of the Municipality of Juárez for help with funeral expenses;

(b) Assisting families to conclude payment agreements with the Municipal Water and Sanitation Council;

(c) Assisting in regularizing property rights with the Municipal Human Settlements Department;

(d) Assisting with requests for sales permits to the Department of Trade of the Juárez City Council;

(e) Assisting women victims of violence to obtain legal residence permits from the National Institute for Migration;

(f) Accompanying and assisting applicants to the Ministry of Foreign Affairs and the United States Consulate in Ciudad Juárez with requests respectively for a Mexican passport and a tourist visa to enable the families of women murder victims to take part in international human rights forums.

*Development of production products*

330. Support was provided to 35 families of murdered or missing women, who benefitted from a Ministry of Social Development production project, under which they were granted the necessary formalities to function legally, including land maps and land use and operating licences. At the request of the Juárez Commission, the Juárez Municipality waived the payment of taxes on these licenses for all the families concerned. In the period under review, over 200 measures of this kind were granted.

*Medical and/or psychological support*

331. The medical and psychological assistance programme continued to attend to the needs of the families of women victims of murder and violence by facilitating access to the services of both public and private institutions.

332. The activities undertaken included:

- a) Assisting with requests to the Department of Social Development of the Chihuahua State Government for laboratory tests, medical appointments and the supply of medicines;
- b) Accompanying and assisting families in visits to the community health and welfare clinic where they received free medical consultations, treatment and natural medicines;
- c) Arranging ophthalmology treatment with private institutions;
- d) Referring the victims of violence to the Centre for Prevention and Services for Women and Families in Situations of Violence (Women Without Violence), the Casa Amiga Crisis Centre and the Victim Care Facility of the Attorneys General of the Republic and the State of Chihuahua to enable them to receive psychological therapy;
- e) Referring women victims of violence who are at great risk to specialized shelters.

333. The activities carried out by CONAVIN in 2009 in these same areas were:

**Summary of the activities carried out by the CONAVIN representative in Ciudad Juárez in 2009**

<i>Description/month</i>	<i>January</i>	<i>February</i>	<i>March</i>	<i>April</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>August</i>	<i>September</i>	<i>October</i>	<i>November</i>	<i>December</i>	<i>Total 2009</i>
Legal advice	66	54	88	84	86	87	53	74	88	47	66	46	839
Social and administrative measures	34	63	43	31	45	36	34	47	28	49	39	15	464
Support for the projects of the families of murdered or missing women (Ministry of Social Development)	40	40	6	1	1	1		7	6	0	0	0	102
Development of productive projects for women in situations of violence	73	150	69	77	41	110	52	55	43	41	56	10	777
Medical or psychological support	3	3	18	79	37	32	25	38	43	43	29	15	365
Education and housing support			2	6	3	3		2	5	11	14	3	49

<i>Description/month</i>	<i>January</i>	<i>February</i>	<i>March</i>	<i>April</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>August</i>	<i>September</i>	<i>October</i>	<i>November</i>	<i>December</i>	<i>Total 2009</i>
Assistance in the cause of truth and justice	90	83	98	91	85	94	24	27	28	10	11	20	661
<b>Total</b>	<b>306</b>	<b>393</b>	<b>324</b>	<b>369</b>	<b>298</b>	<b>363</b>	<b>188</b>	<b>250</b>	<b>241</b>	<b>201</b>	<b>215</b>	<b>109</b>	<b>3,257</b>

334. Activities carried out by CONAVIN from January to September 2010:

<i>Description/month</i>	<i>January</i>	<i>February</i>	<i>March</i>	<i>April</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>August</i>	<i>September</i>	<i>Total 2009</i>
Legal advice	243	136	171	26	52	39	21	17	23	728
Social and administrative measures	25	45	28	25	15	14	18	19	16	205
Support for the projects of the families of murdered or missing women (Ministry of Social Development)	5	8	11	4	3	2	4	1	1	39
Development of productive projects for women in situations of violence	8	19	15	0	0	0	0	0	0	42
Medical or psychological support	26	25	23	10	11	8	8	5	2	118
Education and housing support	3	7	6	4	1	1	0	0	1	23
<b>Total</b>	<b>310</b>	<b>240</b>	<b>254</b>	<b>69</b>	<b>82</b>	<b>39</b>	<b>21</b>	<b>17</b>	<b>43</b>	<b>1,155</b>

335. With regard to activities to repair the social fabric in Juárez carried out jointly with civil society bodies and public institutions at the three levels of government, CONAVIN reports carrying out the following:

*Activities of CONAVIN in 2008*

Production of the Guide on Culture, Vulnerability and Social Emergence

336. CONAVIN worked jointly with the Culture Pact Movement (*Movimiento Pacto por la Cultura*) on the publication of the Guide on Culture, Vulnerability and Social Emergence, which examines the present state of culture in Ciudad Juárez, highlights the political consequences and contexts and their relationship with violence against women, and finally formulates some concise proposals for decision-makers. More than 10 working meetings were devoted to composing and revising the text, which has been updated to 2008.

Documentation centre

337. The documentation centre of the Juárez Commission opened in 2007 and possesses over 480 printed and electronic titles, with particular emphasis on the topics of gender, women and human rights. In the course of 2008, requests for documents and materials relating to the Centre's main theme, namely women, were sent to 20 gender study centres in national universities, 32 state human rights commissions and 32 state women's institutes. Exchanges of experience on bibliographical work with a gender focus also took place with bibliography experts from the *Colegio de México*.

#### Training of girls and boys from the fourth to the sixth grade of primary school

338. Under sectoral goal No. 5 – Consolidating a culture of respect for the rights and freedoms of members of our society, Strategy 5.1 – Promoting the prevention, treatment, punishment and eradication of violence against women, and specifically action line 5.1.1 – Mechanism for preventing and eradicating violence against women in Ciudad Juárez, forming part of the Ministry of the Interior’s sectoral programme for 2007-2012, itself part of the National Development Plan, training on the human rights of girls and boys and the prevention of violence was provided to 208 youngsters between the 4th and 6th grades of the Mariano Escobedo, Ramón Velarde, Nicolás Bravo and Miguel Carranza primary schools.

339. Meetings were also organized with the Chihuahua State Human Rights Commission, the National Pedagogical University, the Paso del Norte Human Rights Centre, the Childhood Board of the Citizens’ Council for Social Development (*Mesa de Infancia del Consejo por el Desarrollo Social*) and the Education for Values (*Educación en Valores*) Programme to identify the best way of reaching children and meeting the objectives of the Ministry of the Interior’s sectoral plan for 2007-2012 and to analyse the situation of children in Ciudad Juárez from the same standpoint, with the help of the staff of the United Nations Children’s Fund in Mexico and the Network on the Rights of the Child in Mexico (*Red por los derechos de la Infancia en México*).

#### Diploma course on the rights of the child and strategies of academic involvement

340. One result of the work described above was a diploma course on the rights of the child aimed at primary school teachers in Ciudad Juárez, which took place on two occasions at the National Pedagogical University, in August-November 2008 and January-May 2009. It was promoted under a cooperation agreement between the Juárez Commission, the National Pedagogical University, the Chihuahua State Human Rights Commission and the Paso del Norte Human Rights Centre.

#### Forum on migration and the human rights of migrant children and adolescents

341. Five coordination meetings took place between the Juárez Commission and the Migrant House (*Casa del Migrante*) to organize the second Migration and Human Rights Forum, which was held in October 2008. The forum, which considered the topic of migrant children and adolescents, was attended by officials concerned with repatriation procedures from the National Institute for Migration, the state and municipal systems for the comprehensive development of the family, the Office for the Defence of Minors, the fifth investigation unit of the national and state human rights commissions and civil society organizations.

#### Workshop on intervention in the crisis of violence and sexual abuse

342. In October 2008, a workshop was held on intervention in the crisis of violence and sexual abuse, organized by the Association for the Comprehensive Care of Rape Victims (*Asociación para el Desarrollo Integral de Personas Violadas*) in the premises of the Juárez Commission and attended by all the Commission’s staff as well as officials from the Office of the Attorney General of the Republic, Health District No.2, the Centre for Victims of Domestic Violence (*Centro para la Atención a la Violencia Familiar*), the Casa Amiga Crisis Centre, the Chihuahua Women’s Institute and the No Violence (*Sin Violencia*) shelter.

#### Meetings with various organizations and institutions

343. From January to November 2008, there was a strong effort to follow up the programmes promoted by the Juárez Commission through the Department for Strengthening the Social Fabric, which involved meetings with the following public and private bodies:

- Ciudad Juárez Citizens' Council for Social Development
- Culture Pact Movement
- Round Table in Support of Children (*Mesa del Diálogo a favor de la Infancia*)
- Migrant Human Rights Centre (*Centro de Derechos Humanos para el Migrante*)
- Paso del Norte Human Rights Centre
- Education for Values Programme
- Migrant House
- Citizens for Peace (*Ciudadanos Comprometidos con la Paz*)
- No Violence
- Companions Programme (*Programa Compañeros*)
- Women's Round Table (*Red Mesa de Mujeres*)
- Compassion and Life for AIDS Sufferers (*Misericordia y Vida para el Enfermo de Sida*)
- Independent People's Organization
- Network on the Rights of the Child in Mexico
- Projects and Communication (DIDAXIS)
- Colegio de México
- Autonomous University of Ciudad Juárez.

#### Meetings with public institutions for special projects

344. Meetings were held with the following institutions and agencies:

- Chihuahua Office of the Ministry of Social Development,
- Chihuahua Office of the Ministry of the Environment and Natural Resources,
- Federal Ministry of Public Security
- United States Consulate in Ciudad Juárez
- National Fund for the Support of Social Enterprises
- Youth Integration Centre

#### Workshop on community involvement

345. From September to November 2008, a workshop on community involvement, involving 12 sessions, was organized by the Juárez Commission and the Culture Pact Movement aimed at young activists working in vulnerable communities and wishing to professionalise their work through research tools, programme design and community social work.

Commemoration of 25 November “International Day for the Elimination of Violence against Women”

346. Five working meetings were held by the Juárez Commission, the Chihuahua Women's Institute and the Women's Municipal Council to organize the event marking “International Day for the Elimination of Violence against Women”. It consisted of a series of lectures by Susana Carmona, lecturer and researcher at the Autonomous University of Ciudad Juárez, local congresswoman Patricia Alamillo and the journalist Alicia Dávila. The event, which was attended by over 200 people, included a concert by the Young People’s Symphony Orchestra of the Citizens for Peace Organization.

*Activities of CONAVIM in 2009*

Diploma course on the rights of the child and strategies of academic involvement

347. The diploma course on the rights of the child and strategies of academic involvement took place for the second time at the National Pedagogical University from January to May 2009. It was organized under a cooperation agreement between the Juárez Commission, the National Pedagogical University, the Chihuahua State Human Rights Commission and the Paso del Norte Human Rights Centre.

Network for Addressing and Preventing Family Violence

348. In 2009, CONAVIM participated actively in monthly meetings of the Network, aimed at coordinating and combining the efforts of civil society institutions and organizations in Ciudad Juárez engaged in the prevention of violence against women and the promotion of human rights and gender equity. This work was initially promoted by the Chihuahua Women's Institute, with the Commission taking part as meeting coordinator.

Meetings of civil society organizations

349. In 2009, CONAVIM maintained close contacts with local civil society organizations, both to promote their projects and support their administrative actions:

- Youth Advice and Promotion Centre (*Centro de Asesoría y Promoción Juvenil*)
- Independent People’s Organization
- Ciudad Juárez Citizens Council for Social Development
- Indigenous Voices (*Voces Indígenas*)
- Ciudad Juárez Women’s Round Table (*Red Mesa de Mujeres de Ciudad Juárez*)
- Culture Pact Movement
- Youth Integration Centres (*Centros de Integración Juvenil*)
- Companions Programme
- Casa Amiga Crisis Centre

*Activities of CONAVIM in 2010*

Documentation Centre

350. The CONAVIM Documentation Centre has over 480 printed and electronic titles, specializing in the topics of gender, women and human rights. It currently continues to receive titles from local universities and local and national civil society organizations.

Diploma course in gender and public policies for state and municipal public servants

351. Under a cooperation agreement between CONAVIM, the National Pedagogical University and the Chihuahua State Human Rights Commission, seven meetings were held with the aim of helping to eliminate any kind of discrimination on grounds of gender and to ensure equality of opportunity between women and men in the devising of work strategies and public policies. It is planned to hold the same course from February to June 2011.

Network for Addressing and Preventing Family Violence

352. In 2010, CONAVIM continued to participate in monthly meetings of the Network, which is aimed at coordinating and combining the efforts of civil society institutions and organizations in Ciudad Juárez engaged in the prevention of violence to women and the promotion of human rights and gender equity.

Links with civil society organizations and public institutions with the aim of promoting various topics

353. In 2010, the links with civil society organizations through the Department for the Strengthening of the Social Fabric have produced a constant flow of support and administrative work on their behalf. Notable in this respect was the creation of Young Jaguars (*Jaguares Jóvenes de Bien*), a social action group with its origins in the links between the families of the victims of the multiple murders that took place in Colonia Salvarcar in Ciudad Juárez.

354. The necessary support was also extended to Ángela Fierro, Director of the Cepromamac shelter, who had a legal problem after her organization's financing was withdrawn by the municipal authorities.

355. There were also working and management support meetings with organizations such as the Youth Advice and Promotion Centre, the Independent People's Organization, the Ciudad Juárez Women's Round Table, the Culture Pact Movement, the Youth Integration Centres, Companions Programme and the Casa Amiga Crisis Centre.

356. It should be noted that CONAVIM has a model Women's Justice Centre in which government bodies and civil society organization come together under one roof to provide coordinated multiagency services to female victims of violence.

357. The results of studies carried out on behalf of CONAVIM reveal that women victims of violence encounter obstacles in gaining access to justice. These shortcomings are reflected in the small number of guilty verdicts, disproportionate to the high level of complaints and the scale of the problem. As a response by the Mexican State to the need to reduce the obstacles facing women victims of violence and their families and improve services across the board to enable them gain access to justice, the Commission has promoted the idea of establishing and operating "Women's Justice Centres".

358. This proposal is modelled on the so-called "Family Justice Center", which began in San Diego in the United States in 1992 and involved a number of governmental and non-governmental agencies coming together to provide multidisciplinary services under the same roof to victims of violence. Three such centres are currently under construction in: Ciudad Juárez (Chihuahua), Campeche (Campeche) and Tlapa de Comonfort (Guerrero).

359. CONAVIM has also undertaken a number of mass media campaigns (from 6 December 2010 to 20 January 2011) to publicize the issue of violence against women, with a simultaneous focus on common forms of violence against women and on the functions and powers of the Commission,

360. This campaign was organized as follows:

(a) Mexico City Metro: the publicity campaign in the Metro ran from 6 December 2010 to 20 January 2011, covering 36 stations in Mexico City. Based on the average number of users, the approximate number of people reached was 95,882,670;

(b) Guadalajara Light Railway : over the same period, based on average passenger use and taking in 25 stations, the approximate number of people reached was 5,695,243;

(c) Monterrey Metro: 20 stations were covered in the same period;

(d) Bus terminals: the campaign ran from 6 December 2010 to 20 January 2011 in the cities of Tijuana, Mexicali, Ciudad Juárez, Durango, Monterrey and Zacatecas. Based on the average number of travellers, the approximate number of persons reached was 873,992;

(e) Metrobus system in Mexico City: the campaign ran from 6 to 31 December 2010 on the Dr. Gálvez Doctor – Indios Verdes route. Based on the average number of passengers, the approximate number of persons reached was 4,944,394;

(f) Videobus: 684 thirty-second television spots were broadcast between 6 December 2010 and 15 February 2011. Based on average figures, the approximate number of persons reached was 10,090,479;

(g) Cinema: the campaign ran from 6 December 2010 to 17 January 2011 in 10 squares in the metropolitan area of the Federal District as well as in Toluca (Mexico State), Tijuana (Baja California), León (Guanajuato), Cuernavaca (Morelos), Tepic (Nayarit), Ciudad Juárez (Chihuahua), Durango (Durango) and Veracruz (Veracruz);

(h) Radio: the radio campaign took the form of advertising slots and ran from 6 to 31 December 2010 in the Federal District as well as in León, Irapuato and Celaya (Guanajuato), Mérida (Yucatán), Villahermosa (Tabasco), Guadalajara (Jalisco), Tenancingo and Toluca (Mexico State), Torreón (Coahuila) and Tuxtla Gutiérrez, Chiapas and Chihuahua, (Chihuahua). Stations and programme had national coverage and the approximate number of listeners reached through the 239 radio spots and 1380 podcasts was 55,342,017;

(i) Television: the campaign ran from 3 January to 31 March via the RTC system through spots on various open transmission television channels. This campaign will be broadcast by radio and television in the form of public service announcements from 3 January to 31 March 2011 and can be consulted on the Internet at [www.conavim.gob.mx](http://www.conavim.gob.mx).

361. Concerning activities relating to the topic of reports of missing women, while it was not the function of the Juárez Commission nor currently of CONAVIM to undertake policing activities, both have participated in various tasks of coordination with other authorities with the aim of contributing to the prevention of violence against women and generating strategies and measures for preventing and eradicating such violence.

362. The same is true of the participation of the CONAVIM Juárez Office in the Alba Protocol, an interagency response and coordination protocol involving federal, state and municipal authorities in the event that a woman or girl goes missing in the municipality of Juárez, which seeks to coordinate the efforts, resources and activities of the various local authorities in order to locate promptly women and children reported missing in Ciudad Juárez, Chihuahua State.

363. The Juárez Commission and currently the CONAVIM Juárez Office form part of the group of authorities at the three levels of government making up the Alba Protocol.

364. The authorities making up the Alba Protocol are:

(a) Federal:

- (i) Ministry of the Interior;
- (ii) National Commission for Preventing and Eradicating Violence against Women;
- (iii) Office of the Attorney General of the Republic;
- (iv) Chihuahua Regional Office in Ciudad Juárez;
- (v) Crime Prevention and Community Services Area;
- (vi) Office of Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons;
- (vii) Office of the Attaché of the Attorney General in El Paso, Texas (United States of America);
- (viii) Federal Ministry of Public Security;
- (ix) Federal Police;
- (b) State Authorities:
  - (i) Office of the Attorney General of the State of Chihuahua;
  - (ii) Office of the Assistant Attorney General in the northern zone;
  - (iii) Special Unit to Investigate Lost or Missing Persons;
  - (iv) Joint Office of the Prosecutor to Investigate the Murders of Women;
  - (v) Ministry of Public Security;
  - (vi) Police Investigation Centre
- (c) Municipal Authorities:
  - (i) Juárez Municipal Government;
  - (ii) Municipal Secretariat of Public Security;
  - (iii) Municipal Traffic Department.
- (d) Other institutions:
  - Immigration and Customs Office attached to the United States Consulate General in Ciudad Juárez.

#### 4. Response to paragraph 26 (b) of the list of issues

365. The 40-point action plan was identified as the main task of the Coordination and Liaison Subcommittee for Preventing and Eradicating Violence against Women in Ciudad Juárez. The points relating to the investigation of the murder of women have been met, whereas some of the points relating to the methods of investigation are still pending given that they require effective coordination between the different levels of government; there are others that remain pending since the task concerned is of a permanent nature.

366. It should be pointed out that several of the points in the 40-point action plan have been taken up under the “We are all Juárez. Let’s rebuild the City” strategy; and the plan is one of comprehensive action by the Federal Government with the participation of the Chihuahua State government, the municipality of Juárez and the city itself, something unprecedented in the framing and implementation of public policy.

367. The strategy is a response to the difficult and complex situation facing Ciudad Juárez and includes 160 specific measures to be carried out in the city, characterized in

particular by civic participation, comprehensive public policies and the shared responsibility and participation of the three levels of government. This programme contains eleven of the elements in the 40-item action plan, which is in this way taken up and reinforced through this programme involving the three levels of government.

368. The Office of Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons is cooperating with the state authorities in the search for missing women and children at high risk in Ciudad Juárez, within the framework of the Alba Protocol signed by the different levels of government.

369. The Special Prosecutor's Office has participated in attempts to locate and identify missing women in Ciudad Juárez under the Alba Protocol in cases where, because of their physical state and the circumstances of their disappearance, the women are considered to be at great risk.

370. As a result of these activities, 25 women were reported missing in 2007 and 2008, three of whom were discovered alive while three corpses have been found.

371. In 2009, the Protocol was activated on 10 occasions as an immediate response to the reported disappearance of four minors and four women, one of the minors and the four women having subsequently been located. Up to March 2010, the Alba Protocol had not been activated and there have been no reports of disappearances.

#### **5. Response to paragraph 26(c) of the list of issues**

372. The Special Prosecutor's Office has devised a public information programme consisting of 22 different print materials, including maps, leaflets, brochures and flipcharts, totalling 7,800,000 copies. The different materials are aimed at:

(a) Women and men (young people and adults), with a view to: alerting them to the existence of these crimes; helping them to reshape the culture that nurtures and masks them; informing them about the behaviour that constitutes such crimes and the punishments they incur; encouraging them to report these crimes and informing about the rights of the victims and the ways in which they can seek and receive help. The materials available to these groups include the complaints book, the poster and leaflet "Human trafficking is the modern name for slavery", the poster "Let's put a stop to violence" and the leaflet "Violence is not the way";

(b) Public servants who treat the victims of gender violence and human trafficking, in order to increase their awareness and knowledge of these offences and, above all, of their duty to punish the culprits and help the victims; and to provide them with useful information for carrying out their tasks. This is the aim of a set of recommendations for officials in the public prosecutor's office treating the victims of violence against women and human trafficking, of the brochure "Violence is not the way" and of the poster "Report it and help us to avoid it";

(c) Persons whose activities are often linked to the activities and aims of human trafficking; for example, the transfer and reception of victims, or the kinds of places where exploitation takes place. Two versions of the leaflet "Human trafficking is a crime punishable by law" have been printed, one aimed at personnel working in the hotel sector and nightspots and another at transport workers;

(d) Two versions of the poster "Help us, their families are searching for them" have been printed; they contain photographs and information on women and children reported missing.

373. All the materials contain information on the Special Prosecutor's Office and its functions, designed to make the public more aware of the services it provides. A letter of

intent has been signed with the Ministry of Education, setting out how the relevant materials will be distributed to young people in federal upper-secondary schools. In the case of the pop-up lady, she will be found to contain information on what to do in the case of violence, various posters aimed at preventing violence against women, and a flip chart entitled “Violence is not the way”, which will provide back-up material for briefing meetings.

374. In January 2009, 1,380,000 copies were distributed (17% of the total) in conjunction with the “Opportunities” Human Development Programme of the Ministry of Social Development and its 32 state offices, at whose help desks they are being distributed or exhibited. Just over 38,000 posters on the prevention of violence against women and missing women, printed by the Special Prosecutor’s Office, were distributed, mainly among local federal institutions countrywide.

375. The National Council for the Prevention of Discrimination points out that in cases of complaints and claims involving alleged acts of discrimination and in those cases in which rulings are issued (this is only possible in the case of claims), conciliation has taken place or issues have been settled during the proceedings, the Council can take the following administrative measures:

(a) Prescribe courses to promote awareness of the right to non-discrimination to individuals and public servants accused of or linked to the actions that are the grounds for the complaint or claim;

(b) Post notices promoting the right to non-discrimination and calling for a change in discriminatory behaviour;

(c) Ensure that Council staff are present to promote and verify the adoption of measures to ensure equality of opportunity and the elimination of all forms of discrimination;

(d) Publicize the rulings in printed or electronic form;

(e) Adopt any other measure previously accepted by both parties in the form of an agreement contributing to a culture of equality and non-discrimination.

376. Imposing these administrative measures on individuals will be subject to the relevant conciliation agreement having been signed or the complaint having resolved in the course of the proceedings.

377. Once a complaint or claim has been filed, the next step is for legal analysis to take place and the appropriate procedure to be carried out (applicable to a complaint or a claim, as the case may be). However, in serious cases when it is clear that the consequences would make redress difficult or impossible – for example, in cases involving aggravated assault against women and/or threats to their life or personal integrity – protection orders are sent to the authorities or individuals to ensure that the rights of the women are protected at all times and that proper care is taken in the case concerned, pursuant to articles 49, section IX, and 63 of the statutes of the National Council for the Prevention of Discrimination. Under the complaints procedure, it is also possible - article 59 of the Federal Act to Prevent and Eliminate Discrimination - for the authorities or federal public officials to be asked for a report, for a request to be made to individuals and authorities for cooperation, and for notices of conciliatory procedures to be sent to the individuals concerned.

378. Complainants are also offered the advice and legal counselling to which they are entitled, which can be given during the complaint or claim procedures or from the Head of the Counselling Service (provided there is no conflict of responsibilities) or, where appropriate, the matter can be referred to the relevant authorities supposedly acquainted with the facts.

**6. Response to paragraph 26(d) of the list of issues**

379. The Federal Government, through the Office of the Special Prosecutor for crimes of violence against women and trafficking in persons attached to the Attorney General's Office, is drafting a reform bill extending the possibility of asserting jurisdiction in the investigation of human trafficking offences coming under state jurisdiction in cases considered to have particularly serious social implications or where there is reason to fear interference in the judicial process by special interests, affecting the regular progress of the enquiry and thereby interfering with prosecution of the crime.

**7. Response to paragraph 27 of the list of issues**

380. Under article 27, paragraph 2, of the National Human Rights Commission Act, anyone is entitled to report alleged violations of human rights to this national body. When the parties concerned are in prison or when their whereabouts is unknown, the facts can be reported by relatives or neighbours, including minors.

381. Pursuant to article 92 of the Commission's rules of procedure, correspondence addressed to the Commission by the inmates of any prison centre cannot be subject to censorship of any kind and must be forwarded without delay by those in charge of the institution. Furthermore, the second paragraph of this article states that conversations between Commission officials and the inmates of any prison centre, whether adults or adolescents, cannot be overheard, interfered with or recorded on any material medium.

382. Under the prison supervision programme, the Commission has a telephone call centre offering advice to persons seeking its assistance on prison matters. To facilitate communication, a free telephone line has been established, which is used by prisoners in the country's prisons to contact the Commission.

383. Apart from supervisory visits by the Commission to prisons throughout the country, Commission staff attend the various prison premises to investigate complaints received in particular cases relating to alleged violations of inmates' human rights.

384. Over the period 2007-2010, the Commission registered a total of 1690 complaints in which federal authorities responsible for prevention and social rehabilitation were alleged to be responsible for human rights violations.

385. The breakdown in the number of these complaints in which the different federal authorities responsible for prevention and social rehabilitation were reported to be guilty of human rights violations is as follows: Ministry of Public Security's Decentralized Agency for Prevention and Social Rehabilitation (865 complaints); Federal Social Rehabilitation Centre No. 1, Altiplano (193 complaints); Federal Social Rehabilitation Centre No.4, Noreste (179 complaints); Federal Social Rehabilitation Centre No.2, Occidente (135 complaints); Federal Social Rehabilitation Centre No.5, Oriente (82); Federal Social Rehabilitation Centre No.3, Noreste (73); Department of Children's Commissioners in the General Directorate on Prevention and the Treatment of Minors of the Ministry of Public Security (43 complaints); Federal Penal Colony in the Marías Islands (35 complaints); Federal Psychosocial Rehabilitation Centre (32 complaints); Men's Diagnosis Centre in the Federal Ministry of Public Security (19 complaints); its Minors' Council (15 complaints); its Men's Treatment Centre (14 complaints); and its Women's Diagnosis and Treatment Centre (5 complaints).

386. The most frequently reported human rights violations among the complaints registered in 2007 and 2008 were as follows: violation of the rights of prisoners or detainees (276 reports); denial of the right to petition (99 reports); denial of medical care (21 reports); illegal detention (55 reports); unjustified denial of legal benefits (15 reports); violation of the rights of juvenile prisoners (29 reports); unfair punishment of prisoners or

detainees (15 reports); cruel and/or degrading treatment (22 reports); and irregularities in jail transfers (18 reports);

387. The most frequent forms of human rights violations reported in the period 2009-2010 were: failing to provide medical attention (256 cases); actions and omissions infringing the rights of persons deprived of their liberty (284 cases); actions or omissions contrary to the rights of persons deprived of their liberty (203 cases); failure to provide a proper public service (136 cases); failing to notify the family or acquaintances about the arrest, detention, transfer, place of custody, physical and psychological state or legal situation of the person concerned (119 cases); cruel, inhuman or degrading treatment (53 cases); failing to respond within a short period of time to the person making a request (41 cases); and arbitrary detention (34 cases).

388. Of the 1690 complaints registered in the period concerned, 1479 were concluded for the following reasons: lack of evidence (700); complaint settled during the trial proceedings (488); legal advice (120); conciliation (107); resolved by joinder (42); not competent (3); lack of interest in the trial by the complainant (9); recommendation (7); withdrawal (3), 211 cases being pending.

## **8. Response to paragraph 28 of the list of issues**

389. The Federal Executive is committed to preventing and punishing human trafficking as well as assisting and protecting victims of this crime.

390. Mexico is a State party to the United Nations Convention against Transnational Organized Crime (Palermo Convention) and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Palermo Convention, having ratified both instruments since March 2003.

391. Some of the initial measures aimed at making trafficking in persons a criminal offence were the reforms carried out to the Federal Criminal Code, the Federal Code of Criminal Procedure and the Federal Act on Combating Organized Crime in March 2007, prior to the publication of the Federal Act on Trafficking, relating to trafficking in persons under 18 years of age or those incapable of understanding the meaning of the act or unable to resist it.

392. The Act to Prevent and Punish Human Trafficking came into effect domestically on 28 November 2007. The decree law amended, supplemented and repealed various provisions of the Federal Criminal Code, the Federal Code of Criminal Procedure and the Federal Act on Combating Organized Crime.

393. The Mexican legal system is in line with the Palermo Convention and the Protocol and seeks not only to prevent and punish this offence, but also to protect, respond to and assist its victims in order to secure respect for the full development of the personality of the victims and possible victims, resident in or brought into the national territory, as well as Mexican persons abroad. Another important advance is the incorporation of redress for victims.

394. The law introduces more severe punishments as well as various aggravating circumstances for those committing this crime, which extend from 6 to 12 years' imprisonment and 19 to 18 years' imprisonment if the offence is committed against persons under 18 years of age or persons incapable of understanding the significance of the act or unable to resist it. The attempted crime of trafficking in persons is also punished by imprisonment.

395. The authorities must protect the identity of the victim and the victim's family, provide them with the facilities to remain in the country during the judicial process and safeguard the free development of the individual's personality, integrity and human rights.

396. The challenge remains of standardizing legislation, since there is a law applicable nationwide with respect to federal offences but prosecution only takes place under certain conditions in accordance with articles 3 and 4 of the Law to Prevent and Punish Trafficking in Persons, the rest being left to state regulation. In this regard, 25 states of the 32 federal entities have legislated on the subject of trafficking in persons<sup>12</sup> and seven states lack legislation in this regard.

397. The National Human Rights Programme, published on 29 August 2009, includes eight main lines of action. Two recommendations in this regard by the United Nations Human Rights Council's universal periodic review mechanism have also been accepted:

(a) Train police, public prosecutors and immigration agents in the identification and treatment of victims of human trafficking;

(b) Conduct an empirical study of the modalities of human trafficking at the national level, in order to measure the effects and scope of each particular manifestation of this crime;

(c) Ensure that the Office of the Special Prosecutor has the necessary powers, as well as adequate human and financial resources;

(d) Strengthen the institutions for immediate response to victims of human trafficking and their next of kin, with particular regard to the victims;

(e) Establish guidelines to regularize immigration status in order to protect the victims of human trafficking and their next of kin;

(f) Conduct information campaigns on gender equality, gender diversity and its manifestations and non-discrimination as well as awareness of the causes, consequences and implications of human trafficking;

(g) Establish a system of professional training and updating for public servants responsible for applying and implementing the Federal Act to Prevent and Punish Trafficking in Persons so as to ensure compliance with the human rights of victims of the offences specified in this code;

(h) Promote the harmonization of state laws with international standards on combating human trafficking, particularly those established in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which complements the United Nations Convention against Transnational Organized Crime.

398. On 16 July 2009, the Inter-ministerial Commission to Prevent and Punish Trafficking in Persons was set up, consisting of the Heads of the Ministry of the Interior, the Ministry of Communications and Transport, the Ministry of Foreign Relations, the Ministry of Public Security, the Ministry of Labour and Public Security, the Ministry of Health, the Ministry of Social Development, the Ministry of Public Education, the Ministry of Tourism, and the Office of the Attorney General of the Republic. The heads of the National System for the Comprehensive Development of the Family, the National Institute for Women, the National Institute for Migration, the National Institute of Criminological Sciences, the National Population Council, the National Commission for the Development of Indigenous Peoples, and the Mexican Refugee Assistance Commission also participated,

---

<sup>12</sup> To date, seven States (Chihuahua, Guerrero, Oaxaca, Zacatecas, Sonora, the State of Mexico and the Federal District) have anti-trafficking legislation, in line with the Palermo Convention. Another 14 States have adopted some kind of legislation to punish human trafficking, but only in the case of prostitution; four States have reforms to their penal codes pending, and the rest have no amendments to their local legislation.

together with the National Human Rights Commission invited to attend for consultative purposes. The regulations of the Inter-ministerial Commission were established on 15 February 2010.

399. The aim of the Commission is to prevent and punish trafficking in persons as well as to protect, respond to and assist victims of such behaviour with the aim of ensuring respect for the free development of the personality of victims and potential victims.

400. In 2010, the Mexican Government launched the Blue Heart Campaign promoted by the United Nations Office on Drugs and Crime, which seeks to become the global emblem of the fight against trafficking in persons. Its aim is to highlight the problem through the mass distribution of materials adapted to the situation in each region of the world; to mobilize public and private sectors as well as civil society against trafficking in persons and to promote the use of the distinctive “blue heart” symbol as an expression of solidarity with the victims of this crime.

401. The National Programme to Prevent and Punish Trafficking in Persons, currently being drawn up, will include measures to assist and protect victims, coordinate initial and further training for public servants to prevent the crime of human trafficking and develop strategies to eradicate the demand for and commission of this crime. In short, it is a strategy whereby the Federal Government will coordinate all its activities for preventing and eradicating trafficking in persons.

402. The Office of the Attorney General of the Republic through the Office of the Special Prosecutor is engaged in training public servants involved in combating human trafficking within the justice system to make them aware of a phenomenon that has recently been made a criminal offence.

(a) Three-week training programme on commercial child sexual exploitation for public servants and members of civil society associations and academic institutions in Mexico City and, in parallel through videoconferences, in five federal entities: Baja California, Campeche, Quintana Roo, Tlaxcala, Sinaloa, Michoacán, Oaxaca, Tamaulipas and the Federal District;

(b) Initial diploma course on human trafficking and the administration of justice, from 17 October to 13 December 2008 in Mexico City, with the participation of 57 public servants (37 women and 20 men);

(c) Regional seminar-workshop on human trafficking, held on 22 and 23 October in Tapachula (Chiapas) in the framework of National Migration Week 2008, with the participation of 60 public servants (39 women and 21 men);

(d) Seminar-workshop on sexual and family violence from a gender and human rights perspective, from 27 October to 31 December 2008 in the premises of the Autonomous University of Ciudad Juárez, with the participation of 31 public servants (25 women and six men);

(e) Seminar-workshop on commercial child sexual exploitation, from 27 October to 31 December 2008 in Mexico City and, in parallel with the support of the National Polytechnic Institute, the transmission of videoconferences in nine federal entities: Baja California, Campeche, Distrito Federal, Michoacán, Oaxaca, Quintana Roo, Sinaloa, Tamaulipas and Tlaxcala;

(f) Course-workshop on detecting and identifying victims of human trafficking in Mexico, organized by the Office of the Special Prosecutor in coordination with the DGFP and the USAID TIP (Trafficking in Persons) Shelter programme. The course workshop was held in the last quarter of 2008 and was attended by 176 public servants (94 women and 82 men). It took place at five headquarters in the Federal District; Tijuana (Baja

California), San Cristóbal de las Casas (Chiapas) Cancún (Quintana Roo) and Guadalajara (Jalisco);

(g) Lecture on commercial child sexual exploitation in the United States of America and its impact in Mexico, held on 12 November 2008, in collaboration with Infancia Común (Common Childhood) and the United States Embassy;

(h) Seminar-workshop for the south-south-east regions on comprehensive care for victims of human trafficking held from 2 to 4 June 2009 in the municipality of Solidaridad (Quintana Roo). It was attended by 81 public servants (57 women and 24 men), including from the States of Campeche, Chiapas, Guerrero, Oaxaca, Quintana Roo, Tabasco, Veracruz and Yucatán;

(i) Latin American forum on human trafficking and the administration of justice, held from 15 to 17 December 2008 in Mexico City. It was attended by 60 public servants from various countries of Central and South America engaged in combating human trafficking (23 women and 37 men);

(j) Roundtables held on 5 and 6 October with the participation of French and national experts to develop a handbook on preliminary investigation techniques in the context of the comprehensive care and protection of victims of human trafficking, with a cross-cutting emphasis on the gender perspective, human rights and the inclusive protection of the rights of the child.

403. In October 2007, the National Human Rights Commission established an anti-trafficking programme aimed at establishing strategies and measures to prevent, eradicate and punish trafficking in persons as well as protecting and assisting the victims of such trafficking.

404. The main aim of this programme is to safeguard the rights of the victims of this offence and to treat the problem comprehensively, from three main angles:

(a) Legal: publicize the main international standard-setting instruments on human trafficking so as to ensure full compliance with them, and help to bring our legal system into line with them and harmonize legislation in the federal entities;

(b) Institutional: foster coordination with the three levels of government to sensitize, train and alert public servants so that they fulfil their obligations with regard to the effective prevention, prosecution and punishment of this crime and the efficient protection, response to and assistance of its victims;

(c) Social: promote and coordinate cooperation and interaction between all sectors of civil society with the aim of achieving an effective response to this problem.

405. Under this programme, the Commission proposes to set up 10 regional committees to combat human trafficking. In 2008, four such committees were set up with their headquarters in Tijuana (Baja California), Nogales (Sonora), Aguascalientes (Aguascalientes) and Campeche (Campeche). In 2009, the process was completed with the establishment of committees in Tapachula (Chiapas), Reynosa (Tamaulipas), Coatzacoalcos (Veracruz) San Cristóbal de Las Casas (Chiapas), Villahermosa (Tabasco) and Ciudad Juárez (Chihuahua). The main aim of the committees is to operate as national observatories to monitor the corresponding activities of the authorities, and their staff consists of public servants from the three levels of government and civil human rights defenders specialized in this offence.

406. In 2008, CNDH undertook the following activities to combat human trafficking:

(a) On 26 May 2008, on the proposal of the CNDH, the national human rights institutions of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panamá,

Dominican Republic and Mexico endorsed the creation of a working group called Regional Committee against Human Trafficking. In November of the same year, the Committee held its second plenary meeting in Merida, Yucatán. This agreement is aimed at designing strategies and regional measures to combat this offence through the joint Mexico-Central American action plan and at establishing links with national authorities, international organizations and civil society actors in the field in order to cooperate and coordinate efforts to combat this scourge and to protect and assist victims;

(b) Two regional forums were held to promote the standardization of national legislation on human trafficking, the first in coordination with the Senate of the Republic in Culiacán (Sinaloa) and the second in collaboration with the Campeche State Government in the city of Campeche.

407. In 2009, the following activities were carried out:

(a) On 23 February the official presentation took place of the short film “Twenty-first century slavery: human trafficking”, a tool for prevention and awareness-raising that describes some of the ways in which people are commercialized within and beyond our borders. The forum and presentation of the film took place on 15 October in San Juan Bautista Tuxtepec (Oaxaca) and was attended by 600 local pupils at different educational levels as well as federal, state and municipal public servants;

(b) On 19 March, in the municipality of San Pablo Guelatao (Oaxaca), the National Commission initiated the National Radio Campaign to combat the crime of human trafficking on behalf of the indigenous communities, in cooperation with the National Commission for the Development of Indigenous Peoples, the National Institute of Indigenous Languages, the Oaxaca State Commission for the Defence of Human Rights and the town council of Guelatao de Juárez, Oaxaca. The campaign broadcasts were translated into the Mixe, Zapoteca and Chinanteca local mother tongues;

(c) Among the activities designed to publicize the Commission’s Programme to Combat Human Trafficking, there was a public presentation of the co-publication by the Commission and the USAID-TIP Shelter programme entitled “Mexican criminal legislation on human trafficking and related offences”, aimed at contributing to the understanding and visibility of these offences through research and comparative analysis;

(d) On 10 September, the Commission and Microsoft signed a cooperation agreement aimed at promoting the “Navega Protegido” (Navigate Safely) initiative. They jointly designed strategies and took steps to promote and defend human rights, with special emphasis on preventing and eradicating human trafficking and the link between these through the Internet, online harassment and bullying, and pornography, abuse and sexual tourism, particularly involving minors. They will also promote and coordinate cooperative measures to link all sectors of civil society in the search for an effective answer to this problem.

408. In the period 2007 to 2010, the Commission received 10 complaints reporting the offence of human trafficking, four of which are pending and six have been resolved as follows: two through counselling, two for lack of evidence, one by amicable agreement and one for lack of interest by the complainant in pursuing the complaint proceedings.

409. Under its National Human Rights Promotion Programme, the Ministry of Public Security has launched a training programme on human trafficking, aimed at staff responsible for user, worker and building security as well as service providers in the transport and tourism sectors and, more generally, any commercial or civil firms operating in ports, airports, bus stations, railway installations or border posts. It has also implemented a training programme for state and municipal police in coordination with local governments. Both activities are aimed at preventing the illicit traffic in migrants and

persons and, where appropriate, identifying the victims of such trafficking so as to be able refer them to specialized centres.

410. Some of the main activities in this regard include:

<i>Activity and/or programme</i>	<i>Staff trained</i>
Human trafficking seminar "Towards the design of a legal framework for the trafficking phenomenon" SSP/USAID-TIP Shelter; Federal District of Mexico, 24 to 28 September 2007.	300
Forum "Towards strategies in support of the victims of crime", Manzanillo, Colima 26 and 27 November 2007.	700
"Let's clean up Mexico" programme (state and municipal police), February-June 2008; July-September 2009 and October 2009.	14,529
Prevention and identification of probable torture victims (federal, state and municipal police, National Institute for Migration, Ministry of Defence, tourism, airline and land transport service providers, hotel chains and civil society), March 2008 to April 2009.	785
International seminar "Violence against women and the role of the police: the treatment of women", organized jointly with the Ministry of Foreign Affairs, Federal District of Mexico, 29 and 30 October 2009.	1,353
National human rights training programme for the Ministry of Public Security (Federal Police, Prevention and Social Rehabilitation and Federal Protection Service), January-May 2010.	812
<b>Total</b>	<b>18,479</b>

411. With regard to the spread and prevention of trafficking in persons, a national information campaign has been launched to publicize the methods used by traffickers to entrap their victims. Coverage includes police stations, frontier and entry points, international and national airports, bus stations, commercial ports, tourist zones, highways health clinics, hospitals, public prosecutors' offices, human rights defence commissions, courts, members of the national victim support network, municipalities with the largest populations, schools, universities, parks and public spaces, libraries and government offices and agencies.

412. Main publications include:

- (a) Guide, posters and leaflets on human trafficking;
- (b) Guidebook on victim support;
- (c) "Specialized model for taking statements from children"; "Complaint as a therapeutic element for child victims of crime";
- (d) "Measures to avoid the 'revictimization' of child victims of crime - handbook for assisting children during court proceedings;
- (e) "Pedro the Courageous - a tale to help child victims of crime".

413. The National System for Comprehensive Development of the Family, under the programme for the protection and comprehensive development of the child, in particular the child sexual exploitation component, promotes systematic measures in keeping with a National Plan of Action to Prevent, Address and Eliminate the Commercial Sexual Exploitation of Children.

414. The component is based on two strategies:

- (a) National Coordinating Office to Prevent, Address and Eliminate the Commercial Sexual Exploitation of Children;

(b) Implementation of action plans for preventing, addressing and eradicating sexual exploitation of children in the federal entities.

### **National Coordinating Office to Prevent, Address and Eliminate the Commercial Sexual Exploitation of Children**

415. Established on 23 October 2001, the Office comes under the National System for Comprehensive Development of the Family and comprises 32 public, private and academic bodies, civil society organizations and international organizations. The Coordinating Office is responsible for implementing the National Plan to combat this phenomenon. It operates through five subcommissions: coordination of activities, prevention, victim care, legal protection and defence of the rights of the child, and research.

416. The Office is currently actively engaged in initiating a process for the establishment and permanent updating of a National Agenda for combating the sexual exploitation of children and adolescents; in promoting comprehensive work schemes for prevention and response; and in shaping a permanent commitment to facilitate the formulation of a public policy on childhood, with the emphasis on risk prevention and the creation of opportunities. The approach adopted regards the child as the main protagonist on which all the activities are centred, while opening up possibilities for the participation of children and adolescents at risk or victims of abuse. It also seeks to promote the necessary measures by the appropriate authorities within their spheres of competence to adapt the legal framework in such a way that is conducive to legal protection machinery and to laws guaranteeing children's rights and equality of opportunities.

417. These activities will have regard to the commitments entered into by the Mexican Government at the three World Congresses against Sexual Exploitation of Children and Adolescents, the recommendations of the Committee on the Rights of the Child, the report of the independent expert on the study of violence against children, the Human Rights Council's Universal Periodic Review and the provisions ratified by Mexico under Convention 182 (1999) of the International Labour Organization concerning the prohibition and immediate action for the elimination of the worst forms of child labour, as well as taking account of the conclusions of the regional roundtables on the rights of children and adolescents held in 2009.

418. Under the reoriented National Plan of Action, the activities pursued by the subcommissions include:

(a) Victim Care Subcommission:

(i) The **National System for Combating Human Trafficking** has been developed with the aim of establishing a register and system for monitoring cases or suspected cases of child sexual exploitation. It operates on the basis of complaints or facts known directly or indirectly to the public authorities and is designed both to follow up the complaint and provide support to the victim. It can also obtain quantitative and qualitative data on the phenomenon of child sexual exploitation.

(ii) **Glossary of terms relating to child sexual exploitation** is aimed at standardizing concepts among service providers concerned with identifying child and adolescent victims and potential victims of ESI as well as professionalizing the services offered. The glossary will also serve as an input for the work of the other subcommissions.

(b) Research Subcommission:

(i) Municipalities that are the origin, point of transit or destination of child sexual exploitation have been identified, making it possible to pinpoint the areas on which interagency actions need to be focused. This is also an input for subsequent

analysis of the socio-demographic make-up of these places liable to this kind of exploitation.

(ii) Work is proceeding on developing standardized criteria for carrying out diagnoses, which will make it possible for research in the different disciplines to cross-check information and compare and supplement data, thereby taking maximum advantage of the information available.

(c) Subcommittee on legal protection and defence of the rights of the child: an analysis of federal and state legislation on child sexual exploitation and human trafficking was carried out in order to examine the classification of crimes and punishments and to identify the legal provisions and bodies on which reform efforts should focus.

### **Implementation of action plans for preventing, addressing and eradicating sexual exploitation of children in the federal entities.**

419. Through the corresponding state systems, the National System for Comprehensive Development of the Family promotes the design and implementation of local action plans, which in line with the National Plan provide for activities relating to coordination, prevention, victim care and the legal protection and defence of human rights, to be implemented through local committees or coordinating bodies.

420. It should be noted that the National System has a normative function, which is why it does not offer direct assistance to victims or those at risk of sexual exploitation, whereas the state systems are normative and in some respects operational, autonomous and dependent on the executive of the federal entity concerned, so that they are not obliged to report on activities they undertake with state resources.

421. In this regard, in order to promote prevention and support activities on specific problems, including that of child sexual exploitation, the National System for Comprehensive Development of the Family signs annual cooperation agreements with the state systems, 22 of which undertake actions relating to the sexual exploitation of children, to which the following resources are assigned:

<i>Subject</i>	<i>2010</i>
Child sexual exploitation	\$7,100,000

422. This mechanism has enabled activities to be undertaken in 256 cities in 22 of the States of the Republic considered most vulnerable to this phenomenon (Baja California, Baja California Sur, Campeche, Coahuila, Colima, Chiapas, Chihuahua, State of Mexico, Guerrero, Jalisco, Morelos, Nayarit, Nuevo León, Oaxaca, Puebla, Quintana Roo, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz and Yucatán).

### **Preventive activities**

423. Preventive activities have included forums, meetings, talks, theatre performances and play activities, using teaching aids for children and adolescents from preschool level to age 17 years 11 months and covering the risks linked to sexual exploitation, including the different forms of child sexual exploitation (through prostitution, pornography, etc.), the identification of risk situations (e.g. entrapment, both directly and through the Internet) and forms of self-protection.

424. These activities are focused on communities identified locally as having high-risk profiles.

425. Sample educational and information materials designed to provide children and adolescents with tools to combat child sexual exploitation are the *Maratón para la*

*prevención de la ESI (Marathon against child sexual exploitation)* devised by the Colima State System for Comprehensive Development of the Family, which has already been replicated by other state systems; the Rally for the prevention of child sexual exploitation organized by the Baja California State System in coordination with the Ministry of Public Security, which is now being implemented by other state systems and educational centres as part of the Blue Heart Campaign; and the puppet theatre works devised by the Chihuahua State Comprehensive Development of the Family system and those staged by Coahuila, Oaxaca and Tlaxcala.

<i>Participants</i>	<i>2010</i> <sup>13</sup>
Girls	78,493
Boys	75,890

426. With the aim of bringing together all those concerned by the issue of child protection, congresses, forums, meetings, workshops and courses were held, attracting a wide range of participants including parents, teachers, officials in the public and private sectors, members of civil society and service providers. The topics covered included the risks of sexual exploitation, information on the sexual exploitation of children (for example, in prostitution and pornography), identification of risk situations (e.g. entrapment, directly or through the Internet) and measures needing to be taken by parents, teachers, officials, service providers, depending on their function.

427. An example of this kind was the series of three International Congresses on Combating Child Sexual Exploitation and Pederasty, held in Veracruz State with the participation of international speakers and attended by public servants, service providers and persons involved with the protection of children and adolescents.

<i>Participants</i>	<i>2010</i> <sup>14</sup>
Adults	48,721

428. Campaigns aimed at the general public have been organized to inform and raise awareness about child sexual exploitation, and to encourage people to complain to the appropriate authorities. The campaigns are staged at the local level in keeping with the nature of the problem and the target population. There have been campaigns, for example, on sexual exploitation in tourism, in prostitution and on the Internet. In some cases, the assistance of taxi companies, jitney drivers and tourist firms is sought.

429. An example of joint efforts between government, civil society and international organizations is the Voices without Frontiers (*Voces sin Fronteras*) campaign in Quintana Roo State. This campaign, aimed at promoting a culture of respect for the condition and dignity of girls, boys and adolescents, eliminating any form of sexual mistreatment or abuse, as well as promoting equality of opportunity by providing children with protection and furthering the everyday exercise of their rights within the family, has highlighted the commitment to combat this social phenomenon, based for example on the agreements reached in Panama concerning the Application of the Code of Conduct for the Travel and Tourism Industry.

<sup>13</sup> Figures for 2010.

<sup>14</sup> *Ibid.*

**Measures to support victims or persons at risk**

430. Efforts are being made to promote the professionalization of staff responsible for preventing and treating the problem of child sexual exploitation. State systems are promoting the professionalization of both their own staff and that of the municipal systems so as to have the tools to identify, address and refer those cases of sexual risk or exploitation arising in the population group in which they are working.

431. Diploma studies, courses and workshops are being organized to address specific aspects of the problem, such as the identification of victims or youngsters at risk, care of child victims or children at risk and the development of strategic alliances.

432. The state and municipal systems are undertaking social studies to identify the needs (family, social, economic, health, legal, psychological, educational, etc.) of the population groups concerned, as a basis for deciding the measures that need to be taken.

433. Legal advice and protection is given to children and adolescents making - or not making - a complaint, and medical assistance is provided to children and adolescents at risk and victims and/or families requiring it.

434. One of the strategies adopted is the creation of support networks, which care for child victims or children at risk of sexual exploitation .

435. One experiment in providing such support is the Baja California State System for Comprehensive Development of the Family, which operates a network to care for youngsters at high risk or victims of sexual exploitation, comprising civil society organizations and government departments (state and municipal).

436. This network has as its main focus:

- (a) Professional training;
- (b) Prevention;
- (c) Work in a family context;
- (d) Self-development;
- (e) Social co-responsibility.

437. The disciplines covered by the network are:

- (a) Social work;
- (b) Psychology;
- (c) Medicine;
- (d) Law;
- (e) Education.

---

<sup>15</sup> *Ibid.*

---

	2010 <sup>16</sup>
Girl victims <sup>17</sup> supported	553
Boy victims supported	450
Girls at risk	13,256
Boys at risk	14,148

---

### Coverage

438. In keeping with the National Systems' standard-setting function, the following coverage rates are reported by the state systems:

---

	2010 <sup>18</sup>
<b>Prevention</b>	
<b>Campaigns</b>	36
<b>Events</b>	4,999
Participants (Girls/Boys)	154,383
Participants (Adults)	48,721
<b>Assistance</b>	
Girl victims supported	553
Boy victims supported	450
Girls at risk	13,256
Boys at risk	14,148

---

## 9. Paragraph 29 of the list of issues

439. As previously mentioned, the different programmes and training courses organized by the federal and state governments adopt a rounded approach to the promotion and protection of human rights, emphasizing certain topics such as the safeguarding of women's rights.

## 10. Response to paragraph 30 of the list of issues

440. Under the terms of articles 18 and 21 of the Mexican Constitution, responsibility for the prison system rests with the Federation, the states and the Federal District within their respective spheres of competence. Furthermore, the objective of the prison system is social rehabilitation, which is founded on work, work training, education, health and sport.

441. The Federation has 8 prison establishments: 6 federal social rehabilitation centres, 5 of which are in operation (the other one is in the process of renovation, having recently been incorporated); 1 federal psychosocial rehabilitation centre; and the Marias Islands Federal Penal Colony.

442. The federal social rehabilitation centres are male detention centres and do not accommodate women prisoners.

---

<sup>16</sup> *Ibíd.*

<sup>17</sup> The girls and boys reported as victims by the state systems are those identified as subject to sexual exploitation, irrespective of whether there has been a trial or sentence in that regard.

<sup>18</sup> Information for 2010.

443. The Islas Marías Federal Penal Colony, whose inmates live in semi-liberty and can cohabit with their families, houses a total of 59 women detainees, of which 54 were sentenced under federal jurisdiction and the other 5 under common jurisdiction.

444. As of December 2009, the number of women in prison under federal jurisdiction stood at 4597, of which 1815 had been tried and 2782 sentenced.

445. Excluding the women detained in the Marias Islands, the other women under federal jurisdiction are held in prison centres in the various states (263 of them housing women), to which the Federation makes a financial contribution under the Relief Act while the federal prison infrastructure is being developed to accommodate the federal population.

446. The detention system for women in state centres is determined by the legislation of each state and of the Federal District, so that the same system is applicable to women tried and sentenced under federal jurisdiction

447. In the Marías Islands Federal Penal Colony, since it is an open system, women detainees live together their children and other members of their family, who are transferred there and provided with domestic supplies and food during their time there. The island also offers health and hospital care.

(a) Prison population of indigenous origin held in federal social rehabilitation centres: 62;

(b) Number of children living with their parents in the Marías Islands Federal Penal Colony: 204.

#### **Measures adopted by the Ministry of Public Security in the prison sector**

448. The Ministry of Public Security's work has been carried out through the Office of the Under-Secretary for the Federal Prison System and the Decentralized Administrative Body for Prevention and Social Rehabilitation within the prison system.<sup>19</sup>

449. The constitutional reforms of June 2008 in the areas of public security and justice represent a fundamental change for the country's prison system. The amendments to article 18 of the Mexican Constitution mark a transition from a model centred on punishment of the individual to one aimed at creating the conditions for social rehabilitation.

450. The Prison Strategy 2008-2012 lays down guidelines for modernizing the country's prison system and focuses on addressing the problems of overcrowding, strengthening the security of detention facilities, fighting corruption, and promoting a New Prison Model. It envisages measures in six areas:

(a) Launching of a New Prison Model based on the five components of social rehabilitation: work, work training, education, health and sport;

(b) Short-term and medium-term measures to reverse the crisis in the prison system, including: modernizing and updating the maximum security federal social rehabilitation centres; strengthening the federal infrastructure by expanding its detention capacity; making optimum use of national prison facilities; and reducing the number of detainees awaiting trial;

---

<sup>19</sup> Information taken from the document *Prison Strategy 2008-2012*, issued by the Ministry of Public Security through the Office of the Under-Secretary for the Federal Prison System. Federal Government, March 2009.

(c) Establishment of rehabilitation alliances with other government bodies, the different levels of government and the various social sectors to turn the potential of each actor to account and generate synergies for social rehabilitation;

(d) The design of detention facilities should take into account the development of social rehabilitation programmes. Thus the 'Noroeste' Prison Centre No.4 (Tepic, Nayarit) and Marías Islands Federal Penal Colony are introducing pilot programmes and methodologies for a productive prison facility for low-risk prisoners on a sustainable basis;

(e) The establishment of rehabilitation alliances is linked to the development of productive projects, work-training programmes and skills-acquisition certificates in coordination with the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food, the College of Postgraduates and Rural Finance (Inmujeres). On 11 March, the National Prison Industry Forum was held at Tijuana, Baja California, with the participation of 97 state, Federal District and Federal Government prison authorities as well as interested businessmen already involved in productive prison schemes;

(f) A Prison Industry Business Council is to be set up, composed of socially responsible firms, with the aim boosting, promoting and regulating investment by the private sector in social rehabilitation.

451. The prison strategy 2008-2012 also includes prisoner health care with a preventive focus, based on the use of technology and in particular communications. These measures form part of the Telesud Programme, enabling specialized services to be brought to inmates without placing their safety or that of society at risk.

452. Programme design, preliminary drafts of the guides to diagnosis and therapy and handbooks on medical service organization and procedures for the federal social rehabilitation centres are already in place. Work is also underway on adapting the technological infrastructure and medical equipment for installation in the federal centres.

453. In June 2009, the number of detainees participating in work, educational, socio-cultural, recreational and sporting activities in federal centres totalled 5082, of which 2882 were serving sentences and 2200 were detainees awaiting trial who voluntarily took part in these activities.

## **11. Response to paragraph 31 of the list of issues**

454. In September 2003, when decision No. A/057/2003 of the Attorney General of the Republic was published, the staff of the Director-General for the Coordination of Expert Services at federal level included 135 forensic medical specialists and 28 forensic psychologists. From 2004 to the present, the number of forensic medical specialists has increased by 43 to 178 and the number of forensic psychologists by 28 to 51. This represents a 24.16 per cent increase in the first case and a 121 per cent increase in the second, which is why the Attorney General's Office will continue to increase its workforce.

## **J. Other**

### **1. Response to paragraph 32 of the list of issues**

455. The Special Prosecutor's office for crimes of violence against women and trafficking in persons has a pilot strategy for the prevention of trafficking in persons and gender violence among indigenous women, aimed at the prevention of human trafficking, the deconstruction of violence and the construction of a culture of non-violence in indigenous communities.

456. The Strategy comprises four phases: (a) a workshop for the prevention of human trafficking; (b) a technical workshop for the prevention of human trafficking and violence against women; (c) systematization of the results of the prevention techniques workshop; and the production and distribution of publicity materials. To date, the first three phases have been implemented in the municipality of Tantoyuca (Veracruz); the fourth is planned to be completed under the Special Prosecutor's work plan for 2010.

457. The National Human Rights Commission distributes Mexico's reports as well as the conclusions and recommendations of the United Nations treaty bodies, including - naturally - the Committee against Torture, through its web page at [www.cndh.org.mx](http://www.cndh.org.mx).

458. The Special Indigenous Affairs Unit of the Office of the Attorney General of the Republic, in coordination with the National Commission for the Development of Indigenous Peoples, organizes courses and seminars to further a culture of respect for the rights of members of the indigenous peoples implicated in a federal offence, thereby guaranteeing full access to state jurisdiction and providing, where necessary, the support of translators and interpreters.

459. A contribution has likewise been made to the National Institute of Indigenous Languages for the training of interpreters and translators in indigenous tongues.

460. The unit specialized in indigenous affairs within the Institute has also requested the support of regional representatives of the National Commission for the Development of Indigenous Peoples in various federal entities with a view to cooperating with officials of the Federal Public Prosecutor's Office in providing individuals involved in a federal offence with the help of interpreters in an indigenous language or dialect.

**2. Response to paragraph 33 of the list of issues**

461. The Ministry of Public Security has sponsored bills submitted to the Chamber of Deputies, which are awaiting approval by the Senate, including the Law on the Prevention of Money Laundering and the Financing of Terrorism.

**K. General information on the human rights situation in the country and the implementation of human rights at the national level**

**1. Response to paragraph 34 of the list of issues**

462. The National Human Rights Programme embodies the Mexican State's commitment to ensuring unqualified respect for human rights and to advocating their promotion and protection. Under the Programme, the Ministry of the Interior has furthered the inclusion of a human rights perspective in the application of public policies by the offices and agencies of the Federal Government.

463. The National Agreement for Public Security, Justice and Legality of August 2008 was signed on 21 August 2008, with the participation of the federal and state executive branches, the Congress of the Union, the federal judiciary, representatives of associations of municipal mayors, communications media and civil society organizations representing employers, trade unions and religious groups.

464. This agreement constitutes a mechanism linking the three branches and three levels of government of the Mexican State with the private and social sectors so that each can develop, within the scope of its powers and responsibilities, specific measures conducive to security, justice and legality, with common short-term, medium-term and long-term goals.

465. It is premised among other things on: coordination, cooperation and the exchange of information between the Powers of the Union and the three levels of government; the

responsibility of each of the powers and levels of government to discharge its assigned functions; and the essential participation of citizens, civil society and representative organizations, including trades union, employers' and religious bodies, to ensure a common front against the harm and violence caused by crime.

466. The main results of the measures taken in compliance with the 28 objectives<sup>20</sup> are as follows:

(a) With regard to streamlining and strengthening security institutions, a national evaluation and confidence monitoring model has been developed, together with guidelines on the comprehensive police development system, policing standards and protocols, and application notices for posts in the investigative police, the federal support forces, the federal protection service and the Decentralized Agency for Prevention and Social Rehabilitation;

(b) Concerning support for the victims of crime, the Ministry of Public Security, the Ministry of the Interior, the Ministry of Health, the Ministry of Social Development, the System for the Comprehensive Development of the Family and the Office of the Attorney General of the Republic have subscribed to a framework agreement on coordinated action and the effective exchange of information, which was signed on 17 February 2009 and aims to lay the basis for the establishment of protocols for coordinated action and the effective exchange of information between the signatories and the federal entities and civil society;

<sup>20</sup> The objectives are: I. To streamline and strengthen security and law enforcement agencies. II. In order to strengthen and boost the efficiency of security systems and the administration of justice, the federal executive branch will reassign resources and allocations in the federal expenditure budget. III. To support the federal entities in combating the most socially sensitive crimes according to the responsibilities of each level of government. Support will be given in particular to strengthening or, as the case may be, setting up and training state units to combat kidnapping. IV. To formulate and issue a national strategy against money laundering. V. To strengthen the institutional capacity of the Federal Public Prosecutor's Office. VI. To strengthen and consolidate networks to assist kidnap victims nationwide. VII. To regulate the registration, creation and accessing of databases of portable and fixed telephone equipment, as well as access to information on the physical location of mobile telephones in real time in the case of apparatus and numbers linked to criminal activities. VIII. To ensure the nationwide coverage of a single number (066) for emergency assistance and for the citizens' anonymous reporting service (089). IX. To reinforce, with the participation of civil society, the system for filing complaints against federal security or law enforcement officials for corruption or misconduct. X. To adjust coordination and institutional arrangements with regard to public security so as to ensure shared responsibility between the Federation, the federal entities and the municipalities. XI. To update collective firearms licences issued to public security forces by the Ministry of Defence. XII. To issue identity cards. XIII. To strengthen the prison system. XIV. To review the Relief Act. XV. To reinforce the customs system. XVI. To submit to Congress a package of reforms to strengthen the federal government in the areas of public security and law enforcement. XVII. To reinforce the Single Criminal Information System to ensure the interconnection and exchange of information between the different agencies and levels of government in order to combat crime. XVIII. To incorporate a substantive information module in the Mexico Platform of the Single Criminal Information System in order to register, follow up and combat the crime of kidnapping. XIX. To develop and expand the use of technology to exchange information in the fight against crime. XX. To implement campaigns to promote the culture of legality. XXII. To strengthen the programme to recover public spaces. XXIII. To strengthen the Safe Schools Programme. XXIV. To ensure the accountability of financial reports on public security programmes. XXV. To make public financial reports on public security programmes. XXVI. To promote the creation of a citizens' observatory to follow up and oversee compliance with agreements. XXVII. To establish indicators to measure the performance of police and law enforcement institutions with the participation of citizens' groups. XXVIII. To provide for the inclusion in academic courses of the culture of legality, combating addiction, respect for human rights and transparency.

(c) A preliminary draft of the General Law on the National Public Security System has been prepared and was transmitted to the Congress of the Union and published in the Official Journal of the Federation on 2 January 2009. It seeks to regulate the composition, organization and functioning of the National Public Security System and to define the corresponding distribution of responsibilities and the bases for coordination among the Federation, the States, the Federal District and the municipalities.

## 2. Response to paragraph 35 of the list of issues

467. At its session on 18 December 2008, the plenary session of the Commission on Government Policy on Human Rights agreed to the creation of the Subcommittee to Monitor and Evaluate the National Human Rights Programme, consisting of five working groups responsible for monitoring and evaluating each of the programme's objectives.

468. The Subcommittee was established on 29 January 2009 and elected the Head of the Unit for the Promotion and Defence of Human Rights as Coordinator of the Federal Public Administration and, representing civil society, the *Iniciativa Ciudadana y Desarrollo Social* (Civic Initiative and Social Development) association.

469. On 14 August 2009, members of the Subcommittee were presented with the draft annual work programme, which prescribed the methodology to be employed within the Subcommittee and its working groups.

470. At the state level, a number of measures have been taken to promote human rights and eradicate torture. Details of some of these measures taken by the Governments of the States of Coahuila, Durango, Guerrero, Querétaro, Sonora, Tabasco and Yucatán are given below.

<i>State</i>	<i>Activities carried out</i>
Coahuila	<p>The session from the 27th to the 30th of the month in question concluded with the second stage of the training course prior to the introduction of the medical/psychological certificate of possible torture or ill-treatment, which was run by staff from the Department for Recommendations and Amicable Settlements in the field of Human Rights within the Office of the Attorney General of the Republic.</p> <p>The course was aimed at staff in the State Prosecutor-General's Office, including medical experts and psychologists, officials of the Public Prosecutor's Office concerned with detainees, staff of the Department of Responsibilities, staff in the field of human rights and agents of the state judicial and operational police, as well as staff of the Social Rehabilitation Centres.</p> <p>This was the second stage in the training provided in each state preparatory to the introduction of this certificate, the first having been given to staff in each agency from September to October 2006.</p> <p>All that remains is to put this measure into practice by issuing the certificate with the appropriate security measures and by signing the corresponding agreement, for which purpose there has been constant contact with the Director of the Department of Recommendations and Amicable Settlements in the field of Human Rights within the Office of the Attorney General of the Republic.</p>
Durango	<p>A register of detainees or co-defendants entering the various detention centres has been established.</p> <p>A register is also kept of persons visiting detainees in the holding cells in the</p>

<i>State</i>	<i>Activities carried out</i>
	State Prosecutor-General's Office.
Guerrero	The Office of the Under-Secretary for Prevention and Police Operations of the Department of Public Security and Civil Protection points out, in relation to the topic of migration, that various measures have been taken, notably: not handcuffing migrants in holding centres, providing them with food, allowing them to make a telephone call, having their state of health checked by an appropriate specialist, providing them with medical care and, if necessary, medicines, transferring them without delay to the migration office and ensuring that their belongings are properly treated.
Querétaro	The authorities in the State of Querétaro have made a separation between men and women in the migrant holding centre. The premises are secure, warm and hygienic, and the migrants are given a package containing soap, shampoo, toothpaste and toothbrush as well as being supplied with a mattress, sheets and food. There is also a doctor present and the treatment received is decent.
Sonora	<p>The State Attorney General's Office is undertaking various training activities in the field of human rights in all those areas where torture is considered a possibility, such as among officers of the state investigatory police and officials of the Public Prosecutor's Office. This training includes in particular: courses on the national and international legal setting; the code of conduct for officials responsible for applying the law; principles of justice for the victims of crime; abuses of power; and protection of all persons subject to any kind of detention or imprisonment.</p> <p>The State Executive Secretariat of Public Security worked on the preliminary draft of the Public Security Act, which was amended in accordance with the June 2008 constitutional reforms, which established principles for the operations of public security institutions, including respect for the human rights enshrined in the Constitution. This draft has already been submitted to the State Congress by the executive branch.</p> <p>This same draft bill includes guidelines on the conduct of members of police institutions, based on the principles of legality, objectivity, loyalty, impartiality, efficiency, professionalism, honesty and respect for human rights, specifically forbidding the infliction or tolerance of acts of torture, even on the order of higher authority or where the existence of special circumstances may be argued.</p>
Tabasco	<p>The Tabasco Comprehensive Development of the Family system, in conjunction with the National System and the National Institute for Migration inaugurated in the municipality of Tenosique, on the southern border with Guatemala and Central America, a shelter for repatriated non-accompanied migrant children and adolescents, providing lodging, food, counselling and care to the minors during their period of repatriation.</p> <p>In accordance with the Committee's recommendations, officials of the Social Rehabilitation Centres in Cárdenas, Comalcalco, Macuspana, Tenosique, Huimanguillo and Jalpa de Méndez, at the prisons in Centla, Jalapa, Nacajuca, Paraíso and Villa la Venta and at the Tabasco State Internment Centre for Adolescents have received training on the responsible use and application of physical force and had a diploma course on human rights, human rights in the prison system, the lawful and rational use of public force, prison techniques and tactics, security and personal protection, high prison security, criminology</p>

and the prison system, and the transfer of high-risk prisoners.

As regards the strengthening of programmes to prevent torture and other cruel, inhuman and degrading treatment or punishment, the Internment Centre for Adolescents in the State of Tabasco arranges weekly workshops for internees and parents, informing them about the treatment and care that children should receive from public security personnel. They also receive leaflets from the National Human Rights Commission, specifying the provisions under article 18 of the Constitution with regard to legal detention and the placement in dormitories according to the age and conduct of each adolescent.

The State Internment Centre for Men permanently monitors the conduct of security officers responsible for caring for minors in custody. This year (2010) it was requested that the necessary changes be made in the case of police officers and prison guards whose treatment of minors has not been appropriate.

Various psychological workshops have been organized to foster greater awareness among prison guards and staff dealing with adolescents in order to avoid acts of torture in the detention centre. Staff are also given a course on values.

The detainees furthermore receive training through various workshops that help to change the minors' behaviour, leading to better relations between all concerned and a 95 percent reduction in violations of the rights of the adolescent detainees and 90 percent reduction in fights between them.

Daily contact is maintained with the adolescents and on Wednesdays and Saturdays with the parents, who are informed about the inmates' conduct as well their rights and duties. Direct communication is allowed between the private defence counsel and the young inmates. Finally, there are monthly visits by the specialized judge and the sentence-enforcement judge to inform each inmate of the progress of his case.

With the aim of avoiding torture or cruel, inhuman and degrading treatment each complaint by the minor is investigated, whether it concerns the administrative, security or surveillance staff or the other adolescent inmates.

When they enter the centre, the minors are received by the management and transferred to the medical area for an assessment of their physical condition, since those transporting them are agents of the public prosecutor's office, auxiliary staff belonging to the investigation unit of the specialized agency of the public prosecutor's office concerned with adolescents.

The Tabasco Integrated Development of the Family system, through the Office for the Defence of Minors and the Family, also distributes leaflets and materials with information on torture and other cruel treatment to persons seeking legal advice.

Notable among legislative reforms is the modification to article 4 of the Tabasco State Constitution to which has been added a paragraph that states: "The State shall guarantee to all persons the fundamental rights in the area of justice recognized under the Mexican Constitution".

With regard to the design and implementation of public policies, the law creating a comprehensive system of juvenile justice in the State of Tabasco was enacted on 12 September 2006 under Decree No.156. This was

<i>State</i>	<i>Activities carried out</i>
	<p>accompanied by various additions and reforms to 11 local regulations, which also form part of the new comprehensive system applicable to minors, that is to say, children from 8 to 11 years old, adolescents from 12 to 17 and over-18-year-olds who have committed a criminal offence during their adolescence, provided the conduct in question is not time-banned.</p> <p>In order to strengthen the machinery of justice, a start was made in 2010 in the construction of law enforcement centres in the municipal capitals of Huimanguillo and Cunduacán. The same municipalities will house the officials of the public prosecutor's office attached to the criminal, mixed, family, civil and justice of the peace courts, the judicial police, expert services and the forensic medicine service.</p> <p>Tabasco has 18 detention centres with a total inmate population of 4891 - 3999 under common jurisdiction, 740 under federal jurisdiction and 140 men and four women detained in the juvenile internment centre.</p> <p>To protect the health of inmates, hospitals centres in the health sector provided 28,551 general consultations, 2376 dental consultations and 1148 psychiatric sessions, together with 3383 transfers to hospital.</p> <p>Law enforcement centres are currently being built in the municipalities of Cunduacán, Huimanguillo, Macuspana, Paraíso and Tenosique.</p> <p>In 2010, resource allocations to the High Courts for support infrastructure totalled 27,042,578, of which 14,654,000,355 pesos were for the Macuspana Justice Centre.</p> <p>Similarly, 4,128,618 pesos were allocated this year to the construction, improvement or extension of social rehabilitation centres, including 780,761 pesos to the Comalcalco centre, 722,775 to the Cárdenas centre and 910,731 to the Macuspana centre.</p> <p>The amount allocated to law enforcement infrastructures was 26,852,332 pesos distributed as follows: 5,500,000 for the public prosecutor's office in Huimanguillo; 8,300,000 for the public prosecutor's office in Tenosique; 6,752,332 pesos for the law enforcement centre in Macuspana; and 6,500,000 pesos for the law enforcement centre in Paraíso.</p> <p>Infrastructure expenditure is projected to increase in 2011-2012 with the construction of buildings for the Expert Services and Public Prosecutor's Office, the Institute of Basic and Advanced Training, the Judicial Police and the law enforcement centres in Cárdenas, Centla, Comalcalco, Emiliano Zapata, Nacajua and Teapa.</p> <p>The State Government signed the Istanbul Protocol on 3 August 2005.</p>
Yucatán	<p>By decree No. 351, the Yucatán State Congress promulgated the Prevention and Punishment of Torture Act, which may be consulted at <a href="http://www.congresoyucatan.gob.mx/index.php?seccion=descargar&amp;id=228">www.congresoyucatan.gob.mx/index.php?seccion=descargar&amp;id=228</a>.</p> <p>Training for members of the state and municipal police has been provided by the Yucatán State Human Rights Commission through the course entitled "The human rights of migrants", held on 9 December 2010 from 10 a.m. to 2 p.m. in the auditorium of the Ministry of Public Security of the Yucatán Government.</p>

**3. Response to paragraph 36 of the list of issues**

471. On 7 October 2009, standards for the functioning of migrant holding centres were issued, prohibiting under article 6, section 2, any action or omission constituting cruel, inhuman or degrading treatment for those lodged there.
472. In the course of supervisory visits by the Department of Migrant Holding Centres, interviews were conducted with the inmates to identify practices contrary to this provision and to draw the matter to the attention of the person in charge of the centre so that he could take appropriate action.
473. Complaint boxes are available so that the inmates are able to reveal any unusual situation arising in the holding centres. This box can only be opened by staff of the internal oversight body for it to follow up the said complaint.
474. The National Human Rights Commission carries out periodic visits to the migrant holding centres to interview the inmates and advise them on submitting a formal complaint concerning any abuse of authority.
475. Where an inmate is the victim of a crime, the person in charge makes it a priority to place the person in a public or private institution able to provide the appropriate kind of care.
476. The staff of the migrant holding centres are forbidden from disclosing information or making improper use of the information on the inmates in their charge so as to ensure the latter's safety.
477. On-the-spot checks carried out by the migration authority with the aim of ensuring strict compliance with the Population Act and its regulations by foreigners present in the country are conducted in strict compliance with the law and with absolute respect for human rights. In this connection, foreigners are interviewed immediately to check the physical and psychological state in which they were found in order to have sufficient information to advise them on the provisions applicable during their transit or stay in our country, as well as to learn whether they are the probable victims of a crime and to advise them on submitting a complaint to the relevant authorities.
478. Various directives have also been issued stressing to the regional offices the importance of respecting foreigners' human rights when carrying out monitoring and verification activities.
479. In 2008, the National Human Rights Commission organized a workshop on the follow-up to the recommendations of United Nations treaty bodies, in coordination with the Sonora State Human Rights Commission, in the city of Hermosillo, Sonora, at which the conclusions and recommendations addressed to Mexico by the Committee against Torture were distributed with the aim of promoting their implementation.
-