



**Convention on the  
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD  
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**WRITTEN REPLIES BY THE GOVERNMENT OF GUATEMALA TO  
THE LIST OF ISSUES (CRC/C/OPSC/GTM/Q/1) TO BE TAKEN UP  
IN CONNECTION WITH THE CONSIDERATION OF THE INITIAL  
REPORT OF GUATEMALA SUBMITTED UNDER ARTICLE 12,  
PARAGRAPH 1, OF THE OPTIONAL PROTOCOL TO THE  
CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF  
CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY  
(CRC/C/OPSC/GTM/1)\***

[Replies received on 20 April 2007]

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\* 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.

**OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF  
THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION  
AND CHILD PORNOGRAPHY**

**Written replies to the list of issues to be taken up in connection with  
the consideration of the initial report of Guatemala**

- 1. Please provide data (including by sex, age, urban/rural area) for the years 2004, 2005 and 2006 on the number of:**

**(a) Reported cases of the sale of children, child prostitution and child pornography, with additional information on type of follow-up provided on the outcome of the cases, including prosecution and sanctions for perpetrators**

The data below were provided by the judiciary, the Public Prosecutor's Office, the Ministry of the Interior and the National Civil Police. It should be pointed out that not all the institutions have statistics disaggregated by age or sex.

**Judiciary: National Centre for Legal Analysis and Documentation,  
Legal Documentation and Statistics Unit**

**Statistics on cases of corruption of minors brought before the criminal  
courts of Guatemala, 2005-2006**

Legislation	Article	2005	2006	Total
Criminal Code, Decree No. 17-73	188 - Corruption of minors	60	37	97
	189 - Aggravated corruption	4	6	10
Total		64	43	107

*Source:* Criminal statistics.

*Note:* The data presented are not definitive, as some courts have not submitted information (data processed on 12 April 2007).

**Public Prosecutor's Office: victim-care units**

**Number of victims by type of service provided, 2005**

Service provided	Number of victims		
	Total	Guatemala	Interior
I. New cases	11 250	2 278	8 972
General assistance	5 721	-	5 721
Psychological assistance	3 475	1 210	2 265
Legal assistance	1 297	536	761
Social assistance	434	352	82
Medical assistance	323	180	143

Service provided	Number of victims		
	Total	Guatemala	Interior
II. Follow-up and support activities	17 791	1 221	17 956
Follow-up appointments:	4 860	747	4 113
General assistance	2 041	10	2 031
Psychological assistance	1 911	425	1 486
Legal assistance	508	148	360
Social assistance	272	71	201
Medical assistance	128	93	35
Referrals and monitoring:	10 716	393	11 709
Referrals:	8 505	284	8 221
Full-time service unit	2 700	43	2 657
Courts	1 443	1	1 442
National Civil Police	888	6	882
Lawyer's offices	454	-	454
Other	3 020	234	2 786
Monitoring:	2 211	109	3 488
Full-time service unit	1 556	39	1 517
Courts	413	1	412
National Civil Police	128	-	128
Lawyer's offices	114	-	114
Other	1 386	69	1 317
Visits:	2 215	81	2 134
Number of visits to institutions	1 760	76	1 684
Number of home visits	455	5	450

*Source:* Reports of victim-care units; prepared by the Public Prosecutor's Office, Planning Department.

### Public Prosecutor's Office

#### Number of victims by cause, 2005

Cause	Guatemala		Interior		Total	
	Direct	Secondary	Direct	Secondary	Direct	Secondary
Total	1 701	497	6 487	2 473	8 188	2 970
Domestic violence	693	76	1 833	349	2 526	425
Rape	114	77	1 099	643	1 213	720
Threats	112	24	482	92	594	116
Sexual abuse	108	67	200	138	308	205
Physical injury	85	7	458	110	543	117
Family counselling	76	28	323	82	399	110
Assault	68	12	116	29	184	41
Child abuse	54	39	189	154	243	193
Abduction of a minor	37	30	94	47	131	77

Cause	Guatemala		Interior		Total	
	Direct	Secondary	Direct	Secondary	Direct	Secondary
Statutory rape	28	21	227	125	255	146
Problems between neighbours	18	2	89	8	107	10
Kidnapping	12	6	59	60	71	66
Ill-treatment of older persons	10	1	13	12	23	13
Coercion	8	-	61	6	69	6
Misappropriation	4	-	28	5	32	5
Robbery	3	-	97	14	100	14
Fraud	3	1	39	9	42	10
Usurpation	1	-	43	21	44	21
Other	267	106	1 037	569	1 304	675

*Source:* Reports of victim-care units; prepared by the Public Prosecutor's Office, Planning Department.

**(b) Children trafficked (for sexual, economic or other purposes, including adoption) to and from Guatemala, as well as trafficked within the country**

**Illegal adoptions**

Year	Cases reported	Cases concluded	Female	Male
2004	39	16	24	15
2005	29	8	18	11
2006	50	16	29	19
2007	17	6	6	9

*Source:* National Civil Police, Ministry of the Interior.

**(c) Child victims provided with recovery assistance and compensation (if any) as defined in article 9, paragraphs 3 and 4, of the Optional Protocol**

**2. Please provide further information on the measures taken to periodically evaluate the implementation of the Optional Protocol.**

The Presidential Human Rights Commission (COPREDEH) continues to follow up, through the Standing Inter-Institutional Forum on Human Rights, the recommendations made to Guatemala by treaty bodies, the State's commitments under the international human rights instruments it has ratified and the recommendations of the special rapporteurs who have visited the country since 2002.

With the aim of establishing a monitoring mechanism of a general nature, three matrix-type tools have been developed to organize under thematic headings the recommendations made to Guatemala by treaty bodies and other monitoring bodies of the universal and regional human rights systems.

The documentation compiled consists of technical files, matrices of recommendations, the mandates of special rapporteurs, the rules of procedure of the treaty bodies, a chronological

record of the visits to the country by special rapporteurs and working groups, in situ visits, reports submitted to the treaty bodies and a chronological record of all the types of information supplied to the Government of Guatemala by monitoring mechanisms. The aim is to follow up and monitor each recommendation made to Guatemala by classifying them under the following headings: women and gender equity, children, indigenous peoples, migrants, security and justice, human development, and promotion and dissemination.

**3. Please provide information on measures taken to establish an effective system of data collection on violations of provisions of the Optional Protocol.**

Given the importance of the subject and the need to follow up on it, the Ministry of Foreign Affairs coordinated the establishment of the Inter-agency Group against Trafficking in Persons. This is a joint body that will facilitate cooperation, coordination and consultation and that aims to adapt, reorient and focus State action (legal and budgetary provisions, and institutional mechanisms) in order to ensure that policies and actions emanating from public institutions are in line with the Optional Protocol and other international human rights instruments ratified by Guatemala.

The group places greater emphasis on the people in the most vulnerable economic, social and cultural situations, including victims, especially when the victims are children.

**Measures taken**

**Ministry of Foreign Affairs**

1. In 2006, training courses were provided and promotional materials published.
2. A public policy was prepared on trafficking in persons and comprehensive victim protection and on the strategic plan for 2007-2017.
3. The National Protocol on the Repatriation of Child Victims of Trafficking was adopted; it contains basic standards and rules that can be easily understood and applied by all officials in direct contact with victims of trafficking.
4. In the lead-up to the Regional Conference on Migration, draft regional guidelines on special protection in the return of child victims of trafficking were prepared. After consideration by the various States members of the Conference, the draft was included in the document discussed at a meeting of the Regional Consultation Group on Migration held from 27 to 29 November 2006.
5. Former foreign secretary Jorge Briz and a representative of the United Nations Children's Fund (UNICEF) signed a memorandum of understanding on cooperation to prevent and provide protection against trafficking in persons, in the form of financial and technical assistance from UNICEF for training courses on the subject.

6. [...] for officials from central government with regard to the conceptual framework and raising awareness of the subject.
7. With the cooperation of UNICEF, two workshops were held on the implementation of the National Protocol on the Repatriation of Child Victims of Trafficking.
8. On 3 August 2006, a workshop on procedures for prevention, identification and assistance for child victims of this evil phenomenon was held for consuls from Central America, Mexico, the Dominican Republic, Colombia and Ecuador accredited in Guatemala and for Guatemalan consuls accredited in Mexico, Belize, El Salvador, Honduras and Nicaragua.
9. On 12 and 13 July 2006, a workshop was held on the approval and creation of material publicizing child-trafficking in Central America.
10. A technical commission was set up to monitor and assess coordination and cooperation activities under the memorandum of understanding between Guatemala and El Salvador on the protection of victims of trafficking in persons and smuggling of migrants.
11. An annual programme of work was drawn up and adopted to implement the memorandum of understanding between Guatemala and El Salvador on the protection of victims of trafficking in persons and smuggling of migrants.
12. A special law to combat trafficking has already been approved by the foreign ministry's Department of Legal Affairs, and is ready for the next steps in the process.
13. National preventive campaigns have been launched, using radio, leaflets, posters, comic strips, billboards and banners.
14. A legal opinion has been requested on the Government's decision and exposition of the grounds for adopting the public policy on trafficking in persons and comprehensive victim protection as State policy.

#### **Public Prosecutor's Office**

1. Training courses were held to raise awareness among district and municipal attorneys about trafficking issues.
2. Support was provided for operations in the regions of Quezaltenango and Escuintla.
3. Work is under way to set up a programme to tabulate the number of complaints and convictions in the area of trafficking.
4. There has been appropriate follow-up to complaints and there has been coordination with other institutions to resolve them.

### **National Civil Police**

1. Rescues victims.
2. Hands victims over to the migrant shelter.
3. Participates in various inter-agency operations.

### **Migration Department**

1. Participates in inter-agency operations.
2. Takes care of victims who have been intercepted.
3. Provides medical assistance to persons held in the migrant shelter.
4. Trains border officials and central government officials in how to deal with victims of trafficking and prevent them from being trafficked again.
5. Work is under way on a new migrant shelter.
6. The Migration Department and other institutions responsible for taking care of the victims of trafficking have followed up on the memorandum of understanding between Guatemala and El Salvador on the protection of victims of trafficking in persons and smuggling of migrants, with a view to implementing it and ensuring that action taken by both El Salvador and Guatemala contributes to the welfare of victims of trafficking.

### **Social Welfare Department**

7. Awareness-raising workshops have been held on social risk (commercial sexual exploitation and street children) in the departmental capitals of Quiché, for community development councils; in Chimaltenango, for women leaders from throughout the department; in Zacapa, for the community development council; and in Chiantla, Huehuetenango, for deputy mayors and the National Civil Police.
8. A holiday workshop on sexual exploitation is being run in the Terminal for 30-40 children (aged under 18) of sex workers.
9. The children and young persons living in the Department's centres are given courses on HIV/AIDS and sexually transmitted diseases, and also receive psychological counselling.
10. A protocol has been adopted on the detection and comprehensive care of child victims of commercial sexual exploitation.

### **Office of the National Procurator-General**

1. Minors deported from the United States of America or Mexico are met at La Aurora international airport.
2. The minors are interviewed to find out if they migrated of their own accord or were manipulated by an adult.
3. Officials from the office act as representatives of children returning from Mexico and help return Mexican children, as provided for in the memorandum of understanding on the protection of women and child victims of trafficking in persons along the Guatemalan-Mexican border.
4. They also act as representatives of children returning from El Salvador and help return Salvadoran children, as provided for in the memorandum of understanding between Guatemala and El Salvador on the protection of victims of trafficking in persons and smuggling of migrants.
5. The office is represented on the cross-sectoral working group coordinated by the Ministry of the Interior with a view to locating Guatemalan and other children living in Guatemala who are being exploited or who are engaged in the worst forms of child labour.

#### **4. Please provide an update including further details of the implementation of the National Plan against the Commercial Sexual Exploitation of Children, which was adopted in 2001.**

As has been explained previously, the National Plan against the Commercial Sexual Exploitation of Children was adopted as official policy by the Social Welfare Department. However, one of the main obstacles to implementing it is the limited budget allocated for that purpose. Nevertheless, some progress has been made with the help of international cooperation agencies, and in particular the International Programme on the Elimination of Child Labour (IPEC) of the International Labour Organization (ILO) and the End Child Prostitution in Asian Tourism (ECPAT) campaign.

ILO-IPEC signed a cooperation agreement with the Social Welfare Department that was valid from January 2004 to August 2005. Cooperation was divided into three areas:

- (a) Institution-building;
- (b) Awareness-raising and information;
- (c) Direct assistance.

Under this agreement, the Social Welfare Department was strengthened as an institution in various ways; in particular, direct assistance was provided in the children's home "Mi Hogar" for about 65 victims of commercial sexual exploitation, of whom 39 were returned to their homes.



- 5. Please clarify the status of the Optional Protocol in relation to domestic legislation, including the Constitution, and whether it can be directly invoked before the courts and applied by the national authorities.**

Under article 46 of the Guatemalan Constitution, international human rights treaties ratified by Guatemala take precedence over domestic legislation, so that treaties have the force of law in the domestic legal system and may be invoked before the courts.

- 6. Please provide information on the status of the legislative reform of the Criminal Code and on the steps that have been taken to ensure that it is brought into full compliance with articles 2 and 3 of the Optional Protocol. In particular, please give full details of the coverage of offences relating to the sale of children, illegal adoption, organ transfer for profit, economic exploitation of children and the production, distribution and possession of child pornography.**

The legislative reform referred to is currently before Congress. The reform passed on first and second hearing, but as over 70 per cent of the text was amended, the Committee on Minors and Families agreed to tidy up the draft, incorporate the amendments and submit a new legislative proposal. The draft proposal (attached hereto) is in keeping with Guatemala's international commitments, especially in relation to efforts to combat trafficking, pornography, procurement, domestic violence, ill-treatment, rape and sexual abuse.

- 7. Please provide information on measures taken to bring national legislation and institutional coordination into line with the Hague Convention (No. 33) on Protection of Children and Co-operation in respect of Intercountry Adoption, to which Guatemala is a party. In particular, please provide further information on the measures taken to prevent the sale of children for the purpose of adoption.**

Guatemala has considered the best interests of the child in this respect and has taken the following steps.

As the Committee may know, Decree No. 50-02, adopting the Hague Convention for domestic use, was declared unconstitutional by the Constitutional Court on 13 August 2003 purely on the basis of procedural issues related to the accession process; at no time was the constitutionality of the substance of the Convention itself challenged. However, by the time the judgement was issued, the President had already ratified the Convention, at the same time making a declaration under international law and an international commitment to implement the Convention.

The declaratory judgement of unconstitutionality was based on reservations to the Vienna Convention on the Law of Treaties, especially article 11, on the means by which a State can consent to be bound by a treaty. This year, therefore, the Government requested the Constitutional Court for an advisory opinion on the reservations; the Court declared the reservations unconstitutional under the 1965 Constitution but not under the 1985 Constitution. Accordingly, the President could withdraw the reservations.

Consequently, pursuant to Government decision No. 64-07 of 28 February 2007, published in the Official Gazette on 6 March 2007, the aforementioned reservations were withdrawn.

Furthermore, in order to be able to monitor the registration of adoptions properly, the Government has prepared a manual of good practice for national and international adoptions in Guatemala. The manual was drawn up by State officials working in the area of child protection in response to the need for a guide to good practice for institutions, and is intended to protect and promote respect for the human rights of Guatemalan children in the adoption process. It takes as its starting point the best interests of the child and the constitutional duty to guarantee children's effective enjoyment of their fundamental rights.

The manual is an important step forward in the implementation of good practice in adoptions in Guatemala. Its legal basis is the Constitution, the Convention on the Rights of the Child and the Act on the Comprehensive Protection of Children and Young Persons.

The Constitutional Court has said that, as the manual is based on law, the principles set out in it are binding on the Guatemalan authorities. Consequently, it compensates for the lack of procedures and practices adapted to the new approach to adoption embodied in the Act on the Comprehensive Protection of Children and Young Persons. The manual also prepares the State authorities for the implementation of a special law on adoption and the imminent entry into force of the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.

The following institutions were involved in preparing the manual:

- The Ministry of Foreign Affairs;
- The Social Welfare Department of the Office of the President;
- The Presidential Human Rights Commission;
- The Migration Department;
- The judiciary;
- The Office of the Public Prosecutor; and
- The Office of the National Procurator-General.

The following steps have been taken by the Government of Guatemala to prevent, punish and eradicate illegal adoptions in Guatemala:

- Preparation of the proposal for a special adoption law, which is undergoing its second reading in Congress, and which is intended to improve care for the children concerned and remedy the irregularities observed;
- A brief review of current adoption practice in Guatemala to identify irregularities in the whole adoption process, i.e. before, during and after adoption; the review revealed irregularities in the procedures in each institution involved in the process and enabled them to take action to remedy them;

- Preparation of an instruction by the Attorney-General, listing the criteria to be applied by prosecutors in the prosecution of illegal acts related to irregularities in adoption procedures;
- Description of examples to enable the Public Prosecutor's Office and expert bodies to devise a strategy for litigation aimed at dismantling networks active in this area;
- Notification of the United States authorities that, before a visa is issued for a child up for adoption by United States citizens, a commitment to compliance with the manual of good practices, which also guarantees the origin of the children, will be required.

The following measures have been taken by the Adoption Board:

- Financial resources have been allocated by the Office of the Vice-President and the Ministry of Public Finance to the implementation of the manual of good practice;
- A plan has been prepared to have the manual implemented within the next few months;
- Rules of procedure have been drawn up for each body responsible for carrying out controls and following practices that guarantee the human rights of the child concerned;
- Stricter controls on the issuance of passports for children up for adoption have been introduced by the Migration Department to ensure that the requirements of Guatemalan law are met and that the passports are checked and the relevant statistics recorded;
- Technical guidelines on running public and private centres that offer comprehensive care to children have been prepared (accreditation);
- Databases have been created to register the children in the various public and private centres so that the children can be closely monitored;
- The Social Welfare Department's programme on foster families and adoptions has been strengthened, so that more children will be able to remain with their family of origin (the preferred option) and avoid spending long periods in institutions.

### **Moves to adopt the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption**

When the various options were considered, several deputies suggested that the first thing to do would be to withdraw the reservation to the Vienna Convention on the Law of Treaties; the appropriate instrument was deposited at United Nations Headquarters and has been in effect since 15 March 2007.

The next step is to notify Congress of the withdrawal of the reservations so that the original strategy can be pursued and the Hague Convention can be readopted.

In this context, the protocol on good practice takes on vital importance, as it prepares institutions to assume their responsibilities under the Hague Convention. In effect, it marks the beginning of the implementation of the core provisions of the Convention.

The secretariat of the Hague Conference on Private International Law provided constant support in the institutional preparations for the implementation of the Convention.

**8. Please provide information on measures adopted to strengthen birth registration and control the issuance of birth certificates.**

In 2005, Guatemala adopted the National Register of Persons Act, which replaces the residence card with a single identification document.

The Act contains the following 13 chapters:

Chapter 1: General provisions

Chapter 2: Functions of the National Register of Persons

Chapter 3: Organizational structure

Chapter 4: Executive director

Chapter 5: Advisory body and executive support

Chapter 6: Executive offices

Chapter 7: Administrative departments

Chapter 8: Finances

Chapter 9: Personal identification document

Chapter 10: Registration in the civil register of persons

Chapter 11: Administrative infractions and penalties

Chapter 12: Administrative resources

Chapter 13: Temporary provisions

The National Register of Persons (RENAP) will be a parastatal body with legal personality, and will be located in Guatemala City. To fulfil its functions, however, it will need to establish offices in every municipality in the country.

The purpose of the National Register of Persons is to organize and maintain a single identification register for individuals, register events and documents concerning their civil status, their capacity to exercise civil rights and other personal information from birth to death, and also

to issue the personal identification document. Registration will be carried out by way of standardized forms and an automated data processing system that will make it possible to build up a single identification register that covers every person and to assign a unique identification code to each person from the moment their birth is registered. This code will include identification codes for the department and municipality where the person was born, as set out in a directory.

Bearing in mind that this is an election year, the Government has made it a priority to put the Act, which has already been adopted, into effect, and every effort is being made to secure the resources needed to make the register operational.

The parliamentary commission on electoral affairs has submitted a proposal to postpone for one year the entry into force of transitional article 92 of the National Register of Persons Act, which sets a limit of two years from the time the National Register enters into operation. The proposal would automatically repeal the Residence Card Act, so that work could begin on issuing the so-called single document.

**9. Please clarify how the State party can establish jurisdiction, in accordance with article 4 of the Optional Protocol, over the offences referred to in articles 2 and 3, in particular given that several of the offences are currently not incorporated in the Criminal Code.**

Under article 203, paragraph 3, of the Guatemalan Constitution, “the jurisdictional function shall be exercised with total exclusivity by the Supreme Court of Justice and the other courts established by law”.

So far, this extraterritorial jurisdiction has not been exercised either in cases like the one indicated or in other circumstances.

The Criminal Code, Book 1, General Part, Title I (“Criminal law”), contains the following provisions:

Article 1: Legality. No one may be punished for acts that are not expressly defined as criminal acts or minor offences in a law pre-dating their commission; nor shall any penalty be imposed that has not been previously established by law.

Article 2: *Extractividad* [where the legislation in force at the time the offence is committed differs from a subsequent law]. If the law in force at the time when the offence is committed differs from a subsequent law, the law with the provisions most favourable to the offender shall be applied, even where final judgement has been passed and the sentence is being served.

Article 3: Exceptional or temporary law. The exceptional or temporary law shall be applied to acts committed during the period in which it is in force, even if this period has lapsed by the time judgement is passed, except as provided for in article 2.

Article 4: Territoriality of criminal law. Except where otherwise provided for in international treaties, the Code shall apply to all persons who commit a criminal act or minor offence in the territory of the Republic or in places or vehicles subject to its jurisdiction.

Article 5: Extraterritoriality of criminal law.

1. A criminal act committed abroad by an official in the service of the Republic, where that act is not tried in the country in which it is committed;
2. A criminal act committed on a Guatemalan ship, aircraft or other means of transport, where that act is not tried in the country in which it is committed;
3. A criminal act committed abroad by a Guatemalan national where extradition has been refused;
4. A criminal act committed abroad against a Guatemalan national where that act is not tried in the country in which it is committed, provided that a charge is laid by the party concerned or the Public Prosecutor's Office and the accused person is present in Guatemala;
5. A criminal act which under an international treaty or convention must be punished in Guatemala, even though it was not committed in Guatemalan territory;
6. A criminal act committed abroad against the security of the State, the constitutional order or the integrity of the territory, forgery of the signature of the President of the Republic and the counterfeiting of legal-tender coins or banknotes, bonds and other securities and credit documents.

So far there have been no cases in which the extraterritoriality of the criminal law has been applied in situations such as the one described.

- 10. Please clarify how extradition for offences may be carried out in accordance with article 5 of the Optional Protocol, in particular in view of the information on limitations, referred to in paragraphs 177-179 of the State party report.**
- 11. Please provide further information on the treatment of foreign child victims of trafficking and the rules for deportation, in particular how the principle of the best interests of the child is implemented.**

The Government has taken the following measures:

1. It has set up an inter-agency group to combat trafficking in persons, which is coordinated by the Guatemalan foreign ministry;
2. It has drawn up a public policy to combat trafficking in persons;

3. It has drawn up the Protocol for the Repatriation of Victims of Trafficking, under which the Office of the National Procurator-General works with its counterparts in other countries to coordinate the return or transfer of child victims of trafficking, always giving priority to the best interests of the child. The objectives of the Protocol are to:
  - (a) Provide institutions with practical and accessible guidelines on the repatriation procedure for minors, either abroad or in Guatemala, and on the immediate steps to be taken after the initial contact with the victim;
  - (b) Ensure that a complaint is filed, define the role of each government institution involved and set in motion the protection procedure to determine whether the Guatemalan minor should be repatriated to Guatemala, among other things.

The following government institutions helped prepare the Protocol and apply it in their sphere of action: the Migration Department, the National Civil Police, the Public Prosecutor's Office, the Office of the Procurator-General for Human Rights, the judiciary and the Social Welfare Department of the Office of the President. These institutions are supported by the following civil-society and other organizations: Casa Alianza, the Central American AIDS Prevention Project (PASCA), UNICEF and ECPAT Guatemala.

**12. Please advise the Committee of institutional measures adopted to investigate cases of trafficking and the sale of children.**

The most important measures taken include the introduction of new regulations on the organization of the National Civil Police pursuant to Government Decision No. 662-2005, which establishes the Sub-Department for Crime Prevention. The Sub-Department includes the Children's Division and the Children's and Young Persons' Division, the main aim of which, under article 96 of the Act on the Comprehensive Protection of Children and Young Persons, is to provide systematic training and advice for all members of the police force in the rights and duties of children and young persons.

The Sub-Department for Crime Prevention has the following functions:

- To investigate crimes against minors and young people, through the Missing Children and Young Persons Section of the Criminal Investigation Division; the deaths of 271 children are currently under investigation;
- To combat organizations that arrange illegal adoptions and steal babies.

The Sub-Department for Crime Prevention has introduced institutional policies that guarantee the protection of children and young persons whose human rights have been, or are in danger of being, violated, such as young persons in conflict with the law.

- 13. Please provide information on how many child victims of offences covered by the Optional Protocol have benefited from legal aid and the assistance of a multidisciplinary team during legal proceedings, as referred to in paragraphs 202, 204, 205 and 218 of the State party report.**

**Judicial proceedings to protect against threatened violations  
or violations of human rights, Act on the Comprehensive  
Protection of Children and Young Persons (arts. 109-131)**

**Protection measures implemented by public institutions**

**Procedures**

Phases of the proceedings	Direct care provided by the inter-agency network and protection centres and shelters run by the Social Welfare Department
<b>Initiation of proceedings to protect child victims of commercial sexual exploitation</b>	
<b>Use of precautionary measures (where applicable):</b> <ul style="list-style-type: none"> <li>– Foster family, admission to protection centre or shelter run by the Social Welfare Department</li> <li>– Admission to private/NGO programme</li> <li>– Alternative to admission to public or private centre</li> </ul>	<b>First level of intervention:</b> <ul style="list-style-type: none"> <li>– Registration of the child or young person in the admissions and monitoring register of the protection centre</li> <li>– Initial treatment plan</li> <li>– Referral and counter-referral</li> <li>– Contact with family</li> <li>– Medical examination and evaluation of the victim of commercial sexual exploitation</li> <li>– Restoration of other rights that have been infringed</li> <li>– Protection against any harassment by exploiters</li> <li>– Constant surveillance to reduce risk of ill-treatment or death in the centre</li> </ul>
<b>First hearing</b> Held in the presence of the victim, parents, representatives of the protection centre, professionals, experts and representative of the Office of the National Procurator-General Judge receives evidence and either takes a final decision on the case or decides to hold a new hearing and requests further evidence	<b>Second level of intervention:</b> <ul style="list-style-type: none"> <li>– Follow-up to initial treatment plan</li> <li>– Personalized work plan</li> <li>– Referral and counter-referral</li> <li>– Initiation of steps to guarantee the restoration of rights that have been infringed and other rights (education, health, psychological and social rehabilitation, financial alternatives for family)</li> <li>– Contact with family for family and social reintegration</li> </ul>



Phases of the proceedings	Direct care provided by the inter-agency network and protection centres and shelters run by the Social Welfare Department
<b>Intermediate hearing</b> Submission of evidence	– Progress report by judge hearing the case
<b>Final hearing</b> Judgement Declaratory judgement concerning a violation or threatened violation of the child's human rights, confirming or modifying initial protective measure	– Education continues – Return to family (family involved in process) Judge decides on: – Definitive discharge from centre – Admission to alternative institution – Continued stay in centre
<b>Enforcement of the measure imposed</b>	<b>Monitoring and evaluation:</b> – Follow-up and monitoring meetings between the institutions taking care of the victim and the victim's family – Submission of reports to the court every two months while the victim remains in the centre

Family courts, 2006	Cases of voluntary adoption
Family court No. 4, Guatemala	870
Family court of first instance No. 1	759
Family court of first instance No. 3	662
Santa Rosa court of first instance	8
Petén court of first instance	10
Amatitlán court of first instance	4
Quetzaltenango family court of first instance	3
Total	2 316

14. Please advise the Committee of the number of cases presented by the Office of the National Procurator-General on behalf of child victims in order to seek compensation for offences covered by the Optional Protocol, as referred to in paragraph 231 of the State party report.

The information supplied by the Office of the National Procurator-General on the cases in question is set out below.

**2006**

**Cases in which the Office of the National Procurator-General acts as joint plaintiff, civil party and legal representative of the child victim**

Child prostitution	1 (Jutiapa case)
Illegal adoption	80

**Rescue, protection and care of child victims**

Commercial sexual exploitation	12
Illegal adoption	8
Abduction of minors	10
Children deported from the USA, victims of illegal migration	1 028
Children deported from Mexico, victims of illegal migration	3 979

**2007**

**Complaints received**

Trafficking in persons	19
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**Cases in which the Office of the National Procurator-General acts as joint plaintiff, civil party and legal representative of the child victim**

Abduction of minors	8
Illegal adoption	22

**Rescue, protection and care of child victims**

Illegal adoption	15
Children deported from the USA, victims of illegal migration	242
Children deported from Mexico, victims of illegal migration	1 189

**15. Please provide updated information on the social and psychological assistance provided by the State party for the rehabilitation of victims of offences covered by the Optional Protocol and the State budget allocations for this purpose.**

Progress has been made in drawing up a protocol on the detection and comprehensive care of child victims of commercial sexual exploitation. The protocol is the responsibility of the Social Welfare Department, and is the result of pooling the experiences of various institutions and coordinating the work of government bodies and non-governmental organizations. The ultimate aim is that it should become a guide to inter-agency intervention for the network of public institutions and, in particular, the centres and shelters run by the Social Welfare Department of the Office of the President to protect, provide direct assistance to, and restore the rights of child victims of commercial sexual exploitation.

The protocol should be seen as a guide to procedure that sets out practical and viable actions to be taken and procedures to be followed by all public institutions whose mandate gives them direct or indirect responsibility for the protection and care of child victims of commercial sexual exploitation.

The protocol also applies to public programmes offering direct assistance, such as the centres and shelters run by the Social Welfare Department of the Office of the President, any future programmes developed by the State and programmes run by non-governmental organizations in their role as contributors to the comprehensive-care process.

### **Objective of the protocol**

The objective of the protocol is to form the basis for practical guidance and procedures to be considered as minimum standards for public institutions providing comprehensive care, with a view to restoring their human rights to child victims of commercial sexual exploitation.

The Social Welfare Department has constructed a model for the comprehensive care of victims of the offences described in the Optional Protocol; these are described in more detail below for the benefit of Committee members.

### **Model for comprehensive care**

The model provides for care on five levels:

*Level 1.* Adjustment to the system and establishment of relations of trust. This is one of the most important levels, as it comes in a period of change and one of transition from a disorganized lifestyle to one of rules and discipline. The consumption of alcohol and drugs and sexual activity are not permitted in this period, and this can lead to intellectual and emotional confusion;

*Level 2.* Understanding their personal history and starting the educational process: (a) psychotherapy; (b) links with school; (c) facilitating learning; (d) training for employment; and (e) leisure;

*Level 3.* Rehabilitation of emotions and acquisition of knowledge. Involves the young person accepting his/her responsibilities. Improves self-esteem, interpersonal relations, etc. Once wounds are healed, help with rebuilding emotional relationships, empowerment through re-education, occupational therapy and fulfilment through work;

*Level 4.* Consolidation of practical skills. Preparations for discharge and social and family reintegration. Reinforcing and strengthening personal development so that the young persons can reassert themselves as individuals, preparing them for the world outside by teaching them how to handle common real-life situations, so that they can interact with their community. Group therapy in dealing with vital human experiences - independence, family welfare and tolerance. Continued training for employment;

*Level 5.* Discharge and social reintegration of the young person. A transitional stage, preparing them for discharge. Finally, discharge and follow-up to the extent possible.

**16. Please indicate whether special training, particularly legal and psychological, is provided to professionals who come into contact with child victims of the offences described in the Optional Protocol.**

From July to October 2005 a training workshop entitled “What to do about the commercial sexual exploitation of children and in persons in Guatemala” was held for managers and officials from government institutions working in this field.

Some of the activities planned at the workshop by various participants are already being implemented.

A programme of action is currently being drawn up in the Social Welfare Department, and includes:

1. Training workshop for all staff of the Social Welfare Department, bearing in mind that even though they are not all working specifically in the field of sexual exploitation, they are all working on child-related issues;
2. Training of 23 departmental workers of the Office of the First Lady for Social Work, who will be responsible for work in this area;
3. Trained staff from the Office of the First Lady for Social Work have subsequently extended the training to other officials such as governors, mayors, police chiefs, teachers, doctors and hospital staff, with a view to establishing service delivery points.

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