



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

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Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention
pursuant to the optional reporting procedure**

Seventh periodic reports of States parties due in 2017

Guatemala^{*}, ^{}**

[Date received: 1 June 2017]

* The combined fifth and sixth periodic reports of Guatemala are contained in document CAT/C/GTM/5-6; they were considered by the Committee at its 1142nd and 1145th meetings, held on 13th and 14th May 2013 (CAT/C/SR.1142 and CAT/C/SR.1145). For their consideration, see the Committee's concluding observations (CAT/C/GTM/CO/5-6).

** The present document is being issued without formal editing.



I. Introduction

1. The present document provides responses to the list of issues prior to reporting (CAT/C/GTM/QPR/7) and constitutes the seventh periodic report of Guatemala. It also includes information requested in the concluding observations issued following consideration of the combined fifth and sixth periodic reports of Guatemala (CAT/C/GTM/5-6) on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the Convention). To prepare the report, the Presidential Commission for the Coordination of Executive Policy on Human Rights (hereinafter the Presidential Human Rights Commission) employed a participatory methodology, involving various governmental institutions in workshops that served as forums for collective analysis and vehicles for raising awareness of the Convention and the recommendations issued by the Committee against Torture (the Committee), the aim being to encourage institutions to fulfil the commitments assumed by the Government of Guatemala.

II. Replies to the list of issues

Articles 1 and 4

Measures taken to legally define and punish the offence of torture

2. On 17 July 2012, in case No. 1822-2011, the Constitutional Court ruled that the definition of the offence of torture contained in article 201 bis of the Criminal Code was unconstitutional by omission, thereby recognizing, and applying a new interpretation of, the **constitutional block, international standards as parameters for ensuring the constitutionality of laws and the notion of unconstitutionality by partial omission**. Doctrine and international case law were also incorporated into its argument. Following the adoption of the bill governing the implementation of the Rome Statute of the International Criminal Court in Guatemala (2016), the offence of torture will be defined and punished in accordance with the provisions of the Convention.

Article 2

Respect for the human rights of persons deprived of their liberty

3. **Conditions of detention.** The Government has implemented the following measures in prisons:

(a) **To address overcrowding**, the General Directorate of the Prison System is preparing a list of persons deprived of liberty who have served the time necessary to become eligible for a reduction in their sentences. This measure will help to reduce overcrowding in detention centres.

(b) **To improve infrastructure, access to health services and hygiene standards**, work has begun on the construction of two new units to alleviate overcrowding.¹ The project is backed by the General Directorate of the Prison System, with help from the European Union Programme to Support Security and Justice in Guatemala. The construction of new detention centres is being considered.

(c) **To ensure that children, women and men deprived of their liberty are segregated**, the Prisons Act stipulates that only women deprived of their liberty may be accompanied by those of their children who are under 4 years of age. Future plans provide for the creation of infrastructures and facilities in which mothers and their minor children may be held separately from all other persons deprived of their liberty.

¹ <http://dgsp.gob.gt/ampliacion-cof/>.

(d) **To ensure protection during transfers**, detained women are shuttled from one point to another in prisoner transport units separate from those used to transport other persons deprived of their liberty.

(e) **To address situations of “self-rule”**, the prison information analysis units are working with the Subdirectorate for Prison Operations and the General Inspectorate of Prisons to implement early warning mechanisms for prison crises or emergencies. As a deterrent to smuggling prohibited objects and substances into detention facilities, premises are searched regularly.

(f) **To prevent violence among inmates**, persons deprived of their liberty are segregated according to criteria including legal status, criminal profile, age, sex, gender, conduct, social group and health.

4. The aforementioned measures form part of the strategic, cross-sectional lines of action envisaged in the National Prison Reform Policy (Government Order No. 149-2015 of 22 June 2015) due to be implemented over the next decade. The Policy has 10 key focuses: inter-agency coordination; the establishment of a career path within the prison service; ongoing specialization; strict application of a progressive regime; building, renovating and upgrading infrastructures; internal and external security; promoting social rehabilitation; community and business engagement; socioeconomic reintegration; and special care for women, men, children and adolescents in the prison system.

5. In total, there are 40 general strategies and 209 specific actions addressing institutional problems and the treatment of vulnerable persons. Specific actions envisaged include:

(a) **Elimination of violence against women**, by including courses and modules on women’s human rights in all training programmes implemented by the skills development units of the justice and public administration sector.

(b) **Elimination of racism and discrimination against women**, by developing, strengthening and implementing training programmes for public servants designed to ensure that appropriate assistance is provided to Maya, Garífuna, Xinka and Mestiza women and to eradicate racist practices in all public services.

(c) Through coordination with the Counsel General’s Office, a protocol for the removal of the children of women prisoners from detention centres has been established. A gender unit has been established within the General Directorate of the Prison System to develop gender-focused policies and includes an office for women and a multiculturalism section.

6. Three prison reform round-table groups are currently working with the Technical Secretariat of the National Security Council to identify core strategies and short- and medium-term actions in three areas: (a) prevention, rehabilitation and re-education; (b) administrative and financial efficiency; and (c) internal controls, security and prison intelligence.

Central register of complaints of torture and ill-treatment

7. The Government wishes to report that it has plans for the prison authorities to establish prison information analysis units in all detention centres. The purpose of these units will be to combat abuse of power and corruption and eliminate impunity by investigating and punishing all forms of violence, in compliance with the law. The units will work with the General Inspectorate of Prisons, in conjunction with the operations, legal affairs and human resources departments.

8. In addition, through the School of Prison Studies, the General Directorate of the Prison System will strengthen, equip and provide training to staff of the General Inspectorate of Prisons to ensure that irregularities reported to or identified by staff of the General Directorate are investigated.

Investigation of National Civil Police officers suspected of acts of ill-treatment and torture

9. Whenever the National Civil Police learns of the alleged involvement of a civil police officer in an incident of ill-treatment or torture, the General Inspectorate launches an investigation to determine whether there is any administrative liability. If this is the case, the investigation is continued until an administrative penalty is imposed. If criminal liability is established, the investigation proceeds and a complaint is filed with the Public Prosecution Service. Where there are civilian victims, staff are immediately assigned to provide protection.

10. The National Civil Police force registered a total of 18 complaints of ill-treatment between 2012 and 2015. It opened 59 disciplinary cases for human rights violations and imposed 18 disciplinary sanctions. During the same period, the Public Prosecution Service registered a total of 308 complaints for offences involving minor or serious injuries and/or torture.

Installation of video surveillance systems in detention centres

11. The Government has considered having the General Directorate of the Prison System install video surveillance equipment at detention centres as part of planned measures to create, establish and strengthen the physical and technological environment for ensuring security at all centres.

12. The launch of the residential model at the Fraijanes Women's Orientation Centre in February 2017 is a clear example of the progress made in the area of video surveillance at detention facilities. The model consists of a series of renovations designed to create a pleasant space in which mothers deprived of their liberty can live with their children. Its implementation is funded by the European Union under the Programme to Support Security and Justice in Guatemala. **The programme will include the installation of special computer equipment, intercoms, a closed-circuit surveillance camera system, emergency alarms and lightning rods.**

Appointment of the members of the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment

13. In August 2016, the special report of the Human Rights Advocate recommended revoking the mandate of all rapporteurs and beginning the selection process to replace the three rapporteurs whose terms in office would end in March 2017.

14. In February 2017, the National Congress launched the candidate selection process for the positions of rapporteur and alternate rapporteur at the National Office for the Prevention of Torture, as established in article 21 of the Act on the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. A total of 32 applications were received but 12 of the applicants were ruled out because they did not meet the requirements under article 19 of the aforementioned act. The process is ongoing.

15. In response to an urgent communication (reference No. P-1060-2016/VHGM/mz) issued on 3 November 2016 by the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment which emphasized that "the legal framework for the national preventive mechanism should not be amended without due consultation with all the sectors concerned", the Presidential Human Rights Commission requested that Congress should not adopt the corresponding law without first hearing from the relevant sectors. The Commission proposed postponing the final discussion until the experts' recommendations have been addressed.

Resources necessary to fulfil the mechanism's mandate

16. In order to determine whether the national preventive mechanism has the resources necessary to fulfil its mandate independently and effectively, the Government instructed the Comptroller General's Office to conduct a special audit of the National Office for the Prevention of Torture. The audit covered the fiscal period from 1 January to 30 September

2015 and the corresponding report was issued in March 2016. According to the report, no criminal offences were found to have been committed in the course of the mechanism's work. However, the report does reveal a number of administrative issues, in respect of which the following recommendations were made:

(a) The report should be submitted to the Comptroller General's Office for information purposes and any requisite action.

(b) The file should be forwarded to the Legal Affairs Directorate of the Comptroller General's Office for assessment, so that appropriate action may be taken by the corresponding bodies, which should file the respective complaints, where applicable, in line with the guidance set out in the technical opinion issued by Juan Carlos García Aguirre of the Special Commission of Inquiry into Complaints of the Comptroller General's Office and in official letter SE 1017-2015/NAOO/Djhjgd of 27 October 2015, issued by Marco Antonio Posadas Pichillá. The current status of Carlos Alberto Solórzano Rivera, who is receiving a double salary, should also be examined.

(c) The file should be forwarded to the Directorate for Audits of Autonomous and Decentralized Entities, which is under the Comptroller General's Office, so that a commission may be appointed to conduct a financial and budgetary audit for the year 2015 and verify budget implementation.

(d) The Ministry of Public Finance should be requested to cancel the retirement pension of Carlos Alberto Solórzano Rivera because he is currently working at the National Office for the Prevention of Torture and receiving a monthly salary therefor.

17. The Comptroller General's Office imposed a financial penalty on the staff of the National Office for the Prevention of Torture in accordance with the Organic Act regulating the Comptroller General's Office (Decree No. 31-2002, article 39, as amended by Decree No. 13-2013, article 67 (20)).

Strategy for the prevention of reprisals or threats against persons interviewed during visits to detention centres

18. The national preventive mechanism was the driving force behind the creation of a special unit to receive reports and register complaints. The unit's remit is to organize information on the prison visiting system, allegations of human rights violations related to ill-treatment and torture, and reports on legally mandated visits. The unit is responsible for registering official letters containing recommendations issued after visits, receiving responses from the entities questioned, and systematizing data gathered during previous activities.

19. The national preventive mechanism adheres to the following procedure for processing complaints: upon receipt, the complaint is entered into the preventive assistance system; next, the secretariat of the National Office for the Prevention of Torture assigns a rapporteur to the case; subsequently, a visit to the place in question is scheduled and then conducted. Following the visit, a report is drawn up, listing findings and recommendations. The recommendations are then submitted to the competent authorities. After their responses are received, the file is closed.

Impartial appointment process for judges and prosecutors

20. The principles of legality and legal security serve as the basis for actions of the public authorities. It is thus important to note that standards, transparency criteria and public access and objectivity requirements have been established for the selection process for judges and prosecutors, as required under domestic legislation.

21. **Nomination requirements.** Under articles 269 and 113 of the Constitution and articles 11, 16, 26, 43 and 149 to 185 of the *Amparo*, Habeas Corpus and Constitutionality Act (Decree No. 1-86 of the National Constituent Assembly), the criteria for the appointment of judges and their alternates are competence, suitability and integrity. The eligibility requirements include Guatemalan nationality and active membership of the bar association. For the latter, individuals must hold a professional law degree; be entered on the roll; not have been disbarred by court order; and be up to date on the payment of

professional practice fees, union dues, membership fees and social security contributions, both regular and extraordinary.

22. For an individual to meet the nomination requirements, he or she must also fulfil the yearly payment obligations of the Guatemalan Bar Association; be a person whose probity has been recognized based on discussion and deliberation as to candidate suitability;² and have at least 15 years of professional experience.

23. Under the *Amparo*, Habeas Corpus and Constitutionality Act, each of the five institutions that appoint judges must apply additional criteria specific to the activity of each court. These criteria are as follows: for judges appointed by Congress and the President of the Republic in the Council of Ministers, public service and administration; for judges appointed by the Supreme Court of Justice, knowledge of the judiciary; for judges appointed by the Guatemalan Bar Association, ethical, transparent and independent professional conduct; and for judges appointed by the board of San Carlos University of Guatemala, a proven background in university teaching, a spotless record and overall ethical conduct.

24. Regardless of an individual's compliance with the foregoing requirements, the Act on the Integrity and Responsibility of Public Servants and Officials specifies that the following circumstances constitute grounds for disqualification from the nomination process: failure to present proof of settlement after handling State assets and funds; disqualification from holding public office; conviction for any publicly prosecutable offence; declaration of bankruptcy; loss of Guatemalan citizenship; alcoholism; and drug addiction.

25. The Civil Service Act stipulates that any Guatemalan aspiring to hold the office of Constitutional Court judge must have the requisite ability and expertise; the necessary knowledge is acquired through experience and training. A Constitutional Court judge must also demonstrate efficiency, which entails making use of available resources in an organized manner to ensure proper performance of one's duties. Integrity is another prerequisite for such a post; under the Judiciary Act, any Guatemalan aspiring to hold the office of Constitutional Court judge is prohibited from doing so if he or she has any conflicts of interest with the role, mission or vision of the Constitutional Court.

26. **Appointment process criteria.** Meetings and other elements of the election process at the five institutions constitutionally mandated to appoint judges must be transparent, objective and open to public scrutiny. Candidate assessments must prioritize the criteria of competence, specialization, suitability, integrity and proven trustworthiness. Persons appointed to the position of Constitutional Court judge must meet all the relevant legal requirements, for which reason none of the aforementioned institutions may make an appointment without observing the preceding mandatory principles.

27. Constitutional Court judges must demonstrate loyalty, trustworthiness, discretion, excellence, probity, aptitude for public service, discipline, transparency, objectivity and impartiality, strategic thinking, level-headedness, perseverance, dynamism, independent decision-making and leadership. Appointment to the highest court for constitutional matters demands procedures that are absolutely transparent and open to public scrutiny in order to avoid politicization and to ensure full compliance with the corresponding constitutional mandate and legislation.

28. **Grounds for incompatibility with, and dismissal from, the office of Constitutional Court judge.** The *Amparo*, Habeas Corpus and Constitutionality Act establishes the grounds for incompatibility and dismissal.³ Incompatibility exists when tenure of the post of Constitutional Court judge cannot be reconciled with the holding of positions in political leadership, the State administration or trade unions, or with professional practice. Where there is such incompatibility, a Constitutional Court judge's duties are terminated. Upon termination, the judge in question must submit his or her

² Case No. 3539-2009 of the Constitutional Court.

³ *Amparo*, Habeas Corpus and Constitutionality Act: art. 160 — obligation to step down from incompatible posts; art. 169 — grounds for incompatibility; and art. 161 — grounds for dismissal.

resignation to the Court for acceptance. These incompatibility rules do not apply to persons holding the post of alternate judge who are in professional practice.

29. While constitutionally established nominating commissions⁴ are established to oversee the selection, election and appointment of Supreme Court judges, judges of appeal court divisions, the Human Rights Advocate, the Attorney General, the Head of the Public Prosecution Service and the Comptroller General, for the appointment of Constitutional Court judges, the Counsel General and other public officials, this is not the case. In these cases, the National Constituent Assembly sets the standards for suitability, competence, integrity,⁵ merit and abilities and for the regulation and tenure of public office in the administration of constitutional justice.⁶

30. Viewed in this light, Guatemalan constitutional legislation and the processes associated with election to and membership of the Constitutional Court are in line with international and inter-American standards of judicial independence and, in particular, standards of constitutional justice, taking account of the provisions of the International Covenant on Civil and Political Rights, the American Convention on Human Rights and the Basic Principles on the Independence of the Judiciary.

Disciplinary action against judge Iris Yassmin Barrios Aguilar

31. According to the report issued by the Board of Judicial Discipline, between December 2001 and June 2016, 10 complaints were filed against judge Iris Yassmin Barrios Aguilar. Nine were not processed because the Judicial Oversight Office was unable to identify any offence on the part of the judge. One complaint was dismissed. The Board of Judicial Discipline therefore imposed no disciplinary penalties on judge Barrios Aguilar. There are no disciplinary proceedings currently open.

32. The decision of the Honour Tribunal of the Guatemalan Bar Association to penalize judge Barrios Aguilar for offending the defence counsel of Efraín Ríos Montt was overturned on a writ of *amparo* accepted by the Constitutional Court, which recognized the independence of the judiciary and the powers of judges under article 203 of the Constitution.

Term of office of former Attorney General and Head of the Public Prosecution Service, Claudia Paz y Paz

33. In case file No. 461-2014, the Constitutional Court unanimously decided that the term of office of Attorney General and Head of the Public Prosecution Service Claudia Paz y Paz was to end in May 2014. The decision was based on article 251 of the Constitution, which provides that “[...] the Attorney General shall hold office for four years and shall enjoy the same privileges and immunities as those enjoyed by the judges of the Supreme Court of Justice”.

Violence related to organized crime in the State party

34. The Government reaffirms the provisions of article 1 of the Civil Security Forces Support Act (Decree No. 40-2000), concerning the intervention of the armed forces in public security matters, which stipulate that the armed forces shall intervene exclusively as a means to support the civil security forces, specifically in preventive action and in the fight against both organized and conventional crime, whenever the country’s security situation calls for such action.

35. Pursuant to the peace agreements ending Guatemala’s civil conflict and upon the request of the Ministry of Defence, the Ministry of the Interior and the Ministry of Foreign Affairs, the National Security Council approved the withdrawal of the assistance provided by the Citizen Security Squadrons to the civil security forces (National Civil Police). The

⁴ Arts. 215, 217, 233 and 251 of the Constitution; Act on Nominating Commissions (Congressional Decree No. 19-2009).

⁵ Lex cit., art. 113.

⁶ Arts. 11, 16, 26, 43 and 149 to 185 of the *Amparo*, Habeas Corpus and Constitutionality Act (Decree No. 1-86 of the National Constituent Assembly).

corresponding process will take place in 2017, in three stages: first, unit redistribution; second, unit reduction; third, final withdrawal.⁷

Regulation of private security services and activities

36. The entry into force of the Private Security Services Act (Decree No. 52-2010) made it mandatory for all individuals and companies that deliver or wish to deliver private security services to register and apply for an operating licence. The General Directorate of Private Security Services of the Ministry of the Interior has responsibility for authorizing or refusing such licences.⁸

37. The General Directorate of Private Security Services currently has records for 176 private security firms, 112 of which have met the requirements established by law. There are ministerial agreements in respect of 51 companies and government agreements in respect of 13.

38. At the General Directorate of Private Security Services, from 9 to 12 May 2017, a third certification session was held for managers and instructors from the various training centres serving private security firms in the country. Out of the 30 managers and instructors who underwent such training, 26 successfully completed the corresponding theoretical and psychological tests. Improved expertise and training will thus be ensured not only for the security guards already employed, but also for individuals hoping to work for security firms in future.

39. As of the present date, the General Directorate of Private Security Services has carried out 87 supervisory visits and has a record of 73,785 registered firearms. It will continue these visits in the course of the year in order to ensure the quality of private security services delivered to the public.

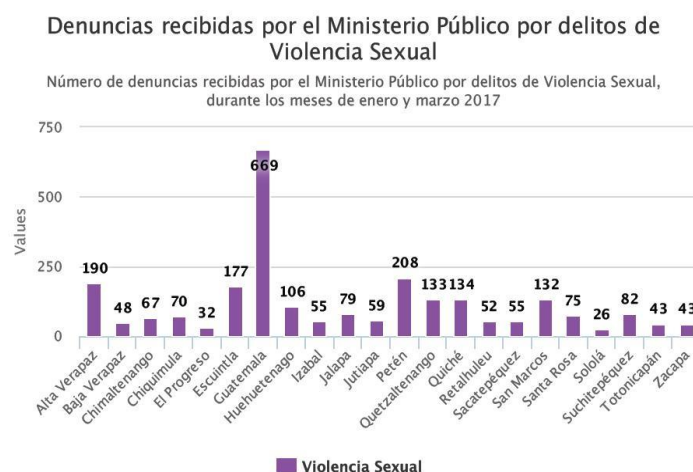
Sexual violence and human trafficking

40. The Secretariat against Sexual Violence, Exploitation and Trafficking in Persons has provided statistics on complaints of sexual violence filed with the Public Prosecution Service and on judgments issued by the judicial authorities. Also available are statistics for the period between 2010 and April 2016 on judgments issued by courts which specialize in femicide and sexual violence. It bears noting that whereas, in 2010, there were only three judicial bodies in the State party, by 2012, there were seven. In 2014, 11 Guatemalan departments had a specialized justice structure.

⁷ Ministry of Defence, Annual Operational Plan 2017, page 7.

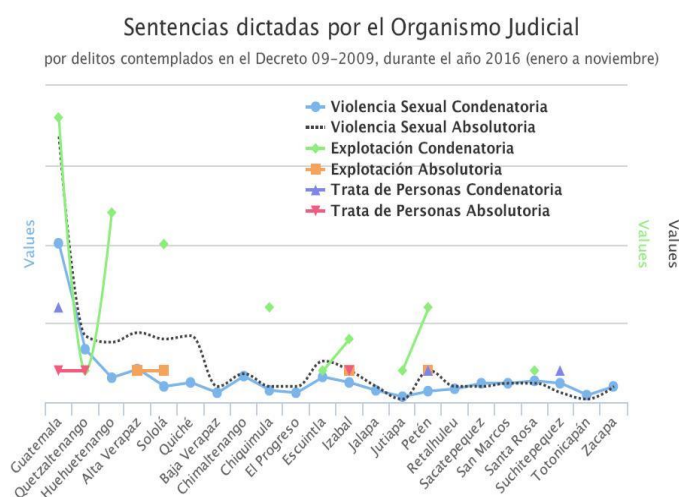
⁸ Private Security Services Act, art. 17: **Authorization. Any person wishing to deliver private security services as an independent contractor** may provide only bodyguard and private investigation services, for which said person shall meet the corresponding requirements. Private Security Services Act, art. 18: **Private security firms.** Any legal entity wishing to deliver private security services shall establish itself as a corporation, in accordance with general domestic legislation, and shall comply with the provisions herein.

Figure 1
**Complaints of sexual violence received by the Public Prosecution Service
 January–March 2017**



Source: <http://www.svet.gob.gt/>.

Figure 2
Judgments issued by judicial authorities



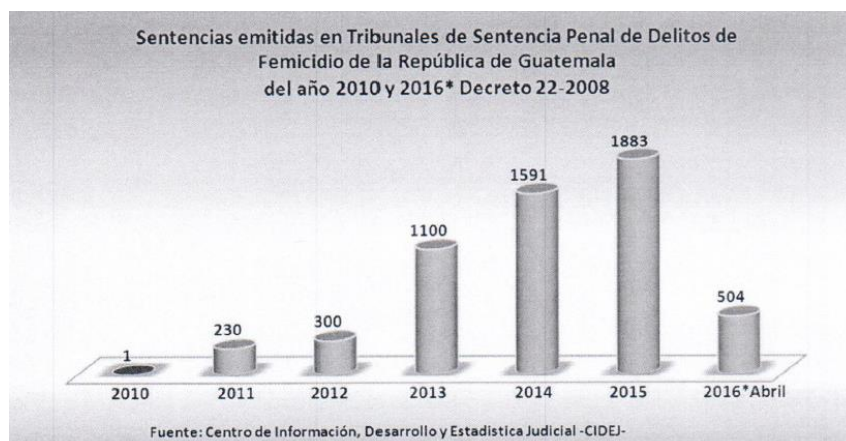
Source: <http://www.svet.gob.gt/>.

Figure 3
**Judgements issued by specialized first instance criminal courts in cases of femicide
 2010–2016**



Information provided by judicial authorities.

Figure 4

Judgments issued by specialized trial courts in cases of femicide 2010–2016

Information provided by the judicial authorities.

41. The Presidential Secretariat for Women has proposed a conceptual framework for a survey on violence against women. The proposal, which is funded by the Evidence-Based Information Management for Citizen Security (InfoSegura) initiative of the United Nations Development Programme, is currently being studied by women's and international cooperation organizations. Upon approval of the proposal, the Inter-American Development Bank will be able to finance a pilot project. Ultimately, the survey development and implementation process will be coordinated by the National Institute of Statistics.

42. In 2015, the Public Prosecution Service hired additional staff and implemented continuous monitoring in order to strengthen the comprehensive assistance model for addressing femicide. Work began on the process of consolidating into a single file all complaints brought against a single aggressor by the same woman in order to gather more information with which to demonstrate the cycle of violence. Thus far, 598 case files have been consolidated. There are 17 Offices of the Prosecutor for Women's Affairs in various departments throughout the country. These offices, which are part of the Public Prosecution Service, provide round-the-clock services 365 days a year. The year 2015 saw the development of guidelines on risk evaluation and protective measures regarding sexual offences against and abuse of women and minors. In addition, a formal procedure was established, setting up standards and criteria for the preparation of psychological reports for the Victim Support Offices.

43. To prevent harm to women and safeguard their lives, the Ministry of the Interior has set up a panic-button hotline with the telephone number 1572. On 23 November 2016, the Office of the Special Prosecutor for Femicide was inaugurated. Instruction No. 6-2013 of 27 August 2013, governing investigations by the Public Prosecution Service, establishes a detailed plan for cases of femicide, which provides for the creation of a technical group composed of representatives of the Forensic Investigation Division of the Public Prosecution Service and the Special Criminal Investigation Division of the National Civil Police and supported by the National Institute of Forensic Sciences. Direct and/or collateral victims of such cases are sent to referral centres for treatment by specialized staff with a view to preventing their revictimization.

44. As part of a programme to address the violent murder of women, the National Civil Police has carried out a variety of training activities:

(a) In 2011, staff of the 110 hotline of the General Subdirector of Operations of the National Civil Police received sensitivity training on providing telephone assistance to victims.

(b) In April and May of 2013, 18 workshops were held to discuss the National Civil Police's protocol for dealing with violence against women and the gender- and femicide-related legislation which has been implemented and/or disseminated.

(c) In 2014, 10 training workshops were organized to discuss gender mainstreaming as a cross-cutting component of the policy on security and justice; emphasis was placed on police assistance and services. Five thousand copies of the National Civil Police training manual were distributed.

45. In 2008, the Public Criminal Defence Institute created a programme of free legal assistance for victims of violence and their families (Decision No. 64-2008 of 27 June 2008). The implementing regulations adopted to reinforce the service (Decision No. 5-2013) establish the profile and other entry requirements for public defenders. In 2008, the Institute had 8 offices; by 2014, it had 14 offices nationwide. The 1571 emergency telephone number was set up to provide assistance to women who are at risk of physical harm or whose lives are in danger. It is available 24 hours a day, 365 days a year, fielding emergency calls, complaints and enquiries concerning women, adolescents and children who are victims of domestic violence. According to the Public Criminal Defence Institute, between 2010 and 2015, the 1571 hotline provided victim assistance in a total of 18,080 cases.

46. The National Institute of Forensic Sciences approved guidelines for forensic medical examinations of victims of sexual assault on 16 February 2015. The guidelines describe the procedure for examining women victims of sexual violence and gathering evidence. The guidelines are supplemented by appendices containing forms on informed consent for medical examination and related procedures, on forensic medical examination of sexual assault victims and on items of evidence.

System of statistics on murders of women

47. In a joint undertaking with the Presidential Secretariat for Women, the National Institute of Statistics has created the National System of Information on Violence against Women,⁹ which is a network comprising the judiciary, the Public Prosecution Service, the Counsel General's Office, the Office of the Human Rights Advocate, the Ministry of the Interior, the National Civil Police, the Public Criminal Defence Institute, the people's law clinics of San Carlos University of Guatemala and Rafael Landívar University, the National Institute of Forensic Sciences, and the General Directorate of the Prison System, the Ministry of Education and the Ministry of Public Health and Welfare (which joined in 2013). The purpose of this system is to document violence against women.

48. The National Institute of Statistics is the body in charge of collating information from institutional databases. It studies this information with a view to identifying inconsistencies and requesting any necessary corrections from the source, then conducts a critical analysis of the data, classifying, cleaning and tabulating them so that the information can be used to create indicators of violence against women.

49. In 2015, the criteria used to define the general variables included in the National System of Information on Violence against Women were standardized. The objective was to improve the quality of existing variables and to add new variables that would allow for more extensive analysis of the violence perpetrated against women. The results of this standardization process were published in a report entitled "General Variables for the National System of Information on Violence against Women", which contains definitions, glossaries and validations of variables.

50. The variables studied are general data on the victim, the incident, the aggressor and the institution which reports the incident. Information is available for the period 2008–2013.¹⁰ Information for 2014 and 2015 is currently being prepared.

Violence against women

51. Of the 58 relevant public policies currently in force, 10 include among their objectives the prevention and reduction of violence against women. The National Policy on

⁹ Known by the acronym SNIVCM.

¹⁰ Available at <https://www.ine.gob.gt/sistema/uploads/2014/11/26/QEiybJS3uiYB8IFMFWKNDI97fNffWog.pdf>.

the Prevention of Violence and Crime, Citizen Security and Harmonious Social Relations 2014-2034 (Government Decision No. 281-2014) and the corresponding National Action Plan were adopted on 20 August 2014. The policy covers three main areas:

1. Prevention of violence and crime;
2. Enhancement of citizen security;
3. Institution of a culture of peaceful coexistence rooted in the belief of the viability of harmonious relations.

52. The policy was developed with a view to reducing the incidence of violence and crime throughout the country and promoting grass-roots organization and citizen participation. It prioritizes the prevention of violence, proper prosecution of offences and the delivery of effective and differentiated assistance to victims in order to prevent revictimization. It approaches the prevention of violence from five strategic perspectives, namely: (a) children; (b) adolescents and young people; (c) women; (d) armed violence; (e) violence on the road and traffic accidents.

53. Based on the National Policy on the Prevention of Violence and Crime, Citizen Security and Harmonious Social Relations 2014–2034 and the associated National Action Plan, a municipal policy on the prevention of violence and crime, citizen security and harmonious social relations for the period 2015–2019 has been approved, which provides for local-level action by municipal authorities to prevent crime, ensure citizen security and foster peaceful coexistence.

54. In 2013, the Ministry of the Interior issued guidelines designed to enhance understanding of legal instruments that promote rights, and thus to prevent and provide protection against domestic violence and violence against women. In order to ensure their nationwide dissemination and promotion, the guidelines have been distributed among the staff of the Unit for Community Prevention of Violence.

55. A protocol for the referral of cases of domestic violence, femicide, human trafficking and illegal adoption was issued in 2014, along with a manual for delegates and tools, including a flip chart, for the development of local violence prevention plans.

56. Between 2010 and 2015, the National Civil Police delivered training on violence to a total of 66,598 persons, including National Civil Police officers, civil society representatives and students. It held 393 workshops on the prevention of violence against women at various police stations.

57. In September 2014, the National Commission for Monitoring and Supporting the Strengthening of the Justice System made official the sectoral policy on inter-agency coordination for improved processing of cases of violence against women in the justice system. It also made official the corresponding basic implementation plan. The goal of the policy is to enhance the criminal justice system's institutional capacity for handling cases of violence against women by means of coordinated actions designed to optimize case management and victim support, and reduce discrimination and impunity.

58. On 8 March 2016, the Judicial Policy on Gender Equality and the Promotion of Women's Human Rights was approved. The policy is in keeping with various international instruments and incorporates a gender perspective in order to ensure equality and respect for human rights in the administration of justice. The policy has five core lines of action¹¹ and was developed by the Judiciary's Secretariat for Women and Gender, with assistance from the Justice and Gender Foundation and several other institutions, by means of studies and workshops throughout the country.

59. The State of Guatemala has a centralized data-collection system for recording and monitoring requests for expert appraisals from the National Institute of Forensic Sciences

¹¹ Judicial Policy on Gender Equality and the Promotion of Women's Human Rights — core lines of action: (1) gender equality in the courts; (2) gender equality in the administrative sphere; (3) access to justice based on the principles of equality and humanity; (4) social communication with a gender perspective; and (5) intra- and inter-agency coordination to promote gender equality and respect for human rights, with a focus on ethnic, cultural and age-group relevance.

that brings all expert appraisal information together onto a single platform. The system has the following features: (a) remote access from any office of the National Institute of Forensic Sciences (650 registered users); (b) consolidation of online information (95.11 per cent availability at the national level); (c) centralized data entry in a single information platform; (d) queries and reports, based on the information, for following up and tracking requests; (e) online publication of numerical data; (f) interaction with various entities (Public Prosecution Service, judiciary, National Registry Office, National Civil Police).

60. Between 2010 and 2015, the training unit of the Public Prosecution Service held a total of 195 training activities (workshops, courses, certification programmes) on subjects related to violence against women. A total of 3,195 employees in a variety of posts participated in these activities.

Specialized courts

61. Between 2010 and 2015, the criminal courts handed down 9,290 judgments for offences covered in the Act on Femicide and Other Forms of Violence against Women. Of this total, 683 were issued for the crime of femicide (153 acquittals and 530 convictions) and 8,607 were issued for other types of violence against women (1,999 acquittals and 6,608 convictions).

Complaints and investigations related to violence against women, including sexual violence

62. Between 2010 and 2015, the division of the Public Prosecution Service that deals with crimes against women and children reported 57,456 complaints of various forms of violence against women, including sexual violence. Of this total, 48,647 cases involved adults, 5,606 involved adolescents and 3,203 involved children.

63. In the period 2010–2015, a total of 21,668 complaints were investigated. In 2015, 8,194 complaints were under investigation. As was the case in previous years, most complaints involved crimes of violence against women. In the same period, a total of 32,162 out-of-court resolutions were reported.

Reparations for victims, including rehabilitation

64. Decree No. 12-2016 of 1 March 2016 provided for the establishment of the Victim Assistance Institute. The Institute's remit will be to provide the assistance and care needed to achieve appropriate reparation for victims. Its budgetary allocation is pending.

The National Coordination Agency for the Prevention of Domestic Violence and Violence against Women and the Comprehensive Support Centres for Women Survivors of Violence

65. To strengthen the National Coordination Agency for the Prevention of Domestic Violence and Violence against Women upon the resumption of its activities following a three-year hiatus, on 30 October 2015, technical and legal teams from the Presidential Secretariat for Women, the Office of the Third Deputy Minister of the Interior, the Guatemalan Women's Group, the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons, the Counsel General's Office and the Office for the Defence of Indigenous Women's Rights got together to develop a proposal for the amendment of Government Decision No. 831-2000, regulating the implementation of the Act on the Prevention, Punishment and Eradication of Domestic Violence. On 6 October 2016, the new members of the National Coordination Agency were sworn in.

66. Government Decision No. 565-2014 of 12 August 2014 approved Agreement No. 19-2014 of 13 June 2014, thereby allocating Q 9.5 million to the Guatemalan Women's Group for the specific purpose of funding the operation of the six Comprehensive Support Centres for Women Survivors of Violence throughout the country.

67. On 5 October 2016, female deputies in Congress and officials from the Ministry of the Interior and the Ministry of Finance met to agree the inclusion of an allocation for the support centres in the 2017 budget.

Implementation of the Act against Sexual Violence, Exploitation and Trafficking in Persons (Decree No. 9-2009) and measures taken to prevent, combat and punish human trafficking

68. In addition to the rights recognized under Decree No. 9-2009, a series of other rights are safeguarded under the Migration Code (Decree No. 44-2016),¹² which provides for the protection of victims of human trafficking and access to available resources. The Code stipulates that victims shall not be subjected to direct face-to-face contact; that protective measures shall not involve deprivation of liberty; and that testimony shall be given under special protective conditions; that dedicated shelters shall deliver coordinated inter-agency assistance; and that prevention and assistance protocols shall be issued jointly by the Guatemalan Institute for Migration, the Ministry of the Interior, the Public Prosecution Service and the Counsel General's Office.

69. With the help of the Academy of Mayan Languages, the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons has translated the Act against Sexual Violence, Exploitation and Trafficking in Persons into 17 Mayan languages in order to cater for multi- and pluricultural needs.

70. The Protocol for Action to Care for Victims of Trafficking, which was approved by the Public Prosecution Service in 2015, establishes the procedure for providing assistance, protection, referral services and comprehensive redress to victims of human trafficking.

71. For the purposes of investigating and administering punishment for human trafficking, a protocol is being drawn up that includes general instructions for victim care, coordination and intervention by the Public Prosecution Service and strategy for the criminal prosecution of human traffickers. The protocol outlines strategic mechanisms for the criminal prosecution of human trafficking offences throughout the country and establishes parameters for the delivery of coordinated victim assistance; the preliminary investigation of human trafficking offences; the referral of cases being handled by prosecution services in districts, municipalities and sections; communication and advisory services provided by the Human Trafficking Division of the Public Prosecution Service; coordination with criminal investigation units; and the recording of information within the Public Prosecution Service.

72. Training workshops carried out at centralized, decentralized and autonomous institutions provide a forum for explaining the measures in place to prevent human trafficking and protect victims, thereby equipping such institutions with the tools needed for prevention, detection and victim rescue.

73. In August 2016, the Government joined the Blue Heart Campaign against Human Trafficking launched by the United Nations Office on Drugs and Crime. As part of the campaign, awareness-raising workshops will be held for prosecutors in the Public Prosecution Service, National Civil Police officers and members of the general public.

Human trafficking statistics

74. The Comprehensive Services Unit of the Human Trafficking Division of the Public Prosecution Service provides services in the areas of social work¹³ and psychology.¹⁴

¹² The Migration Code was recently adopted. It was initially approved by Congress on 12 October 2016, after which, on 16 December 2016, a request for temporary *amparo* was lodged before the Constitutional Court, suspending the code's entry into force. In April 2017, the temporary *amparo* ruling was overturned and the Migration Code entered into force once again. This report will elaborate on the subject matter which the code covers and the rights which it protects.

¹³ The **social work** section covers coordination with prosecutors and assistant prosecutors to request the inclusion of victims in the Family Allowance Programme; home visits for the purposes of conducting socioeconomic studies to determine victim vulnerability and preparing reports on adequate redress; support and protection for victims and their families during transfer to shelters; institutional visits for the purposes of coordinating referrals and providing support for victims of human trafficking (Social Welfare Secretariat of the Office of the President, Ministry of Public Health and Social Welfare, Ministry of Labour, Ministry of Development, Ministry of Education); coordination with the director of the NGO Ciudad de la Alegría in order to obtain student grants for trafficking victims.

Between 2012 and March 2016, a total of 571 people received assistance, although it should be noted that this figure does not include 2013 data for both areas and 2012 data for social work. With regard to non-national victims of trafficking, between 2012 and 2015, 907 persons of various nationalities received assistance.

75. The Secretariat against Sexual Violence, Exploitation and Trafficking in Persons reports that, between 2014 and 12 April 2016, a total of 821 persons, 125 of whom were men and 696 of whom were women, were housed in specialized temporary shelters in the departments of Guatemala, Quetzaltenango and Alta Verapaz.

76. According to the office of the special prosecutor dealing with this issue, the automated case-tracking system of the Public Prosecution Service shows that a total of 2,454¹⁵ cases of human trafficking were reported between 2010 and 2015. Fifty-one convictions in a variety of categories were handed down. During the period 2010–2015, the courts handed down a total of 134 sentences (57 acquittals and 77 convictions)¹⁶ for human trafficking.

Training on human trafficking

77. The training unit of the Public Prosecution Service reports that during the period 2010–2015, a total of 322 persons were given training on subjects related to the offence of human trafficking. Of this total, 167 were men and 155 were women. The trainees held a variety of posts.

Measures taken to ensure that victims of human trafficking have access to basic support and assistance services

78. The Secretariat against Sexual Violence, Exploitation and Trafficking in Persons has developed the National Information and Awareness-Raising Programme, together with internal regulations, a procedures manual and a protocol for the delivery of comprehensive assistance to children and adolescents affected by sexual violence, exploitation and human trafficking offences, all of which reflect issues of cultural relevance.

79. The United Nations Population Fund (BS1 project) has helped to set up medical clinics, beauty salons, computer centres, dressmaking centres and play areas at shelters.

80. The Secretariat against Sexual Violence, Exploitation and Trafficking in Persons represents the Government in the Regional Coalition against Trafficking in Persons. The Coalition is working on a variety of initiatives and undertakings, including a regional strategy for the delivery of comprehensive assistance and support to victims of human trafficking in coalition member States and a project to strengthen capacity for an integrated approach to the offence of human trafficking in Central America.

Article 3

Asylum and refugee protection

81. With support from the Office of the United Nations High Commissioner for Refugees, important amendments have been made to the Migration Code, contained in Decree No. 44-2016, to incorporate definitions of refugee status, political asylum and

¹⁴ The **psychology** section covers: delivery of assistance to primary and secondary victims as soon as the case is brought to the prosecutors' attention; support for victims during examination by the medical examiner, the doctor attached to the Victim Support Office and the National Institute of Forensic Sciences; preparation and accompaniment of victims in the Gesell chamber for preliminary depositions and provision of emotional support after testimony is given; psychological assessments, psychological reports, psychological care and psychoeducation for the victims of human trafficking (providing them with information on subjects including their rights; the offences perpetrated against them; responsible parenting; sexual orientation and STDs; the use and abuse of drugs and alcohol; life plans; and other guidance).

¹⁵ Public Prosecution Service report. Document No. SPAE-73-2016 (COPREDEH-10-2016), 22 April 2016, p. 50.

¹⁶ Report P-371-2017 of the Judiciary. 10 November 2016. Annex 1, p. 145.

humanitarian assistance and the procedure for recognition under these categories. The updated Code also establishes the principle of non-refoulement of applicants for asylum or protection and addresses the provisions on refugees and asylum seekers contained in the 1967 Protocol relating to the Status of Refugees.

82. The Code also makes provision for the granting of temporary residency status to persons recognized as refugees or asylum seekers and sets forth a requirement for the creation of a central registry for organizations providing humanitarian assistance in Guatemala. It also provides for the granting of residency for humanitarian reasons.¹⁷

Measures taken to ensure the non-refoulement of any person at risk of being subjected to torture if returned to a third State

83. New provisions in the Migration Code, contained in Decree No. 44-2016, set forth specific rights and conditions, including the right to protection from violence, torture and cruel, inhuman or degrading treatment or punishment,¹⁸ in order to ensure that the dignity and rights of persons at risk of torture in a third State are respected. Under the provisions of the Code, migrants who report that they have been the victims of such acts must immediately be provided with the support necessary to protect their integrity, health and life.

84. The Code also provides for the creation of residency status categories affording special support for foreign nationals who have been subjected to torture.¹⁹ The Guatemalan Institute for Migration and the National Registry Office can grant such status and issue identity documents.

85. Chapter V of the Code²⁰ recognizes the right to refugee status, political asylum and humanitarian assistance. It defines illegal entry as a non-punishable offence and enshrines the principle of non-refoulement and the right to equality, confidentiality, identity documents and humanitarian assistance. Regulations will be established for the implementation of the relevant procedures.

Asylum applications involving a risk of torture upon return to country of origin

86. The General Directorate of Migration reports that nine individuals applied for asylum in 2013: three men, three women, one girl and two boys. Seven applicants, including one woman, withdrew their requests in 2011; eight male applicants withdrew their requests in 2012; and one male applicant withdrew his request in 2013.

87. According to information provided by the National Commission for Refugees, which is coordinated by the Ministry of the Interior, 10 asylum applications were approved (4 women, 3 men, 2 girls and 1 boy) in 2011 and 11 (3 women, 8 men) in 2012 for nationals of Colombia, El Salvador, Cuba, Jamaica, Cameroon, Bolivia and Honduras.

Extradition and expulsion

88. The General Directorate of Migration reports that, in 2016, 505 foreign nationals from 27 different countries were expelled from Guatemala. The Congo accounted for the highest number of nationals expelled (97 individuals), followed by Ecuador (90 men) and Honduras (40 women, the largest number of women expelled). The following table shows the number of expulsions by nationality and sex.

¹⁷ Decree No. 44-2016 of Congress, arts. 43–55.

¹⁸ Decree No. 44-2016, art. 12.

¹⁹ Decree No. 44-2016, art. 83.

²⁰ Decree No. 44-2016, arts. 43–55.

Table 1
Annual statistical report of expelled foreign nationals 2016

<i>Nationality</i>	<i>Male</i>	<i>Female</i>	<i>Overall total by nationality</i>
Honduras	42	40	82
El Salvador	21	18	39
Nicaragua	12	18	30
Ecuador	90	3	93
Guinea	6	4	10
Albania	2	0	2
Spain	1	0	1
Belize	9	0	9
Congo	69	28	97
Mali	23	0	23
Burkina Faso	3	0	3
Ethiopia	1	0	1
Gambia	9	0	9
Ghana	27	2	29
Cameroon	4	1	5
Côte d'Ivoire	2	3	5
Georgia	1	0	1
Eritrea	7	0	7
Syrian Arab Republic	1	0	1
Somalia	18	3	21
Senegal	8	1	9
Togo	2	0	2
Mexico	2	2	4
France	1	0	1
Colombia	14	2	16
Cuba	3	0	3
United States of America	1	1	2
Overall total	379	126	505

Source: Prepared by the Presidential Human Rights Commission, using information from the Directorate-General for Migration. May 2017.

Articles 5 to 9

Acts of torture and criminalization of torture as a universal offence

89. The State of Guatemala considers the offence of torture to be a crime against humanity, given the direct and indirect effects it has on the human race. Crimes against humanity are offences which violate or abuse the values of humanity and undermine the defence of such values.

90. On 16 April 2016, draft legislation was tabled to implement the Rome Statute of the International Criminal Court. The draft legislation defines torture and cruel or inhuman treatment as crimes against humanity. At the time of the submission of this report, the Government of Guatemala had no information on examples of proceedings brought in such cases.

Transfer of evidence in trials for torture or ill-treatment

91. The Government of Guatemala has not concluded any mutual legal assistance treaties or agreements with other countries, courts or international institutions in connection with transfers of evidence in trials for torture or ill-treatment.

Article 10

Training programmes on human rights and the prohibition of torture

92. The Government of Guatemala wishes to inform the Committee that no changes have been made to the training curriculum on torture for officers of the National Civil Police since the submission of the combined fifth and sixth periodic reports of Guatemala.²¹

93. With regard to the judiciary, the table below displays data from the official records of the School of Judicial Studies regarding specific training on the prohibition of torture in 2007, 2009 and 2011. In line with article 10 of the Convention, the data underlines the authorities' commitment to monitoring and implementing updated training programmes for judicial officials and support and administrative staff working in the justice system.

Table 2

Training on torture, 2007, 2009 and 2011

School of Judicial Studies — Institutional Training Unit for the Judiciary

Year	Activity	Women	Men	Total
2017	Prevention, documentation and monitoring of cases of torture of persons deprived of their liberty	4	5	6
2009	Human rights and criminal justice module on how cases of sexual torture are handled in the criminal justice system	4	15	19
	Human rights and criminal justice module on how cases of sexual torture are handled in the criminal justice system	3	6	9
	Workshop to approve materials on torture	9	6	15
2011	Prevention of torture (online)	11	21	32

Source: Prepared by the Presidential Human Rights Commission using information provided by the Judiciary. April 2017.

Methodology for assessing the effectiveness and impact of the training programmes in reducing the number of cases of torture and ill-treatment

94. The Government of Guatemala wishes to inform the Committee that it does not yet have a specific methodology with uniform criteria for evaluating the effectiveness and impact of training programmes in reducing cases of torture and ill-treatment.

Training programmes for judges, prosecutors, forensic doctors and other medical staff who deal with persons in custody

95. No changes have been made to the training programmes for judges, prosecutors, forensic doctors and other medical staff described in the State party report.²² The programmes are based specifically on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

²¹ CAT/C/GTM/Q/6, submitted by Guatemala to the United Nations Committee against Torture on 9 January 2012.

²² CAT/C/GTM/Q/6, submitted by Guatemala to the United Nations Committee against Torture on 9 January 2012.

96. Since 2015, the Public Prosecution Service, working in coordination with its Training Unit, has included the enhancement of crime scene investigative techniques in the training and professional development segment of the operational plan for the Forensic Investigation Division, with a view to professionalizing the field.

97. A number of branches of the Evidence Collection Unit (part of the Public Prosecution Service) have sent forensic investigation personnel to attend the training, including those in Cobán, La Tinta and Chisec in Alta Verapaz, Rabinal and Salamá in Baja Verapaz and Playa Grande in Quiché. Crime scene technicians from the Public Prosecution Service in Santa Eulalia and La Democracia in the department of Huehuetenango, Nebaj and Joyabaj have also attended. The objective of the training process is to provide technical personnel with the tools needed to incorporate human and social perspectives into the investigation and evidence collection process while adhering to the manual of rules and procedures for processing crime scenes.

98. Furthermore, in order to strengthen the existing training programmes for judges, the School of Judicial Studies has organized a number of courses on human rights, including training in the prevention, documentation and monitoring of cases of torture of persons deprived of their liberty; a human rights and criminal justice module on how cases of sexual torture are handled in the criminal justice system; a validation workshop for torture-related training materials; training in the prevention of torture; and a workshop on compliance with international human rights standards for preventing secondary victimization of children and adolescents.

Article 11

Detention-related rules, institutions, methods and practices

99. The Government of Guatemala wishes to inform the Committee that it has developed the National Prison Reform Policy 2014–2024, which is coordinated by the Prison System. The objective of the policy is to implement article 11 of the Convention and other national and international instruments safeguarding the human rights of persons deprived of their liberty. The guiding principles of the policy include respect for the human rights of persons deprived of their liberty; ongoing pursuit of the common good; coordination between State services for the care and rehabilitation of prisoners; and social, business and academic responsibility.

100. The strategic axes of the policy include inter-agency coordination; administrative procedures and budgetary programming; establishment of a career path and ongoing specialization in the prison service; implementation of a progressive regime; construction, renovation and upgrading of infrastructure; internal and external security; the promotion of rehabilitation, community involvement and private enterprise; the socioeconomic reintegration of persons deprived of their liberty; promotion of social harmony; and care for women, men, children and young persons in the prison system.

101. **Moreover, as part of the technical round-table discussions on women and children coordinated by a women's collective called Colectivo Artesanas, the Government, through the Presidential Secretariat for Women, has organized working group meetings to follow up on the implementation of Ministerial Agreement No. 64-2016, establishing an institutional model of care for children and adolescents associated with persons deprived of their liberty, women deprived of their liberty and prison guards.**

Situation of persons deprived of their liberty, pretrial detention and conditions of detention

102. In line with provisions made in the Criminal Code to limit the use of imprisonment, the use of alternative measures rose between 2010 and 2015, having been granted in a total of 107,342 cases. During the same period, pretrial detention was imposed in 65,052 cases, while, between 2013 and 2015, other solutions, including provisional closure, withdrawal

and the dismissal of proceedings, were found in a total of 54,640 cases. The following table provides a breakdown of the figures.

Table 3

Consolidated statistical data**Persons deprived of their liberty and their conditions of detention
2010–2015**

<i>Description</i>	<i>Year</i>						<i>Total</i>
	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	
Alternative measures	7 031	7 995	10 871	17 849	30 799	32 797	107 342
Completion by other means	-	-	-	12 332	19 590	22 698	54 620
Pretrial detention	5 795	5 462	9 045	12 103	17 066	15 581	65 052

Source: Prepared by the Presidential Human Rights Commission using data from Report P-371-2017 of the Judiciary. 23 May 2017.

103. **With regard to overcrowding**, on 22 November 2016, the Congress of Guatemala adopted Decree No. 49-2016, the Act on the Implementation of Remote Monitoring in Criminal Proceedings. The Decree provides for the use of remote monitoring devices in criminal proceedings as an effective alternative to imprisonment. The devices track persons subject to criminal proceedings at all times, thereby guaranteeing their effective compliance with the alternative measures imposed.

104. When imposing any of the measures listed in article 264, judges may avail themselves of this tool as an effective means of reducing pretrial detention and overcrowding, in cases deemed appropriate.

105. Certain categories of persons are prioritized in the use of remote monitoring devices, including persons aged over 65 years old and women who either are in the third trimester of pregnancy or have given birth within the past 12 months.

106. Other priority categories include persons suffering from a serious or terminal illness certified by the National Institute of Forensic Sciences; persons with a permanent physical disability that significantly affects their mobility; heads of households certified as caring for young children or for a child or spouse with a permanent disability; and adolescents in conflict with the law who have been sentenced, are serving a term of imprisonment and reach the age of majority while in detention, subject to assessment by a competent judge.

107. In order to ensure the effective implementation of the Act, on 20 February 2017 the Supreme Court of Justice issued Decision No. 14-2017, the aim of which is to increase the use of remote monitoring devices as an alternative to imprisonment while ensuring compliance with any restrictive measures imposed.

108. **With regard to conditions in prisons**, the Prison System has taken the following action on behalf of the Government of Guatemala:

(a) **In order to improve infrastructure, hygiene standards and access to health care**, work is under way to construct two new units to alleviate overcrowding,²³ with resources provided by the General Directorate of the Prison System and with help from the European Union Programme to Support Security and Justice in Guatemala. The construction of new detention centres is being considered.

(b) **To protect the lives and integrity of women prisoners during transfers**, special vehicles are available.

109. These actions form part of the strategic, cross-sectional lines of action envisaged in the National Prison Reform Policy (Government Order No. 149-2015 of 22 June 2015) due to be implemented over the next decade. The policy has 10 key focuses: inter-agency coordination; establishment of a career path in the prison service; ongoing specialization;

²³ <http://dgsp.gob.gt/ampliacion-cof/>.

strict implementation of a progressive regime; construction, renovation and upgrading of infrastructure; internal and external security; the promotion of rehabilitation, community involvement and private enterprise; socioeconomic reintegration; and care for women, men, children and young persons in the prison system.

Particular needs of minors, women and persons with disabilities who have been deprived of their liberty

110. The National Disability Policy 2012 was adopted by Decree No. 16-2008. In 2011, a total of Q 5 million was allocated to it from the national budget. The allocation was increased to Q 70 billion in 2016.

111. Equipped with this budget, the National Council for Persons with Disabilities gradually increased its technical team to nine outreach workers, covering 22 departments, by 2016. The Council also has a political advocacy strategy, the aim of which is to encourage public and private entities and civil society to implement the National Disability Policy.

112. In total, 10 municipal disability offices and 21 departmental disability commissions have been set up. The commissions, which are comprised of civil society organizations and public sector institutions, participate in forums organized by local authorities.

113. Priority has been given to providing psychiatric care in six hospitals in Quiché, Petén, Jutiapa, Santa Rosa, Sololá and Chimaltenango. Since 2015, each of these hospitals has had a psychiatric specialist on staff and a specialist doctor on contract.

114. The Social Welfare Secretariat of the Office of the President offers specific services for children and adolescents with disabilities. It provides free services for minors with intellectual disabilities at the Alida España de Arana Centre and the Vocational Training Centre, and provides temporary accommodation for persons placed in shelters by order of a judge as a protective measure.

Segregation of prison population

115. **To ensure the separation of minors and women deprived of their liberty**, the Prisons Act stipulates that the right of detainees to keep children under the age of 4 years with them applies only to women. A residential unit is being built at the Women's Orientation Centre with the aim of creating a pleasant space for imprisoned mothers and their children. The construction is supported by the European Union through its Programme to Support Security and Justice in Guatemala.

116. The new building consists of two storeys, each with a surface area of 650 m². It is located on a parcel of land measuring 1,400 m² at Finca Pavón in Fraijanes, Guatemala. The first level will house communal areas, including administration offices, a kitchen, dining room and living room, a games room for children, a breastfeeding room, showers and toilets, laundry facilities, a storage and maintenance area and an outdoor space for drying clothes. The second level will contain 40 cells, each with its own bathroom, and monitoring and surveillance facilities. The unit is due to open in mid-2016.

117. The building will have special computer facilities, intercom and CCTV systems, emergency alarms and lightning conductors. The European Union Programme to Support Security and Justice in Guatemala has contributed €733,395.78 (approximately Q 6,366,836) to the construction of the residential unit at the Women's Orientation Centre of the General Directorate of the Prison System, which is part of the Ministry of the Interior.

118. **To prevent violence among inmates, persons deprived of their liberty** are separated according to criteria including their legal status, criminal history, age, sex, gender, behaviour, social group and state of health.

Continuing detention of prisoners who have already served their prison sentence

119. No progress has been made in adopting measures to prevent the continuing detention of prisoners who have already served their prison sentence. However, streamlining the release of prisoners who have served their sentence remains a goal of the Government.

Articles 12 and 13

Complaints of acts of torture or ill-treatment

120. Between 2012 and 2015, the Public Prosecution Service received a total of 188 complaints of torture, of which 12 were dismissed. The highest number of complaints was in 2012, when 152 were recorded. Subsequently, there has been a downward trend. No information broken down by sex, age, ethnic origin or nationality is available.

Table 4

Complaints of torture 2012 to 2015

<i>Offence</i>	<i>Case status</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>Grand total</i>
Torture	Discontinued	1	0	0	0	1
	Kept on file	1	2	0	0	3
	Completed	1	0	0	0	1
	Dismissed	12	0	0	0	12
	Under investigation	78	1	1	2	82
	Pending	58	9	20	0	87
	Intermediate proceedings	0	1	0	0	1
	Sentencing	1	0	0	0	1
	Being processed	0	0	0	0	0
Grand total		152	13	21	2	188

Source: Prepared by the Presidential Human Rights Commission, using information from the Report of the Public Prosecution Service. Document No. SPAE-73-2016. (COPREDEH-10-2016), 22 April 2016, p. 19.

121. The national mechanism for the prevention of torture reports that, following visits to places of detention during 2015 and 2016, the Public Prosecution Service received 71 complaints of torture and related offences including abuse and dereliction of duty. Of this total, 23 referred specifically to torture, with the remainder referring to related offences. The Prison System was the subject of the highest number of complaints, at 19, while 2 complaints were made against the Ministry of Public Health and Welfare and 1 was made against the Social Welfare Secretariat of the Office of the President.

Table 5

Complaints of torture and related offences: data from the General Directorate of the Prison System, the Ministry of Public Health and Welfare and the Social Welfare Secretariat of the Office of the President

<i>No.</i>	<i>Location</i>	<i>Offence</i>	<i>Total</i>	<i>Institution responsible</i>
1	Pretrial detention centre for men and women, Chimaltenango	Torture, abuse of individuals, dereliction of duty	2	General Directorate of the Prison System
2	Basement holding cells (court system)	Abuse against individuals, dereliction of duty	1	Judiciary
3	Mariscal Zavala pretrial detention centre for men	Torture, abuse of individuals, dereliction of duty	1	General Directorate of the Prison System
4	Women's Orientation Centre	Torture, abuse of individuals, dereliction of duty	2	General Directorate General of the Prison System

No.	Location	Offence	Total	Institution responsible
5	Pavón Farm Rehabilitation Centre	Torture, abuse of individuals, dereliction of duty	1	General Directorate of the Prison System
6	Constitutional pretrial detention centre for men, Pavoncito, Fraijanes	Torture, abuse of individuals, dereliction of duty	2	General Directorate of the Prison System
7	Juvenile detention centre for boys (CEJUPLIV), Annex	Dereliction of duty	1	Social Welfare Secretariat of the Office of the President
8	Detention centre for women	Dereliction of duty	1	Social Welfare Secretariat of the Office of the President
9	Juvenile detention centre for boys	Torture, abuse of individuals, dereliction of duty	2	Social Welfare Secretariat of the Office of the President
10	Dr. Jorge Von Ann National Orthopaedic and Rehabilitation Hospital	Torture, abuse of individuals, dereliction of duty	1	Ministry of Public Health and Welfare
11	Pretrial detention centre for men and women, Los Jocotes, Zacapa	Torture, abuse of individuals, dereliction of duty	1	General Directorate of the Prison System
12	National Paediatric Oncology Hospital	Torture, dereliction of duty	1	Ministry of Public Health and Welfare
13	Children's Hospital for Infectious Diseases and Rehabilitation	Torture, dereliction of duty	1	Ministry of Public Health and Welfare
14	El Boquerón pretrial detention centre for men, Cuilapa, Santa Rosa	Torture, abuse of individuals, dereliction of duty	2	General Directorate of the Prison System
15	Zone 18 Santa Teresa pretrial detention centre for women	Torture, abuse of individuals, dereliction of duty	3	General Directorate of the Prison System
16	Federico Mora National Mental Health Hospital	Torture, abuse of individuals, dereliction of duty	1	General Directorate of the Prison System and Ministry of Public Health and Welfare
17	Pretrial detention centre for men in Zone 18, Annex B	Torture, abuse of individuals, dereliction of duty	1	General Directorate of the Prison System
18	Pretrial detention centre for men in Zone 18	Torture, abuse of individuals, dereliction of duty	1	General Directorate of the Prison System
19	Prison guards	Dereliction of duty	1	General Directorate of the Prison System
20	Officials from the public jail in Huehuetenango	Dereliction of duty	1	General Directorate of the Prison System
Total			27	

Source: Prepared by the Presidential Human Rights Commission, based on a report by the office of the national mechanism for the prevention of torture. 7 March 2017. Pages 107 to 109.

Investigations into alleged incidents of torture and ill-treatment

122. Investigations have been opened into reports of alleged acts of torture and ill-treatment. For example, the National Civil Police has provided statistics on complaints of human rights violations, including complaints of ill-treatment and torture, disciplinary

proceedings for human rights violations, the recording of disciplinary sanctions and the outcome of the investigations carried out. The statistics are displayed in Tables 6 and 7.

Table 6
Statistics on complaints of human rights violations
National Civil Police
2012, 2013, 2014 and 2015

<i>Cases</i>	<i>Year</i>				<i>Total</i>
	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	
Allegations of torture and ill-treatment	5	1	4	8	18
Allegations of torture	0	0	0	0	0
Disciplinary proceedings for human rights violations	7	22	12	18	59
Recording of disciplinary sanctions in connection with human rights violations	4	4	10	0	18

Source: Prepared by the Presidential Human Rights Commission, using information from the Office of the Inspector General of the National Civil Police. May 2017.

Table 7
Results of investigations into complaints of human rights violations
National Civil Police
2012, 2013, 2014, 2015 and 2016

<i>Year</i>	<i>Case status</i>	<i>Number</i>
2012	Discontinued	86
	Awaiting guidance	4
	Under investigation	104
	Search warrant requested	1
	Total	195
2013	Searches carried out	15
	Charges filed	21
	Discontinued	104
	Arrest warrant requested	20
	Search warrant requested	12
	Awaiting guidance	112
	Under investigation	27
	Sent for trial	1
	Total	312
2014	Awaiting guidance	140
	Searches carried out	11
	Search warrant requested	9
	Arrest warrant requested	17
	Charges filed	20
	Discontinued	86
	Under investigation	51
	Sent for trial	13

<i>Year</i>	<i>Case status</i>	<i>Number</i>
	Reinstatement requested	1
	Total	343
<i>Year</i>	<i>Case status</i>	<i>Number</i>
2015	Discontinued, exhaustion of legal avenues	2
	Under investigation	54
	Completed with summons	2
	Awaiting guidance	129
	Searches carried out and charges filed	7
	Arrests made and charges filed	26
	Search warrant requested	14
	Arrest warrant requested	19
	Total	253
<i>Year</i>	<i>Case status</i>	<i>Number</i>
2016	Under investigation	24
	Awaiting instructions	10
	Searches carried out and charges filed	1
	Arrests made and charges filed	3
	Search warrant requested	4
	Arrest warrant requested	1
	Total	43

Source: Prepared by the Presidential Human Rights Commission, using information from the Office of the Inspector General of the National Civil Police. May 2017.

Judicial and disciplinary proceedings

123. When the National Civil Police receives reports of the alleged involvement of an officer in cases of ill-treatment or torture, the Inspectorate General begins an investigation to determine whether there is any administrative responsibility. If that is the case, the investigation continues until an administrative sanction is imposed; if there is criminal liability, the investigation proceeds and the case is reported to the Public Prosecution Service. In cases involving civilian victims, officers are immediately assigned to provide them with protection. Between 2012 and 2015, 18 cases of ill-treatment were reported to the National Civil Police. Disciplinary proceedings were opened for 59 cases of human rights violations and disciplinary sanctions were imposed in 18 cases, as shown in the table below.

Table 8
Statistics on complaints of torture and ill-treatment
National Civil Police
2012–2015

Statistics from the National Civil Police on complaints of human rights violations

<i>Case</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>Total</i>
Allegations of ill-treatment	5	1	4	8	18
Allegations of torture	0	0	0	0	0
Disciplinary proceedings for human rights violations	7	22	12	18	59

Statistics from the National Civil Police on complaints of human rights violations

<i>Case</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>Total</i>
Recording of disciplinary sanctions relating to human rights violations	4	4	10	0	18

Source: Ministry of the Interior report. Reference Document No. 128-2016-DH-MINGOB Ref. JPR/lrc. 11 April 2016, Annex Item 13. Table 13.3b.

124. For the period 2012–2015, the Public Prosecution Service recorded 308 cases of complaints of torture-related offences made against police officers — 17 involving serious injuries, 1 involving very serious injuries, 295 involving minor injuries and 5 specifically involving torture.

Table 9

**Statistics from the Public Prosecution Service on complaints involving torture-related offences made against officers of the National Civil Police
2012 and 2015**

<i>Offence</i>	<i>Status of the complaint</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>Grand total</i>
Serious injuries	Kept on file	0	0	0	1	1
	Under investigation	1	2	3	2	8
	Referred to another prosecution service	1	2	0	0	3
	Sent to trial	1	0	0	0	1
	Sentenced	0	1	0	1	2
	Dismissed	0	0	1	1	2
Total (serious injuries)		3	5	4	5	17
Very serious injuries	Under investigation	0	0	0	1	1
Total (very serious injuries)		0	0	0	0	0
Minor injuries	Kept on file	2	12	8	0	22
	Linked to another case	1	4	0	3	8
	Link to another case finalized	1	0	0	0	1
	Immunity for turning State's evidence	2	4	6	3	15
	Dismissed	29	12	21	18	80
	Under investigation	12	17	32	35	96
	Pending	3	1	1	4	9
	Intermediate proceedings	0	0	1	2	3
	Referred to another prosecution service	3	8	20	22	53
	Sent to trial	1	0	0	4	5
	Sentencing	1	1	0	0	2
	Sentenced	1	0	0	0	1
Total (minor injuries)		56	59	89	91	295
Torture	Kept on file	0	2	0	0	2
	Intermediate proceedings	0	1	0	0	1
	Referred to another prosecution service	0	2	0	0	2
Total (torture)		0	5	0	0	5
Grand total		59	59	93	97	308

Information as at 29 February 2016.

Source: Public Prosecution Service report. Document No. (COPREDEH-10-2016), 22 April 2016, p. 20.

125. The criminal branch of the Judiciary recorded the opening of four cases of torture between 2014 and 2016, one of which resulted in a conviction in 2015.

Table 10

**Sentences for the specific crime of torture (figures from the Judiciary)
2014–2016**

Offence	Year case opened			Total
	2014	2015	2016	
	2	1	1	4
<i>Sentences for the specific crime of torture</i>				
Offence	Year		Convictions	Total convictions
Torture	2015		1	1

Source: Courts Management Service. Information from the Judiciary, processed on 15 March 2017 by the Presidential Human Rights Commission.

Status of criminal proceedings against José Efraín Ríos Montt

126. High-Risk Trial Court A convicted José Efraín Ríos Montt on 10 May 2013. José Mauricio Rodríguez Sánchez was acquitted.

127. On 19 May 2013, the Constitutional Court overturned the conviction issued on 10 May 2013 against José Efraín Ríos Montt for genocide and crimes against humanity, citing procedural flaws. It also nullified all proceedings that had taken place after 19 April 2013.

128. On 27 May 2013, in line with the ruling by the Constitutional Court, the Court of Appeal ordered High-Risk Trial Court A to process the motion for recusal filed by the defence against the trial judges. On 4 June 2013, the Court appointed High-Risk Trial Court B to continue hearing the judicial proceedings, which were to resume in April 2014. Court B later announced that proceedings would resume on 5 January 2015.

129. The defendants filed a writ of *amparo* against the chief judge of High-Risk Trial Court B in response to the exclusion, on 4 February 2013, of evidence submitted by the defence. The Fourth Chamber of the Court of Appeal for Drug and Environmental Offences, acting as an *amparo* court, granted temporary *amparo*. On 3 April 2013, the Constitutional Court issued ruling No. 1097-2013 upholding the request for interim constitutional protection.

130. On 4 April 2013, the judge of High-Risk Trial Court B informed the Constitutional Court that he did not have jurisdiction to preside over the matter, given the ruling of the First Chamber of the Court of Appeal. Accordingly, on 9 April 2013, the Constitutional Court decided to transfer jurisdiction to another judge, who was tasked with completing the intermediate phase of criminal case No. 0176-2011-00015.

131. The ruling issued by the Constitutional Court in response to consolidated *amparo* filings Nos. 154-2014, 155-2014, 183-2014 and 239-2014 ordered the following: (a) that the sentence issued on 26 September 2013 by the First Chamber of the Court of Appeal for Drug and Environmental Offences, acting in the capacity of an *amparo* court, be revoked; (b) that the appeals filed by the Association for Justice and Reconciliation, the Centre for Legal Action on Human Rights and the Office of the Public Prosecution Service be granted; (c) that the writ of *amparo* filed by the defence be granted; (d) that the order dated 18 April 2013, which addressed the requests for review of the decision to annul all proceedings that took place after 23 November 2011, be suspended; and (e) that the defendants be restored to their former legal status.

132. Public oral arguments before High-Risk Trial Court B began on 5 January 2015, at which time the defence filed a motion to recuse the chief judge of the sentencing court. Court B transferred the proceedings to the Court of Appeal for High-Risk Crimes for a ruling on the matter.

133. The defendants invoked amnesty in consolidated case No. 1076-2011-00015 before High-Risk Trial Court B, arguing during the preparatory and intermediate phases that the offences in question were no longer subject to prosecution, as they were covered by amnesty agreements. The chief judge denied the motion.

134. The motion cited article 32 (2) of the Code of Criminal Procedure, on amnesty, which is set out in article 1 of Decree-Law No. 8-86. The defence argued that the amnesty agreements enacted applied, without exception, to the period between 23 March 1982 and 14 January 1986. Furthermore, it argued that laws cannot be applied retroactively, nor can they modify vested rights, and that legal status conferred by an earlier law cannot be changed by subsequent laws.

135. The chief judge ruled that the applicable statute was the National Reconciliation Act, which in 1996 had proscribed amnesty in cases of genocide. He went on to cite the jurisprudence of the Inter-American Court of Human Rights. The ruling was appealed, and on 15 June 2013, in case No. 1076-2011-00015, the First Chamber of the Court of Appeal for Drug and Environmental Offences denied the appeal filed by José Efraín Ríos Montt and upheld the lower court's rejection of the defence's contention that the offences were no longer subject to prosecution.

136. The defence for José Efraín Ríos Montt filed a constitutional writ of *amparo* on 16 April 2013. The Court for *Amparo* and Preliminary Proceedings for Judicial Misconduct found that the right to legal defence had been violated. The defence argued in its *amparo* motion that the applicable instrument was Decree-Law No. 8-86 rather than the National Reconciliation Act.

137. On 22 October 2013, in consolidated case Nos. 1523-2013 and 1543-2013, the Constitutional Court ruled on the appeal against the sentence of 16 April 2013 handed down by the Supreme Court of Justice in the *amparo* case filed by José Efraín Ríos Montt.

138. The appeal was filed by the Association for Justice and Reconciliation, acting as an interested third party, as well as by the Public Prosecution Service. They argued that Decree-Law No. 8-86 no longer applied, as the National Reconciliation Act had expressly ordered its derogation; it was therefore inapplicable, notwithstanding the arguments of the defence.

139. José Efraín Ríos Montt argued that, according to the principle of freedom from ex post facto laws, the only statute applicable to his case was the National Reconciliation Act, as it was currently in force. Decree-Law No. 8-86 could not be considered. In the ratio decidendi of its ruling, the Constitutional Court stated the following: "confusing the statute of limitations with amnesty, and invoking inapplicable jurisprudence from the Inter-American Court of Human Rights ... thereby compromising the constitutionally protected rights to legal defence and due process. The appeals must therefore be denied, and the sentence confirmed ..." (for further information, see Annex I).

140. By order of the Constitutional Court, the Chamber must now issue a ruling explaining why Efraín Ríos Montt may be entitled to benefit from the judicial pardon provisions enacted by Decree-Law No. 8-86. That ruling, by the First Chamber of the Court of Appeal dealing for Drug and Environmental Offences, is currently pending.

141. On 18 August 2015, High-Risk Trial Court B stated that, according to the medical report, Efraín Ríos Montt suffered from mixed cortical and subcortical vascular dementia, which had resulted in lesions on his brain. The three-judge panel ruled that, given his medical condition, the defendant would be represented by his attorneys during the criminal proceedings.

142. On 16 March 2016, the judges resolved to bar the press from the trial. International observers were allowed, however. The trial was suspended on 18 March, when the judges fined the defence counsel Q 1,000 for offensive remarks during the proceedings.

143. On 5 May 2016, the First Chamber of the Court of Appeal ruled that the military defendants should be tried separately. A request to that effect had been filed by the Centre for Legal Action on Human Rights and the Association for Justice and Reconciliation.

144. The judge presiding over the parallel proceedings against José Efraín Ríos Montt (the Dos Erres massacre) found him unfit to stand trial, given his medical condition and diminished mental faculties, and in November 2016 ordered that he be represented by his attorney. According to the National Institute of Forensic Sciences, the defendant's cognitive impairment was such that his thinking and judgment were impaired and were continuing to decline due to his age.

145. In connection with the Dos Erres massacre case, on 31 March 2017 the judge ruled that a special trial be held for Efraín Ríos Montt following his dementia diagnosis. A date is yet to be set for the public oral hearing, which will be subject to security measures including being held behind closed doors and with only the defence lawyers present.

Witness Protection Programme

146. As indicated in the previous report (CAT/C/GTM/Q/6), the Act on the Protection of Trial Participants and Persons involved in the Administration of Criminal Justice (Legislative Decree No. 70-96) remains in force and the Witness Protection Office of the Public Prosecution Service remains in operation.

147. Relevant actions in the area of witness protection include efforts to improve coordination between the Public Prosecution Service and the International Commission against Impunity in Guatemala in protecting witnesses who, during the investigation or the criminal proceedings stages of relevant cases, declare themselves to be victims or provide information about crimes allegedly committed by illegal groups or clandestine security organizations. To this end, the International Commission may make a direct request for such protection to be provided by the Witness Protection Office of the Public Prosecution Service.

148. In order to regulate the operation and functioning of the protection system run by the Public Prosecution Service, on 30 July 2013 the Manual of Rules and Procedures and the Manual on the Organization of the Witness Protection Office were approved by Decrees No. 95-2013 and No. 96-2013 respectively.

149. The introduction of these manuals established formal procedures for the provision of protection. Previously, although certain actions would be taken, the procedures had not been set forth in any document. In addition, the manuals contain a framework for the regulation of incidental and unforeseen expenses, meaning that the care provided to protected persons will be more effective.

Commission on the search for victims of enforced disappearance during the internal armed conflict

150. As indicated in the combined fifth and sixth periodic reports of Guatemala (CAT/C/GTM/Q/6), submitted on 9 January 2012, no progress has been made in establishing a national commission on the search for victims of enforced disappearance during the internal armed conflict.

Federico Mora National Mental Health Hospital

151. As of May 2016, Federico Mora National Mental Health Hospital had 343 residential patients, a number that remained unchanged from 2015. The hospital can accommodate 350 patients.²⁴ It has 565 employees, including psychiatrists, physicians, junior doctors, psychologists, pharmacists, dentists, professional nurses, nursing assistants, social workers and administrative personnel (operations and management).

152. The hospital provides psychiatric, dental, social, rehabilitation and day-care services. A rehabilitation committee, made up of representatives of a number of disciplines, works to facilitate the social rehabilitation of patients.

153. Breakfast, lunch and dinner are provided daily, along with morning and evening snacks. With the exception of bread and tortillas, the food is prepared in the hospital. For

²⁴ Report of the National Council for Persons with Disabilities. Ref. DG.910-06-2016. P. 4.

security reasons, patients do not have bedding. Rather than wearing uniforms, they are provided with clothing that is donated to the hospital. Surveillance cameras are placed in strategic locations. The hospital has its own 30-strong security team.

Measures taken to guarantee the rights and integrity of patients at Federico Mora National Mental Health Hospital

154. The following measures have been taken to guarantee the rights and integrity of patients at Federico Mora National Mental Health Hospital:

(a) Patients who are in conflict with the law are kept in separate quarters and guarded by National Civil Police officers. The General Directorate of the Prison System, the Ministry of Public Health and Welfare and the Social Development Fund worked together to hand over Units IV and V in the hospital for this purpose.

(b) Around 30 elderly psychiatric patients have been transferred to Zacapa to prevent them from suffering violence and abuse.

(c) A rehabilitation programme has been established, including physical and occupational therapy.

(d) A commission has been set up to create a programme for patients with psychosocial disabilities. The commission is made up of hospital staff, members of the Presidential Human Rights Commission, the Judiciary, the Counsel General's Office, the Social Welfare Secretariat of the Office of the First Lady and the Social Welfare Secretariat of the Office of the President.

(e) Financial penalties have been established for personnel who are negligent in the discharge of their duties, especially in treating and caring for patients.

(f) The General Directorate of the Prison System and the National Civil Police drew up a consolidated list of persons deprived of their liberty who have psychosocial disabilities so that they could be transferred to the custody of the General Directorate of the Prison System.

(g) A protocol for the admission, release and treatment of persons deprived of their liberty within the prison system who have psychosocial disabilities has been issued.

(h) A course on human rights and the treatment of persons with psychosocial disabilities has been offered by the School of Prison Studies, with the support of the Presidential Human Rights Commission, the Ministry of Public Health and Welfare and the Office of the Human Rights Advocate.

(i) In April 2016, male prisoners with psychosocial disabilities were transferred to Unit IV in Federico Mora Mental Health Hospital, under the custody of the General Directorate of the Prison System, with medical care provided by the hospital.

(j) The National Mental Health Hospital is coordinating with the Inspectorate of the Prison System and the National Civil Police to comply with due process regarding reports of abuse.

(k) In 2015, the National Registry Office began registering all inmates with the aim of issuing them with personal identification documents.

(l) In June 2016, training was provided for 50 guards assigned to persons with psychosocial disorders who are deprived of their liberty.

155. With regard to abuse and assaults against patients, complaints have been lodged with the Public Prosecution Service, requests have been made for the dismissal of personnel and administrative sanctions have been applied. For example:

1. On 22 September 2016, a criminal complaint was submitted to the Public Prosecution Service on behalf of "Francisco", a patient who indicated that a nurse named Cristian had attacked him, causing swelling to his left arm. In January 2017, an administrative hearing took place against a nurse who was on duty when two patients attempted to escape in the middle of the night of 17 January. The information received indicates that one of the patients left the hospital using keys taken from a locker; as an

administrative measure, two nurses who were on duty during that shift are no longer employed.

2. On 6 July 2016, an order was requested for the dismissal of a doctor after a medical audit on 24 May 2017 revealed misconduct in connection with an incident in which a patient who had fallen over was not treated properly and did not receive adequate follow-up care for the injuries she sustained.

3. On 4 January 2017, the deputy chief of the nursing department contacted the hospital's chief of staff to report that a supervisor had found that three nurses had failed to begin their rounds at the usual time. Having been told by the patients to come back later because "the nurses are asleep and won't wake up", the supervisor reported that the nurses "lacked any sense of responsibility, interest or care towards patients". She requested that the **relevant administrative disciplinary procedures** be instituted against them. There were also several reports of a lack of responsibility in fulfilling shift duties. In another case, it was reported that three nurses left before completing their shift during the night of 29 July and the early morning of 30 July 2016. They had reportedly not fulfilled their duty to check medicines and record admissions and had not provided assistance in bathing patients due to "neglect and a lack of responsibility". Changes were also reportedly made to shift rotas without following the relevant internal rules.

4. It was reported that a patient was assaulted by nurses. The version of events recorded by the doctors who assessed the patient indicates that the patient was "walking in the common area when one of the nurses on duty that afternoon, whom patients described as being tall with wavy brown hair, scolded him and then physically assaulted him, causing a nose bleed and bruising to his back, right arm and right ear". The human resources department also received reports that a nurse was neglecting his duties because he was looking at his mobile phone.

5. On 12 November 2015, the Ministry of Public Health received reports of an attack on "Leonel", a patient who was allegedly beaten by a member of the hospital administration department. A request was made for the staff member to be dismissed.

Article 14

Measures of redress and compensation for victims of torture or members of their families ordered by the Inter-American Court of Human Rights

156. The State of Guatemala, through the Presidential Human Rights Commission, has contributed to the implementation of measures of redress ordered by international bodies by providing follow-up on major international cases in the form of reports, hearings and the formulation of litigation and advocacy strategies for cases before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The table below shows the main achievements.

Table 11

Payments by virtue of State commitments in the field of human rights 2016

Case	Amount in dollars	Amount paid in quetzales
<i>Velásquez Paiz et al. v. Guatemala</i> , judgment of 19 November 2015	294 500.00	2 297 100
<i>Veliz Franco et al. v. Guatemala</i> , judgment of 19 May 2014	293 974.36	2 293 000
<i>Alma Libia Samayoa</i> , friendly settlement agreement of 2015	28 692.82	223 804
<i>Maldonado Ordoñez v. Guatemala</i> , judgment of 3 May 2016	90 000.00	702 000
<i>Chinchilla Sandoval et al. v. Guatemala</i> , judgment of 29 February 2016	61 993.36	465 905

Source: Finance Department and International Cases Oversight Department of the Presidential Human Rights Commission. 2016.

157. The State of Guatemala also wishes to report that judgments on the following cases have been published:

(a) **Río Negro Massacres v. Guatemala**. The official summary of the judgment was published, in Spanish, in the Official Gazette on 19 October 2016 and in a major national daily newspaper (Diario Prensa Libre) on 20 October 2016;

(b) **Gudiel Álvarez (Diario Militar) v. Guatemala**. The official summary of the judgment was published in the Official Gazette on 21 October 2016 and in a major national daily newspaper (Diario Prensa Libre) on 20 October 2016. This publication has also been available on the website of the Presidential Human Rights Commission as of June 2016;

(c) **Maldonado Ordóñez v. Guatemala**. The official summary of the judgment was published in the Official Gazette on 24 October 2016 and in a major national daily newspaper (Diario Prensa Libre) on 4 November 2016.

Table 12

**Fulfilment of obligations deriving from judgments
2016**

<i>Event</i>	<i>Case</i>	<i>Date</i>
Ninth Myrna Mack scholarship award ceremony	10.236 <i>Myrna Mack Chang v. Guatemala</i>	22 September 2016
Cambio de la Rosa de la Paz (Changing of the Rose of Peace) ceremony on the occasion of the commemoration of child victims of the internal armed conflict. Patio de la Paz of the National Palace of Culture	10.686 <i>Tú Tojín v. Guatemala</i>	25 August 2016
Launch of public policies for the protection of human rights defenders of the Presidential Human Rights Commission	<i>Human Rights Defender et al. v. Guatemala</i>	13 September 2016
Launch of public policies for the protection of human rights defenders	<i>Human Rights Defender et al. v. Guatemala</i>	13 September 2016

Source: International Cases Oversight Department of the Presidential Human Rights Commission. 2016.

Measures taken to afford redress to victims of human rights violations during the internal armed conflict

158. With regard to measures taken to afford redress to victims of torture and ill-treatment, the Government draws attention to the Sepur Zarco case involving 11 Maya Q'eqchi' women survivors of rape, sexual slavery and domestic slavery; the enforced disappearance of seven men, husbands of the survivors; and the murder of a mother and her two little girls.

159. High-Risk Trial Court A sentenced colonel Esteelmer Francisco Reyes Girón to 120 years' non-commutable imprisonment and military commissioner Heriberto Valdez Asig to 240 years' imprisonment for the commission of crimes against humanity, sexual violence, the sexual and domestic slavery of 11 Maya Q'eqchi' women, the murder of three women — a mother and her two daughters — and the enforced disappearance of seven men (husbands of the female survivors).

160. The judges found Heriberto Valdez Asig guilty of the crime of the enforced disappearance of Antonio Sub Coc, Manuel Cac, Santiago Cac Bá, Pedro Cac Bá, Abelardo Coc, Heriberto Choc and Juan Choc. Given that he participated in their violent arrest and these persons were never seen again, his conduct amounted to the crime of enforced

disappearance, punishable by 30 years' imprisonment for each enforced disappearance, totalling 210 years' non-commutable imprisonment.

161. Francisco Reyes Girón was found guilty of the murder of Dominga Coc and her two daughters Anita and Hermelinda Coc Set, punishable by 30 years' imprisonment for each murder, totalling 90 years' non-commutable imprisonment.

162. The Court found both Reyes Girón and Valdez Asig guilty of crimes against humanity committed against the life and physical integrity of the people of Sepur Zarco, in particular Rosa Tiul, Candelaria Maaz, María Bá Caal, Manuela Bá, Felisa Cuc, Vicenta Col Pop, Margarita Chub Choc, Cecilia Caal, Magdalena Pop, Carmen Xol Ical, Demesia Yat, Dominga Coc and her daughters Anita Set Coc and Hermelinda Coc. For these crimes, each defendant was sentenced to 30 years' non-commutable imprisonment.

163. On 2 March 2016, the application for appropriate remedy was unanimously declared admissible; the reparation measures agreed are designed to fulfil the right to education, health, recreation and access to basic services in the victims' communities and homes.

164. Following the reparation judgment in the Sepur Zarco case, inter-agency round tables were convened with the participation of government bodies, the Public Prosecution Service, the Counsel General's Office, the Land Trust Fund, and the Registry of Cadastral Information, among others. Several institutions have shown political will to comply with the court order. On 26 February 2017 a mobile health unit was established in Sepur Zarco, a first step on the way to providing transformative compensation.

Activities of the National Reparations Programme

165. In 2012, the National Reparations Programme started to gear the implementation of reparation measures towards a more comprehensive approach, giving priority to mending the social fabric affected by the internal armed conflict. Greater emphasis has since been placed on measures to address the psychosocial effect on individuals, their families and their community through psychosocial reparation and rehabilitation and to restore the victims' dignity.

166. This approach involves material restitution, in the form of investment in production, with a view to promoting participatory social processes that stimulate the creation of new institutional structures and help to build survivors' capacities and quality of life.

167. Investment in production projects involve the transfer of seed capital to groups, organizations and communities of peoples that suffered a host of human rights violations during the internal armed conflict. Such investment goes hand in hand with the implementation of psychosocial and rehabilitation measures, measures to restore the dignity of victims, and cultural reparation measures.

168. From 2012–2015, the National Reparations Programme spent a total of Q 260,100,067.51 on reparation measures for victims of the internal armed conflict. Most of the money was allocated to material restitution (Q 192,460,109.84). Financial compensation in the amount of Q 49,304,319.19 was also paid.

169. Before compensation is awarded by the State, legal requirements must be fulfilled (according to the type of compensation); the amounts disbursed are public funds subject to taxation and audit controls, and for this reason there must be no undue delays. For example, except in cases involving the building of homes, inter-agency agreements have been signed to facilitate the transfer of funds. The total budget allocated to the National Reparations Programme between 2012 and August 2015 was Q 468,223,730.00.

Article 15

Cases that have been dismissed by the courts owing to the use of evidence or testimony obtained through torture or ill-treatment

170. The State of Guatemala is unaware of any cases that have been dismissed by the courts due to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

Measures taken to ensure the safety and physical integrity of human rights defenders, journalists and trade unionists

171. In 2014, the Ministry of the Interior enacted the Protocol for the Implementation of Immediate and Preventive Security Measures for Human Rights Activists, concerning the practical application of risk assessments and arrangements relating to personal security, fixed-point security and perimeter security provided by the Protection of Persons and Security Division of the National Civil Police²⁵ and the implementation of protection measures for human rights activists, justice officials, trade unionists and journalists, without distinction based on gender.

172. Subsequently, the Ministry of the Interior, the Public Prosecution Service and the Presidential Human Rights Commission established an inter-agency cooperation framework accord (No. 04-2016), by virtue of which these institutions entered into an “agreement of wills” to identify their respective responsibilities for the targeted, specialized protection of human rights activists, justice officials, trade unionists and journalists.

173. The State of Guatemala is working to establish further mechanisms for the protection of human rights activists. According to the Presidential Human Rights Commission, some 65 human rights defenders are covered by precautionary measures granted by the Inter-American Commission on Human Rights and are afforded police protection.²⁶

174. Within the group of human rights activists, particular emphasis is placed on the protection of women human rights defenders, women justice advocates and environmentalists, women activists working in the area of democratic security, and female journalists.²⁷ This protection panorama reaffirms the State’s commitment to providing a favourable working environment for human rights activists, including freedom of

²⁵ Questionnaire on national protection mechanisms for human rights defenders. Guatemala 12 August 2016. Ref. P-17-2016/VHGM/MR/jm. The Protection of Persons and Security Division, in accordance with the Protocol for the Implementation of Immediate and Preventive Security Measures for Human Rights Activists, provides for the following security arrangements: **(1) personal Security**, which involves the accompaniment of the beneficiary by police escorts; **(2) security for premises or fixed-point security**, which involves the assignment of police officers to stay in the home, workplace or other premises specified by the beneficiary; and **(3) perimeter security**, which involves police patrols of the premises specified by the beneficiary during certain hours.

²⁶ According to information provided by the Presidential Human Rights Commission, the State of Guatemala provides protection to 65 human rights activists, 35 of whom are men and 30 of whom are women; they account for 45 per cent of persons granted protection by the State of Guatemala at the recommendation of the Inter-American Commission on Human Rights through the precautionary measures mechanism. Seven per cent of persons placed under State protection are journalists (3 per cent men and 4 per cent women). The State wishes to clarify that the 65 human rights activists under police protection are under personal precautionary measures; the measures do not extend to all the workers of each organization, association of journalists or trade union of which they are a member, since these organizations benefit from perimeter security measures implemented through local police stations.

²⁷ According to the database of the department of protection mechanisms for human rights activists and justice officials and judges, journalists and social communicators of the Presidential Human Rights Commission, 10 journalists are currently under police protection.

association and political affiliation, irrespective of their ideology, ethnicity, sexual identity, religion, profession, trade or other individual and/or unique personal circumstances.

175. Currently, there are 36 precautionary measures in force in Guatemala and 50 at the petition stage before the Inter-American Commission on Human Rights. Of these 36 precautionary measures, 80 per cent involve police protection. Of the 50 petitions, 52.8 per cent involve police protection; for the remainder, a risk assessment was conducted which determined that the alleged risk had been overcome and police protection was not warranted. Four precautionary measures have been granted for journalists, and arrangements have been made to place three of them under police protection.

176. The State of Guatemala also provides protection to 90 persons through national mechanisms. It continues to adopt domestic measures, in line with the views of the Inter-American Commission on Human Rights regarding the urgency and seriousness of a given situation, in order to avert irreparable damage. From the State's point of view, these actions constitute good institutional practice, recognizing the role of human rights activists within the democratic system of the country and obviating the need for them to file a request for precautionary measures before the Inter-American Commission on Human Rights.

177. A human rights defenders policy is currently being developed with the Presidential Human Rights Commission as the coordinating body and the support of all three branches of Government. In this framework, efforts are being coordinated with civil society organizations in order to address the problems faced by human rights activists through various dialogue and citizen participation mechanisms.

178. The process of preparing this policy began on 13 September 2016, with workshops on the formulation of a public policy for the protection of human rights activists. In addition, an international seminar on the protection of human rights activists through international and regional standards was organized for representatives of civil society and government institutions working in this field, with the aim of broadening the knowledge base for future regional and national consultations.

Complaints of acts of violence and intimidation against human rights defenders, journalists and trade unionists

179. In the period 2013–2016, 2,027 complaints were reported to the Public Prosecution Service. The offences referred to most frequently were coercion and threats. In 2016, the Public Prosecution Service received 129 reports of acts committed against human rights activists, 52 per cent of which referred to threats. In the same year, there was one homicide case and one murder case. By March 2017, the institution had received 31 complaints, 52 per cent of which referred to coercion and threats. In the case of trade unionists, the Public Prosecution Service received 145 complaints in 2016, most of them involving coercion and threats, and 26 complaints in 2017.

180. In 2016, the Public Prosecution Services received 101 complaints of acts against journalists. The most serious charges related to the death of six journalists (three murders and three homicides). As in the cases involving human rights activists, the majority of the complaints (63 per cent) referred to coercion and threats. The cases are being investigated by the Office of the Prosecutor for Human Rights of the Public Prosecution Service. The Office comprises seven prosecution units and one analysis unit; the latter is made up of 86 staff, 14 prosecutors and 45 assistant prosecutors. The table below contains a summary of the complaints received by the Public Prosecution Service.

Table 13
**Consolidated figures for complaints lodged with the Public Prosecution Service
2013–2017**

<i>Sector</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>Total</i>
Activists	94	73	104	129	400
Journalists	72	71	129	101	373
Trade unionists	100	107	111	145	463

<i>Sector</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>Total</i>
Justice officials	222	194	203	172	791

Source: Table drawn up by the Presidential Human Rights Commission on the basis of Public Prosecution Service data. May 2017.

Unit for the Analysis of Attacks against Human Rights Defenders

181. The Government of Guatemala has various protection mechanisms for human rights defenders, journalists, trade unionists and justice officials, including the Unit for the Analysis of Attacks on Human Rights Defenders in Guatemala,²⁸ whose role is to conduct analyses of attacks on human rights defenders and to make recommendations for the formulation of guidelines for government crime policy and the prevention and protection of human rights defenders. In practice, cases involving journalists, trade unionists and justice officials are also taken into consideration.

182. In order to enhance the effectiveness of the Unit, the Ministry of the Interior has recently drafted a government order which provides for a restructure of this institution to create two working groups, one technical and one analytical, that will meet separately and, in addition, convene plenary meetings in which all non-governmental organizations and government institutions participate.

183. The proposed government order has already undergone the requisite examinations and the resultant observations have been submitted to the Ministry of the Interior's legal advisory team so that the additions and amendments necessary for the order's prompt adoption can be made and the continuity of the Unit for the Analysis of Attacks on Human Rights Defenders thus ensured. The Unit is currently attached to the Office of the Deputy Minister for Security. The Government has also issued a specific protocol to guide the actions of the Ministry of the Interior when dealing with attacks against human rights defenders.

Specific measures to prevent homophobic and transphobic violence

184. The Government, through the Presidential Human Rights Commission, is currently engaged in the formulation of a comprehensive public policy to vindicate the human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. These efforts receive support from the Pan American Health Organization. Training sessions have been held for public officials with the participation of the Office for the Defence of Sexual Diversity within the Office of the Human Rights Advocate and representatives of civil society organizations. The process is also supported by the Planning and Programming Secretariat of the Office of the President.

185. In 2015, the Ministry of the Interior, through the training unit of the Public Prosecution Service, launched a training programme for different prosecution service branches throughout the country entitled "Awareness-raising and training for appropriate management of cases of violence and hate crimes based on sexual orientation and gender identity"; 12 courses were held and a total of 268 persons were trained. Participants learned, for example, about international instruments relevant for the LGBTI community, including the Yogyakarta Principles.

186. In addition, on 14 May 2015 the Ministry of the Interior, through the National Civil Police, conducted a training course on human rights and the LGBTI population for high-ranking officers of the National Civil Police, covering issues of prevention, education and individual rights relating to sexual diversity. In April 2016, a training course on awareness-raising and the treatment of LGBTI persons was held for officers of the National Civil Police delegated to the human rights units of public institutions and assistant prosecutors of the Ministry of the Interior's Office of the Human Rights Advocate.

²⁸ The Unit for the Analysis of Attacks against Human Rights Defenders was established by Ministerial Order No. 103 2008, amended by Ministerial Order No. 9-2012, which remained in force until 2016. Subsequently, work continued with the support of the inter-agency agreement.

187. Since 2012, the Public Criminal Defence Institute has been conducting visits to members of the LGBTI community in prisons in order to gain insight into their conditions and to issue recommendations; none of the alleged victims filed a complaint. The Coordination Office for a Gender Approach and Human Rights keeps a database on the sexual diversity of prisoners.

188. In November 2016, the Ministry of Public Health and Welfare launched an initiative known as the Comprehensive and Differentiated Health Strategy for Transgender Persons in Guatemala, 2016–2030, with a view to providing comprehensive and differentiated care for transgender persons. The strategy focusses on the following areas: (a) health promotion and disease prevention; (b) comprehensive health care; (c) institutional capacity-building; (d) monitoring and evaluation.

189. In the period 2010–2015, the Public Prosecution Service received a total of 11 complaints of violence against members of the LGBTI community. The Office of the Human Rights Advocate has an office for the defence of sexual diversity whose functions include referring, advising and following up on complaints of human rights violations against the different sexually diverse communities.

Status of lynchings

190. In April 2005,²⁹ the National Commission to Support the Judiciary's Programme for the Prevention of Lynching was established. Between 2007 and 2013, the following institutions, at their own request, became part of the Commission: the National Literacy Committee, the Coordinating Body for the Modernization of the Judiciary, the National Coordinating Body for Disaster Reduction (2007), the Office of the United Nations Commissioner for Human Rights in Guatemala (as an observer, 2008) and the Office for Human Rights of the Archbishop of Guatemala.

191. Since June 2015, the American Friends Service Committee has also been lending its support, by attending both regular meetings (once a month) and special meetings (when needed) of the Centro Civitas and the Human Rights Defenders Protection Unit of Guatemala. Among the activities logged by the National Commission for the Prevention of Lynching, the following are particularly noteworthy:

- (a) National Civil Police protocol to prevent mob violence and lynching;
- (b) 50 awareness-raising and training workshops held for judges, community leaders and judicial facilitators in departments most prone to social discord (Sololá, Alta Verapaz, Huehuetenango, Quiché, Totonicapán);
- (c) Learning materials for prevention campaigns designed, drafted, printed and distributed;
- (d) Monthly meetings of the National Commission for the Prevention of Lynching, convened by the judiciary.

II. Other issues

Death penalty and ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

192. In 2012, the Supreme Court of Justice overturned the death penalty for 53 convicted persons. The prisoners, most of whom had been found guilty of kidnapping, murder and rape, were then sentenced to 50 years' imprisonment. On 14 January 2011, the executive branch submitted a bill proposing amendments to decrees No. 17-73, 51-92 and 48-98, and

²⁹ In April 2004, the following institutions signed an inter-agency agreement establishing the National Commission to Support the Judiciary's Programme for the Prevention of Lynchings: the Judiciary, Ministry of the Interior, Public Criminal Defence Institute, Ministry of Education, Office of the Human Rights Advocate, Presidential Human Rights Commission, Peace Secretariat, Guatemalan Tourism Institute, Institute for Comparative Studies in Criminal Sciences of Guatemala, Office for the Defence of Indigenous Women's Rights.

the replacement of the term “*pena de muerte*” (death penalty) by the term “*prisión de alto impacto*” (high-impact imprisonment). This was done in compliance with obligations deriving from international human rights instruments. With regard to the ratification of the Second Protocol to the Convention, the information provided in the written replies to the list of issues sent to the Committee in 2011 for its 100th session has not changed.

Measures taken to respond to the threat of terrorist acts

193. The measures taken by the State of Guatemala in connection with terrorism of any form³⁰ are of a preventive nature, aimed at averting such acts. The Government of Guatemala has adopted legislative measures to this end, taking into consideration the fact that, without financing, acts of violent extremism, deemed terrorism, that profoundly violate the enjoyment of fundamental rights could not take place. By ratifying international instruments, Guatemala has lived up to its commitment to establish a state of respect for human rights, safeguarding human life and maintaining peace in the national territory as in all other nations.

194. Progress with regard to legislation includes amendments to the Criminal Code (Congressional Decrees Nos. 17-73). Chapter III sets forth provisions pertaining to threats to the internal security of the State,³¹ establishing a term of 1 to 5 years’ imprisonment and a fine of Q 3,000 for persons who propagate or promote, through written or any other means, doctrines pursuing the violent destruction of the sociopolitical and legal order of the State and also for persons who aid or help to finance the organization, planning or implementation of activities prohibited in the aforementioned articles.

195. The Code likewise establishes penalties for persons who perpetrate acts intended to sabotage, destroy, paralyze or disrupt businesses that contribute to the country’s economic development and thus to damage national production or services of public utility, as well as for persons who maintain relationships with foreign persons or associations for the purpose of obtaining instructions or assistance of any nature and perpetrating acts punishable by law.

196. Articles 392 and 393 establish provisions pertaining to intimidation of the public, stipulating that any person who detonates any device or explosive material or threatens to cause a public catastrophe with the aim of instilling fear, fomenting alarm or fuelling chaos or disorder, shall be punished with a term of between 6 months to 2 years’ imprisonment. Intimidation of the public is deemed aggravated if committed during mass gatherings and likely to cause fire, destruction or any other disaster or calamity, in which case the perpetrator shall be sentenced to a term of between 3 and 10 years’ imprisonment. Article 394 also establishes a term of between 1 and 4 years’ imprisonment for any person who instigates the commission of such an offence.

197. Chapter V establishes provisions pertaining to offences that disrupt social harmony. Articles 398 to 402 thereof set forth penalties of between 2 and 10 years’ imprisonment for organizations that contribute to or run non-State armed groups and for persons who are members of such armed groups.

198. Chapter V of the Criminal Code also sets forth penalties and fines for the possession, carrying and stockpiling of firearms, weapons of war and ammunition and accessories that may only be used by the national armed forces.

199. The Act on the prevention and suppression of the financing of terrorism, (Congressional Decree No. 58-2009) marks another important advance. Article 2 thereof modifies article 391 of the Criminal Code, establishing that an act of terrorism is committed by any person who, for the purpose of undermining the constitutional order, disrupting public order or coercing a legal entity under national or international public law, perpetrates acts of violence or imperils human life or physical integrity, property or infrastructure, or by any person who, for the same purpose, commits acts intended to cause fires, havoc or rail, maritime, river or air disasters.

³⁰ “of a political, philosophical, ideological, racial, ethnic, religious or of any other nature”, report of the Inter-American Commission on Human Rights.

³¹ Article 390.

200. Any person who commits the aforementioned acts shall be sentenced to a term of between 10 and 30 years' non-commutable imprisonment and a fine of between \$25,000 and \$800,000, or the equivalent in domestic currency. Aggravating circumstances shall apply if explosives with large-scale destructive power are used to commit the crime, in which case the penalty shall be doubled.

201. **International instruments.** In the framework of regional efforts, Guatemala has ratified the convention to prevent and punish the acts of terrorism taking the form of crimes against persons and related extortion that are of international significance, signed on 19 February 1980.³² In addition, Congressional Decree No. 57-2005 endorses the Inter-American Convention against Terrorism, adopted in Bridgetown, Barbados, on 3 June 2002 and signed by Guatemala the same day. The United Nations International Convention for the Suppression of the Financing of Terrorism, approved through Decree No. 71-2002, was ratified on 30 January 2002.

202. **Best practices of the State.** Given the special importance of fundamental human rights, and according due attention to terrorist acts and their prevention, the State of Guatemala, pursuant to resolution 31/30, recognizes the responsibility of the State to ensure that the enjoyment of fundamental human rights is not undermined, in conformity with the resolution regarding the obligation of States to protect against and prevent the commission of terrorist acts or conduct that might lead to such acts.

203. Among the recent measures taken to uphold the enjoyment of human rights, the Guatemalan National Civil Police and the International Criminal Police Organization (Interpol) have signed an agreement to strengthen border controls in order to curb crime rates and intensify security controls in border areas, using Interpol databases to verify information on goods and persons entering the country at the border.

General information on other measures and achievements relevant to the implementation of the Convention in the State party

204. Significant progress has been made in regard to the establishment of the budget unit of the national preventive mechanism. The Unit's objectives include: programming and implementation of the Office's monthly and quarterly budgets; quarterly budget reviews; concurrent implementation of material and financial goals; recording of budget amendments; and implementation of the Integrated Government Accounting System (SICOINDES) in order to improve accountability and transparency in public financial administration, in accordance with the laws and norms in force.

205. The process of electing and nominating rapporteurs of the National Office for the Prevention of Torture for the period 2017–2022 is under way, taking into account the recommendations made by the Committee against Torture and implementing the procedure set forth in articles 19 and 21 of the Act on the National Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

206. The Government wishes to underline the importance of the new prison system model, which drives efforts to improve prison security and prevent the entry of contraband items and substances and is further enhanced by the use of technology such as strategically placed modern video surveillance systems in various prisons and the implementation of new protocols. In addition, as part of security best practices designed to safeguard the fundamental rights of persons deprived of their liberty, K9 (canine) units coordinated by specialized prison officers also provide support.

³² Congressional Decree No. 73-79.