



**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**

**Comments by the Government of GUATEMALA* on the conclusions and
recommendations of the Committee against Torture (CAT/C/GTM/CO/4)**

[15 November 2007]

Introduction

1. Guatemala has carefully studied the series of recommendations made by the members of the Committee against Torture following their consideration of the fourth periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and in particular the recommendations contained in paragraphs 12, 15, 16 and 17 concerning threats to human rights defenders, impunity regarding human rights violations committed during the internal armed conflict, “social cleansing”, violent killings of women and children, lynchings and cases of sexual violence against women in police stations, in relation to which the Committee has requested a special report.

2. Guatemala shares the Committee’s profound concern regarding the above-mentioned issues, which form part of the complex set of problems facing the country, and which have been the object of a major effort by the present Government, in the shape of a number of activities that are described in this report.

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

Present national context

3. The country's current problems have structural roots which became complicated during the 36 years of internal armed conflict and have become exacerbated in recent years, not only because of the substantial growth in the population, but also owing to phenomena which affect many countries throughout the world, and especially countries in the region, such as the accentuation of poverty, the lack of jobs, legal and irregular migration, the rise in ordinary violence and transnational organized violence and drug trafficking, which have had a major impact in Guatemala.

4. In order to address these problems, and particularly the most urgent of them, the present Government has had to focus its efforts on aspects producing a major national impact, such as the eradication of poverty, strengthening of the system of justice and strengthening, cleaning up and professionalizing the security services, all with the aim of tackling impunity and investigating human rights violations.

5. It should be pointed out that making changes in these aspects of the country's problems has not been easy. However, despite the obstacles encountered, a number of results have been achieved, which the Government acknowledges are still insufficient in tackling the complex situation. Nevertheless, these actions have opened up opportunities and are clearing the way for the changes which are needed.

Actions taken by the Government

6. In the social and economic field, various steps have been taken which have been harmonized with the Millennium objectives and goals. Notable among them is the economic and social recovery programme known as "Vamos Guatemala", the "Guate Solidaria Rural" Poverty Reduction Strategy which is the principal policy mechanism for poverty reduction. In addition a food and nutrition security policy has been implemented, and measures have been taken in the areas of education and health directed towards the vulnerable sectors.

7. Data provided by the Planning and Programming Secretariat in the office of the President show a fall in extreme poverty from 21.5 per cent in 2002 to 15.2 per cent in 2006, while the level of illiteracy fell from 29.32 per cent in 2002 to 23.97 per cent in 2006. There has been a downward trend in malnutrition, from 22.7 per cent in 2002 to around 20 per cent, though the target for 2015 is 17 per cent.

8. Bearing in mind that proper implementation of activities requires increased investment in social sectors, the present Government, by using a poverty map, has succeeded in channelling higher social spending towards areas experiencing greater poverty or extreme poverty, with a rise from Q561.2 million on 2002 to Q987.7 million in 2006. Despite these examples, it is recognized that still greater efforts are needed to secure better results in the future.

9. Analysis of the situation and dialogue with the various social and political sectors have highlighted the need for change in the national security and justice system, as a basis for preventing human rights violations from being committed and those responsible from enjoying impunity.

10. The most important efforts made included the following.
11. A document entitled “Plan Visión de País” contains a political commitment entered into by all the party organizations represented in the Congress and the Government, highlighting the need to mould a national system of democratic security and justice.
12. The purpose of this national system is to enable the State to discharge its constitutional obligation to guarantee the promotion of common welfare, the strengthening of the rule of law and the reinforcement of democratic security.
13. The plan includes a draft framework law on the national system of security and justice, which seeks to assure consistency in the implementation of security policies through appropriate coordination among all the agencies and bodies which have responsibilities in the area of State security. It also includes a package of laws related to the security system, which we shall describe below together with other laws:
 - (a) Prison System Regime Act;
 - (b) National Forensic Science Institute Act;
 - (c) Organized Crime Act;
 - (d) Framework Act on Security;
 - (e) Arms and Ammunition Act;
 - (f) Private Security Enterprises Act;
 - (g) National Defence Act.
14. The present status of these initiatives is as follows.
15. The Prison Regime Act, approved by decree No. 33-2006 of 7 September 2006. Its adoption constitutes a major step forward, since there was no appropriate legal framework governing this area, and also because this new Act was drafted on the basis of international rules and principles relating to prisons and centres for handling persons deprived of liberty.
16. In its concluding observations addressed to Guatemala, the Committee against Torture has repeatedly recommended the adoption of a law to regulate the prison system. We are pleased that this measure fills a legal vacuum, thus complying with this important recommendation.
17. The regulations pursuant to the Act have already been drawn up, setting out the purposes of the prison system as well as a list of prisoners’ rights and obligations.
18. An innovative aspect of the Act relates to the establishment of the Prison Studies School and the creation of a career structure for prison officers.
19. The Act also sets up a National Commission for Comprehensive Health, Education and Labour as an advisory and consultative body for the Director-General of the prison system,

whose role is to draw up policies to offer prisoners studies at various levels and skill development, promoting the provision of education and sources of work through prison and post-prison programmes so as to assist in their integration into society.

20. On 14 September 2006, the National Forensic Science (Organization) Act was approved by decree No. 32-2006, establishing the National Forensic Science Institute as an institution to assist in the administration of justice, with functional autonomy, legal personality and its own assets. A total of 40 million quetzals has been allocated for its operation, and the Director of the Institute has been appointed. Currently, the Governing Board is organizing the recruitment of professional technical and administrative personnel to work in the institution, which it is hoped will officially begin its activities in January 2008.

21. With the inauguration of the Institute, the objectivity and impartiality of expert appraisals will be enhanced, a matter of fundamental importance in the pursuit of criminal proceedings in relation to offences connected with violations of human rights.

22. The Organized Crime Act was approved by the Congress by decree No. 21-2006 of 19 July 2006, and two sets of regulations pursuant to the Act have been drafted. The purpose of this Act is to define criminal activity attributable to members of or participants in criminal organizations, and to establish and regulate special methods of investigation and criminal prosecution, such as covert operations, controlled delivery, interception of telephone calls and other means of communication, as well as any measures designed to prevent, combat, dismantle and eradicate organized crime in accordance with the provisions of the Constitution, international treaties which have been signed and ratified by Guatemala and ordinary laws.

23. The Framework Act on Security has been debated twice in plenary sessions of the Congress, and is currently awaiting a third reading and adoption.

24. The other laws are awaiting review and discussion in the Congress, with a view to adoption. Since that this is an election year, we consider that they will remain pending until next year and be taken up in the next legislature.

25. The Advisory Council on Security (established in 2004 as an advisory body to the executive under Government order No. 115-2004) has suggested the creation of a “national security system” covering the following strategic areas and the following actions:

Formalization of the National Security Commission and establishment of the technical secretariat of the National Security Council, with the aim of preparing the ground for the creation of a national civil intelligence service and planning the transition from the present Government to the new authorities

26. The necessary steps have been taken to set up the supporting body for public security, and the Advisory Council on Security is currently engaged in defining its nature, objectives and composition.

27. The Department of Civil Intelligence has been in existence since November 2005. However, for budgetary reasons it began its activities in March 2007 with an allocation of Q10 million. One of the first tasks assigned to it was that of processing data and evaluating the

general elections that took place in September this year, the second round of which will be held next November. This work was carried out in coordination with the Public Prosecutor's Office, the Strategic Analysis Secretariat, the national civil police and the Office of the Human Rights Ombudsman.

Cleaning up, restructuring and strengthening the national civil police

28. To carry out this process, a professional team has been formed with support and qualified back-up from the Advisory Council on Security and civil society. The initial actions included the official clean-up in August 2007, terminating the contractual status of 932 members of the national civil police in various grades, 80 per cent of whom were in a special situation, that is to say on non-active service, which entailed a waste of funds for the institution and serious repercussions for the country, since they were not providing a public security service to the population. It should be emphasized that the clean-up process is very wide-ranging, designed not only to dismiss personnel who have committed serious misconduct or offences in the exercise of their functions, but also to remove all those members of the institution who are not contributing to its smooth operation.

29. Currently, since one of the main obstacles to an effective clean-up has been the process involving the retirement of police personnel, an initiative has been devised to submit to the Congress amendments to the Police Act designed to strengthen such structural elements of the police force as internal checks and the police career structure.

30. As a contribution to institution-building, an administrative career structure has been established in the national civil police, with the creation of 506 administrative posts to which recruitment is open to the public. The aim is to make the best use of human resources, in the sense that personnel who have been engaged and trained to assure public security should not be assigned to perform administrative functions [...] do so efficiently. The number of staff who are currently training to work as policemen has also increased, and currently 2,000 men and women are preparing to take up these duties.

31. Other institution-building activities include the announcement in September 2007 of courses to prepare for promotion to the ranks of Subcommissioner, Commissioner and Commissioner-General of the national civil police, with the aim of completing the manning table.

32. Efforts have begun to strengthen checks on the national civil police, by carrying out routine inspections in all the police stations, which encompass operations, logistics and personnel, as well as ad hoc and special inspections.

33. Work has begun on the creation of an electronic database, in order to update information on national civil police personnel.

34. A total of 140 radio patrol cars have been acquired and funds have been allocated for the construction of new police stations in the municipalities of Villa Nueva and Antigua Guatemala.

35. As for the machinery for monitoring and supervision of the police, efforts are being made to strengthen the disciplinary tribunals as well as to define the criteria for selecting personnel for units engaged in combating organized crime and conducting internal investigations in order to identify corrupt individuals and dismiss them from the national civil police. Where necessary, cases will be transferred to the Office of the Public Prosecutor.

Establishment and start-up of the International Commission against Impunity in Guatemala

36. In December 2006 Guatemala and the United Nations signed an agreement for the establishment of an International Commission against Impunity in Guatemala. After a complex process to secure approval for this agreement by the Congress, which lasted almost a year, approval was finally granted on 1 August 2007 by means of legislative decree No. 35-2007. As the decree indicates, the decision was based on the fact that currently illegal security forces and clandestine security organizations seriously infringe human rights through criminal acts, leading to impunity in Guatemalan society. Hence the need for an international human rights agreement designed to boost the capacity of the State to meet its obligations more effectively.

The Office of the Public Prosecutor has also taken various important actions which are described below

37. Four more investigators were assigned to the Office of the Human Rights Prosecutor in the Public Prosecutor's Office with the specific task of investigating threats against human rights activists. They are to present periodic reports on progress in each case.

38. On 1 November 2007, the unit to combat trafficking in persons was re-established in the office of the prosecutor handling organized crime in the Public Prosecutor's Office, and assigned a chief of unit, two prosecutors and two prosecutors' offices. The main tasks of the unit include investigation of cases of illegal adoption and sexual and commercial exploitation of minors.

39. A computerized case management system was introduced in the Office of the Public Prosecutor, as a useful tool for keeping count of cases, since it will record each and every action taken and serve as a means of continuously monitoring progress made in the cases.

40. A criminal prosecution policy was approved which contains a conceptual and philosophical framework to guide the Office in adopting a new approach to its tasks, in which the principle of efficiency and respect for the victim occupies pride of place.

41. This policy has been complemented by a criminal prosecution policy plan, which defines the main foundations for the criminal prosecution activities pursued by the various parts of the Office.

42. Regulations were approved governing a special method of investigation of intercepted telephone calls and other means of communication.

43. Some steps have been taken to strengthen technical and logistical resources for "scene of the crime" activities. Experts have been recruited and trained to participate in these activities at the national level, and they have been provided with equipment and vehicles, essential tools for the proper performance of their functions. Now that these limitations have been overcome,

favourable results are expected in the short term. The pace of investigations has also improved thanks to the use of scientific evidence to back up testimony from witnesses, enabling the Public Prosecutor's Office to strengthen its cases, maintaining the chain of custody as the foundation of the investigation.

44. The Public Prosecutor's Office now has offices in most of the country's departments, and this has been achieved by the opening of municipal and sectional prosecutors' offices, with the aim of maximizing the coverage of the prosecutorial function and ensuring that these offices pursue their activities in a specific manner. This is the case for the Office of the Human Rights Prosecutor, whose aim is to coordinate and handle offences committed against members of the various groups of persons who jointly advocate, defend and promote human rights and the rights of journalists, trade unionists and personnel of the justice system, as well as those invoked by non-governmental organizations which demand justice for their members or others whose rights have been breached.

ACTION TAKEN BY THE GOVERNMENT IN RELATION TO THE ISSUES OF CONCERN TO THE COMMITTEE

Recommendation 12

The Committee is concerned about reports of an increase in acts of harassment and persecution, including threats, killings and other human rights violations, experienced by human rights defenders, and about the fact that such acts remain unpunished (art. 2).

45. The State party should adopt effective measures to strengthen and guarantee the independence of the unit for the protection of human rights defenders within the Presidential Human Rights Commission, as well as to prevent and protect human rights defenders from any further violence. Furthermore, the State party should ensure the prompt, thorough and effective investigation and appropriate punishment of such acts.

46. As the Committee is aware, the present Government has delegated responsibility for coordinating further action on this issue to the Presidential Human Rights Commission, which is considered to be a suitable body for ensuring coordination with other offices such as the Ministry of the Interior and the national civil police, particularly so that the State properly furnishes the measures of protection which are required of it.

47. Over a period of nearly four years of experience in the adoption, coordination, monitoring and evaluation of the special mechanisms for protection, the Coordinating Unit for Protection, in coordination with the Ministry of the Interior, has taken protection measures in respect of more than 700 persons. Since 1990, 93 measures of protection and 10 interim measures have been arranged.

48. From 2004 to 2007, Guatemala has received 54 urgent appeals. In response, it has organized protection arrangements for 371 persons - 89 women and 282 men.

49. In order for protection to be effective, it has been necessary for the national civil police to take steps such as the establishment of an office known as the Division of Protection for Public Figures to take on the task of providing personal security to human rights defenders, as well as

the establishment of the Division of Protection and Security, which handles perimeter and fixed-point security for buildings and offices as well as organizations and institutions which work for the protection of human rights. The needs which have arisen in relation to the measures requested have not only made it necessary for the authorities to have the infrastructure and personnel required to discharge this obligation to guarantee the life and physical and moral integrity of the persons under threat; it has also been necessary to devise specialized training for the personnel assigned to these tasks.

50. Despite the above, ongoing experience has shown the need for an appropriate legal framework as well as technical guidelines in keeping with international standards in this area. A diagnosis carried out by government agencies, the international community, organizations and civil society pinpointed very important aspects which serve as a point of departure for government actions. The specific points encountered include:

- (a) The fact that no comprehensive protection policy exists;
- (b) The shortcomings of the mechanisms and national programmes for protection;
- (c) The absence of risk and vulnerability studies;
- (d) Some shortcomings in service;
- (e) Distortion of the protection measures which are provided;
- (f) Improvization in the security arrangements;
- (g) Little or no investigation of the facts which motivated the special measures.

51. On the basis of this diagnosis, two important documents were drawn up:

- (a) A policy for the protection of human rights defenders and especially vulnerable groups;
- (b) A national plan of action for protection and list of protection measures.

52. The principal purpose of the policy is to strengthen the democratic rule of law through comprehensive articulated action by the various State sectors and civil society which will effectively tackle the problem of protection, guaranteeing a favourable environment for the work of human rights defenders, trade unionists, personnel and administrators in the justice system, persons involved in judicial proceedings, victims of crime, journalists and social communications.

53. The policy also lays down a guiding framework for the strengthening of the institutional capabilities of the State and civil society to achieve an increase in this regard [...] promotion, protection and guaranteeing of human rights, while ensuring that Guatemala guarantees effective realization of the measures of protection requested by the rapporteurs, special representatives and specialized machinery of the United Nations, as well as the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

54. In order that the policy should produce the desired results, there is a need for a national plan of action, which requires human, budgetary and logistical resources to guarantee the implementation of appropriate and effective measures of protection when the personal safety and life of these persons is at risk.

55. The National Plan of Action for Protection and List of Protective Measures is a compilation of the experience and development of the machinery for the prevention and protection of human rights which has been called for by civil-society organizations and adopted by Guatemala in pursuance of its treaty and non-treaty obligations in the field of human rights vis-à-vis the United Nations and the Organization of American States.

56. The purpose of the above-mentioned list is to implement objective No. 2 of the public policy for prevention and protection, which refers to:

“Developing mechanisms of prevention, improving and strengthening the mechanisms and programmes of protection for human rights defenders, persons involved in judicial proceedings, social communicators and other vulnerable groups who are threatened or at imminent risk of their lives, physical integrity, freedom, safety and other universal freedoms owing to causes related to violence, provoked by common crime, organized crime, illegal, clandestine and parallel security bodies.”

57. In conclusion, this plan seeks to pursue objectives and actions set out in the public policy to guarantee security and protection of the above-mentioned sectors which suffer and are subject to threats, intimidation, persecution and/or attacks against their lives and physical integrity as a result of their activities and the exercise of their rights.

58. Currently, the two documents are undergoing a consultation process with civil-society human rights organizations. For that purpose the assistance of the Office of the United Nations High Commissioner for Human Rights with its presence in Guatemala is available. Steps are also being taken to ensure that both the policy and the list are approved during the current year.

Recommendation 15

The Committee is concerned with the impunity that persists regarding most of the human rights violations committed during the internal armed conflict, with over 600 massacres documented by the Historical Clarification Commission still to be investigated. The Committee notes with concern that in practice the 1996 National Reconciliation Act has become an obstacle to the effective investigation of the 1982 case of the Dos Erres massacre, which is making no headway due to procedural delays without any legal justification (arts. 11, 12 and 14).

59. In this regard, Guatemala wishes to repeat to the Committee its commitment that article 8 of the National Reconciliation Act will be applied effectively, in the sense that this law does not relieve perpetrators of crimes against humanity such as genocide, torture or enforced disappearance from criminal responsibility.

60. The unit dealing with special cases and human rights violations in the office of the Human Rights Prosecutor is aware of the case referred to. The most recent steps taken in this case have been to revise the procedure so as to bring it back to the moment when the crime was committed. This was done with the aim of ensuring legal certainty. However, the parties involved may exercise their constitutional rights to invoke any legal mechanisms they consider appropriate.

61. The evolution of the administration of justice in Guatemala, through the process of modernization of the judicial system initiated some years ago, has gradually involved a change in approach with respect to judicial decisions. Clearly, one of the elements which have influenced this form of administering justice has been training in specific human rights issues and steadily growing knowledge of international human rights standards on the part of judges. In this context, there is a formal commitment by the judiciary and the State itself to pursue these processes of training thanks to which the administrators of justice carry out their work with increasing attachment to domestic and international human rights standards.

Recommendation 16

The Committee is seriously concerned about the numerous allegations concerning:

(a) The “social cleansing” and killings of children living in the street and in marginalized areas, which often involve acts of torture and ill-treatment, and the fact that such cases are not thoroughly investigated;

(b) The increase in violent killings of women, which often involve sexual violence, mutilations and torture. The fact that these acts are not investigated exacerbates the suffering of relatives seeking justice, who, in addition, complain of gender discrimination by the authorities in the course of investigatory and judicial proceedings; and

(c) The lynchings of individuals, which casts doubt on whether the rule of law is applied in the State party (arts. 2, 12, 13, 16).

62. In relation to violent killings of women, the Commission on Femicide established on 8 March 2006, and composed of officials from the three State bodies, following a series of studies and diagnoses carried out to determine or establish the main causes of violent killings of women in the country, drew up a “strategy to address femicide in Guatemala”.

63. The strategy is intended to strengthen inter-agency coordination, training and creation of awareness among personnel in the justice system, as well as the drafting of new laws and the amendment of some existing laws.

64. As the Committee is well aware, Guatemalan legislation currently does not specify the offence of femicide, and this is one of the major obstacles to prosecution of this appalling crime. Priority has been given to efforts to prepare a legislative initiative which will fill this gap in the law. However, the discussion on the subject led the Commission on Femicide to coordinate efforts with other bodies and sectors in civil society which are also promoting legal and other measures to benefit women. Consequently, the efforts were combined and have been channelled through the Assembly of Non-Governmental and Governmental Organizations to Promote

Proposals and Legal Reforms to Benefit Women. In this way, a draft Framework Act on Violence against Women (Initiative No. 3718) was submitted to the Human Rights Commission of the Congress in September this year.

65. This initiative is a comprehensive proposal which goes beyond the issue of femicide and is designed to elaborate on the content of the international conventions on human rights and the Constitution of Guatemala in order to guarantee to all women a life free of violence, without any discrimination based on membership of an ethno-cultural group, age, religion, language, sexual preference, economic status, nationality, different abilities, civil status, origin or any other circumstance.

66. The present framework law specifies a number of offences, including: violence against women; physical violence against women; sexual violence against women; psychological violence against women; economic violence against women; sexual harassment; institutional violence; civil and political violence; neglect of obligations; femicide; femicide by a friend or relative; femicide by a stranger; collateral femicide. The Act also includes measures for coordination, care measures and preventive measures vis-à-vis women.

67. It should be pointed out that prior to the above-mentioned initiative, a legislative initiative entitled “Femicide Act”, registered under No. 3503, was introduced in 2006 by a group of deputies for consideration by the Congress. It passed its first reading and is waiting to continue its progress through the Congress. The main purpose of this proposal is to adopt and elaborate on basic principles and legal rules of a preventive and punitive nature, in particular by imposing provisions in the area of criminal procedure and drastic punishments intended to eradicate physical, psychological, sexual, moral or property-related violence against women.

68. The proposal also includes rules of protection to guarantee a life free of violence for women, as well as the establishment of temporary shelters to accommodate women and protect them from offences committed against the female sex.

69. Also under consideration in the Congress is Initiative No. 3612, “Act for the Protection of the Human Right of Women to a Life Free of Violence”, which was introduced by a group of deputies. This initiative calls for the establishment of the “Technical Study Centre for the Development of Women and Gender Equity” as a forum attached to the Congress.

70. Among its tasks the Centre would have responsibility for gathering and analysing information on the human rights situation of women, and moving forward the legislative reforms necessary for the progressive elimination of the discrimination and inequality which affect women. It would also monitor and evaluate government policies and their impact on the exercise of women’s rights, including gender training programmes for personnel of the justice system.

71. Concerning the investigation of cases, the Unit to Combat Murders of Women was established in the civil national police in 2004 with the aim of devoting special attention to violent killings of women. During the present year 2007, this Unit has been strengthened, assigning to it more personnel and vehicles to assist in the process of investigation which is carried out in support of the Public Prosecutor’s Office. The work of this Unit has made it possible to identify the areas or places in which violent deaths are most prevalent, leading to the development of plans and strategies targeted on these places.

72. Among other actions, the Public Defender's office is to engage eight lawyers to bring cases of domestic violence and child abuse, as part of the European Union's programme for the strengthening of justice. The eight lawyers have been selected on the basis of their curricula vitae and their prosecuting skills. They will also receive special training from organizations working with women and for the protection of children's rights to enable them to bolster their cases. A sum of Q6 million has been allocated by the European Union to fund the cases.

73. The purpose of the programme is to provide legal support for the victims of violence, who in most cases have scant resources and require help.

74. Many of these cases are solved by removing them from the judicial process [...] that domestic violence is not an offence. However, in order to bring criminal proceedings, the [...] is categorized as assault.

75. Despite the difficulties encountered in securing the adoption of an adequate budget for the effective implementation of the Children and Young Persons (Comprehensive Protection) Act and the related plan of action for the period 2004-2015, an increase of 4.1 per cent was secured in 2007 compared with the budget allocated in 2005 and 2006.

76. In May this year, the National Council on Children and Young Persons, in coordination with the Social Movement for the Rights of Children, Adolescents and Young Persons in Guatemala, the office of the Human Rights Procurator and the Human Rights Office of the Archdiocese, held a seminar on "Comprehensive Protection of Children and Young Persons" in Guatemala, with the aim of evaluating the implementation of the Comprehensive Protection Act, the Government's comprehensive protection policy and the National Plan of Action for Children and Young Persons for the period 2004-2005 and promoting exchanges, dialogue and the search for consensus, links, commitments and proposals from civil society and the various State institutions. Of note was the participation of 163 young persons and children in the round tables where they expressed their concerns and views concerning the application of the above-mentioned Act.

77. On 23 October this year, UNICEF/Guatemala unveiled a "road map" tracing five principal paths to be followed by the country's young people, which are fully compatible with the commitments laid down in the Millennium Goals and the objectives defined in the National Plan of Action for Children and Young Persons for the period 2004-2015. These paths cover the start of life, early infancy, school years, adolescence and "restoration of the rights of children and young persons". According to UNICEF, this is a way of presenting suggested approaches and practical actions to respond to the challenges which seriously affect children in Guatemala, as well as an important contribution to effective management by the authorities at the national, departmental and municipal levels, and an aid for deputies in the Congress. The document was presented at the end of October 2007 to the two Presidential candidates, so that whoever was elected could use these documents as a guide to actions to be taken to promote comprehensive care for children.

78. The Committee against Torture has also expressed its concern at cases of lynching in the country. This is a multi-causal problem which has been particularly acute during the past decade. The Government, which shares the concern of the Committee, indicates below some of the

action taken to counteract this problem. At least 24 possible causes of such incidents have been detected, according to some analyses. Among the main causes are anxiety among the population as a result of the rise in common and organized crime, ignorance of the legal system, illiteracy and failure to punish criminals.

79. Taking into account the discoveries mentioned above, the judiciary has implemented the “National Programme against Lynching”. Under the slogan “For the right to life, not to lynching”, an educational process has been devised involving 12 State institutions in the holding of awareness workshops in places where a large number of recent cases have occurred, such as the municipality of Chimaltenango, very close to the capital.

80. One of the main areas in which training is provided for the population and local authorities is negotiation or conflict mediation, as an effective mechanism for preventing lynchings. These measures have helped to reduce the number of lynchings from 61 cases in 2005 to 22 in 2006, and it is hoped that this year the figure will be further reduced.

81. Another important related measure is the decentralization of judicial facilities, which, as indicated in the previous section, are being expanded and strengthened with support from international cooperation in places in which they were previously lacking. Circuit courts have also been introduced, giving the population access to the administration of justice in their own communities without having to travel to other places.

82. As mentioned earlier, in order to counteract the problem of social cleansing, the International Commission against Impunity has been set up. The United Nations has entrusted its leadership to the famous Spanish lawyer Carlos Castresana Fernández, who is already in Guatemala making all the contacts needed to begin his work. The authorities are providing all the necessary and appropriate facilities so that the Commission can begin its work as soon as possible.

83. Through the Commission, the Government is strengthening the rule of law in the country and will combat head-on illegal forces and clandestine organizations which undermine security and commit serious violations of human rights. The existence of this international body, which will be made up not only of local but also of international experts, will also help to strengthen those parts of the system of justice with which it will maintain close and coordinated working relations, particularly the Office of the Public Prosecutor and the national civil police.

84. As regards training and creation of awareness among the security forces and personnel of the justice system concerning social violence, we report:

85. The Office of the Public Prosecutor, the judiciary and the national civil police, through their offices dealing with academic institutions, have incorporated in their programmes training related to human rights, domestic violence, the gender focus, pluriculturality and multiculturalism so as to provide their personnel and those working for the justice system with the tools and theoretical knowledge that can be applied in the performance of their tasks.

86. In the particular case of the national civil police, it is the task of the General Inspectorate, through the Disciplinary Regime Section, to ensure that domestic and international standards as well as internal institutional provisions are applied and respected properly. This same Section is responsible for administrative penalties, and for transfers to the court authorities in cases in which a crime has been committed.

87. The beginning of October this year also saw the inauguration of the Training Programme on Human Rights of Women in the Institutions in the Judicial Sector, with support from the European Commission and the Programme of Support for Reform of Justice.

88. The purpose of the Programme is not only to train the personnel of the judicial sector, but also to build capacity in the institutions in the judicial sector and among its personnel for proper handling of women who use the system of justice in their capacity as victims, murderers or accused persons. The aim is to give full effect to the guarantee of fairness under the law for all women - regardless of their ethnic, class or age status - as laid down in national and international instruments for the protection of the human rights of women and in Guatemala's Criminal Code and Code of Criminal Procedure.

89. Transformation of the treatment of women in the institutions of the judicial sector requires changes in legal standards, structures and procedures, but most importantly in the practices of judicial personnel who are not aware of the need to be mindful of the unequal status of women in Guatemalan society when handling cases in which women are involved.

90. During the development of the training process the following modules were analysed: human rights and human rights of women; application of the gender analysis methodology to link it to knowledge of and respect for the human rights of women; legal provisions relating to the human rights of women at the international level; legal provisions relating to the human rights of women at the national level; violence against women and femicide in Guatemala; a problem of public security which violates fundamental human rights of women.

91. The Training Programme includes two levels, technical and professional. It enjoys academic backing from the Institute of Human Rights of the Faculty of Legal and Social Sciences of the University of San Carlos de Guatemala. It will be carried out nationwide in the following regional networks:

(a) Guatemala City: Institute of Human Rights of the Faculty of Legal and Social Sciences, University of San Carlos de Guatemala;

(b) Quetzaltenango: Occidente University Centre, University of San Carlos de Guatemala.

Recommendation 17

The Committee is concerned about reports of sexual violence against women in police stations (arts. 6 and 11).

92. The State party should take steps to ensure that all arrested women are brought immediately before a judge and then transferred to a detention centre for women, if so ordered by the judge.

93. In relation to the Committee's concern arising from a few cases in which abuses have been reported against women who are taken to police stations when they are detained, we wish to report that starting in March 2006, the judiciary initiated a pilot plan whereby a first rota court was established in the capital. The aim is that both women and men who are detained are no longer presented or taken to police stations but are brought directly to the rota court, which will decide on action to be taken.

94. This year (2007) two further rota courts were introduced, one in the municipality of Villa Nueva, which has been operating since March, while the most recent has been in operation since 27 July 2007 in the municipality of Mixco. Villa Nueva and Mixco are two of the municipalities in Guatemala department where there exists a high incidence of common crime, and which therefore record the highest percentages of arrests for various reasons. The judiciary continues to move forward along the path which will allow the opening of new rota courts in the future in other focal points in the country.

95. In October this year, as part of the process of improving access to criminal justice services and increasing their efficiency, the Executive Board of the Inter-American Development Bank approved a loan of \$30 million for Guatemala. This loan will be used to draw up an important plan which includes efforts to improve transparency and harmonize the systems of information exchange, processing and analysis among the institutions of the system of criminal justice, construction of regional offices for the Public Defender's office and remodelling of magistrates' courts, national civil police stations and prosecutors' offices. The ability of the institutions in the system of criminal justice to conduct scientific investigations will be improved, and training in forensic techniques, scene-of-the-crime analysis, verification of evidence and use of high-technology equipment will be financed, as well as the purchase of special equipment and instruments. This plan is in the hands of the office of the Executive Secretary of the Body for the Coordination of the Modernization of the System of Justice.

96. Finally, the legislative initiative whereby Guatemala will adopt the Optional Protocol to the Convention against Torture has passed its second reading in the Congress, and is currently scheduled for one of the parliamentary sessions in the first week of November 2007. It is hoped that it will pass its third reading at that session, or else during a later session in the course of this year.

Conclusion

97. Guatemala reiterates to the Committee its political resolve and interest in continuing to boost actions which will enable it to discharge its constitutional duty to fully guarantee the human rights of all Guatemalans. We also express appreciation once again for the concern displayed by the Committee and its important observations and recommendations, which constitute an important point of reference for the country's authorities in pinpointing the problem and identifying the measures which should be adopted to address it.
