



**International Covenant on
Civil and Political Rights**

Distr.: General
5 January 2017
English
Original: Spanish
Spanish, French and English only

Human Rights Committee

**Consideration of reports submitted by States
Parties under Article 40 of the Covenant pursuant
to the optional reporting procedure**

Fourth periodic report of States parties due in 2016

Guatemala^{*}, ^{}**

[Date received: 2 December 2016]

* The present document is being issued without formal editing.

** Annexes may be consulted in the files of the Secretariat. They are also available on the Committee's website.



I. Background

1. In compliance with article 40 of the International Covenant on Civil and Political Rights, the State of Guatemala submits herewith its fourth periodic report, following the simplified procedure based on the list of issues. This report, which covers the period 2010 to 2015, also includes pertinent information for 2016.

Constitutional and legal framework (arts. 1 and 2)

Advances in domestic legislation

2. As regards progress in the legal and institutional framework, the following measures were adopted between 2011 and 2015:

(a) Decree 5-2011, amending the Act on Services for Persons with Disabilities (Decree 135-96) so as to expand the definition of disability;

(b) Decree 3-2012, adopting the Rome Statute of the International Criminal Court;

(c) Decree 5-2012, amending the Alba-Keneth Alert System Act (Decree 28-2010) so as to reinforce the Office of the National System Coordinator, enable member institutions to designate a technical unit to carry out the duties established in the Act and create, within the Office of the Attorney-General, an operational unit for the Alba-Keneth Alert System;

(d) The Act on the Directorate-General of Criminal Investigation (Decree 15-2012), creating the Directorate-General of Criminal Investigation (DIGICRI) as a State agency specializing in criminal investigation to aid in the administration of justice throughout the Republic. It has the same standing as the State security units. In administrative terms, it works within the Ministry of the Interior; when conducting investigations, it reports to the prosecutors in the Public Prosecution Service;

(e) The Anti-Corruption Act (Decree 31-2012), amending the Criminal Code (Decree 17-73), the Organized Crime Act (Decree 21-2006) and the Forfeiture Act (Decree 55-2010);

(f) The Immediate Search for Disappeared Women Act (Decree 9-2016). This Act provides for implementation of a mechanism for activating an immediate search for disappeared women, so as to guarantee the life, liberty, safety, integrity and dignity of all women. Allocation of budgetary funds is pending;

(g) Decree 26-2016, amending the Elections and Political Parties Act (Decree 1-85), so as to guarantee the right to vote for Guatemalans abroad and establish better oversight of the financing of political organizations.

3. The following public policies or national plans have been adopted:

(a) National Development Policy (adopted in 2014);

(b) National Policy on Midwives among the Four People Groups of Guatemala: Maya, Garífuna, Xinka and Mestizo (Government Decision 102-2015);

(c) Policies on Culture, Sports and Recreation (Ministry of Culture and Sports Ministerial Decision 948-2015);

(d) National Jobs Policy, Generation of Safe, Decent and Quality Jobs 2012-2021 (adopted in 2012);

(e) Agrarian Policy (Government Decision 372-2014);

(f) Economic Policy 2016-2021 (adopted in 2016);

- (g) Public Policy on Comprehensive Early Childhood Development (Government Decision 405-2011);
- (h) Public Policy against Human Trafficking and on Comprehensive Protection of Victims 2014-2024 (Government Decision 306-2014);
- (i) Public Policy on Harmonious Relations and Elimination of Racism and Racial Discrimination (Government Decision 143-2014);
- (j) National Youth Policy 2012-2020 (Government Decision 173-2012);
- (k) National Policy on Prevention of Violence and Crime, Citizen Security and Harmonious Relations (Government Decision 281-2014);
- (l) National Policy on Prison Reform 2014-2024 (adopted in 2015).

Budget of the Office of the Human Rights Advocate

4. The Congress of the Republic is responsible for adopting the general budget of income and expenditures for each fiscal year,¹ as well as for allocating funds to the Office of the Human Rights Advocate, which was increased by 14 million quetzals between 2011 and 2016. It has remained at the same level since 2014 (see Appendix I).

Independence of the Office of the Human Rights Advocate

5. To ensure the proper performance of the Office of the Human Rights Advocate, Decree 54-86, Act on the Human Rights Commission of the Congress of the Republic and the Office of the Human Rights Advocate, provides, in articles 24 and 25, that all officials, authorities and institutions are required to provide prompt and effective information on their administrative measures or actions when it is deemed that, without their collaboration, such actions would be harmful to human rights, the Human Rights Advocate may invoke the Constitution and legislation to require such reporting.

Violence and discrimination based on sexual orientation or gender identity, against transgender women (arts. 2, 3, 6, 7, 17 and 26)

6. The following measures were adopted to raise awareness and protect lesbian, gay, bisexual, transgender and intersex (LGBTI) persons.

7. The Public Prosecution Service, working through its 24-hour records unit, receives complaints and acts to protect victims; it assesses the need for primary care, which may entail dealing with a crisis or evaluating the need for medical, psychological and/or legal assistance. The information reported by the victim is recorded, as well as general data and gender orientation. No in-depth questions are asked about the victim's personal situation. Appropriate protective measures are taken, based on the facts of the case. Victims are informed what their rights are, how they can exercise them and what services are provided by the Public Prosecution Service, including the procedures to be followed.

8. All windows at the 24-hour records unit display the slogan "*Yo no discrimino*" (I do not discriminate), so as to raise awareness among prosecutors who are involved in assisting vulnerable victims. Three windows are dedicated for special services to vulnerable persons (windows 2, 5 and 7), and two boxes, along with the relevant forms, are available for placing complaints.

9. The Victim Services Department of the Criminal Policy Secretariat of the Public Prosecution Service has implemented strategies for improving services to victims. In order

¹ Political Constitution of the Republic of Guatemala, arts. 171 (a) and (b).

to provide quality services and avoid discrimination, staff members' profiles and their level of tolerance for sexually diverse people have been identified.

10. General Instruction 04-2014, laying down the guidelines for applying **the Protocol for Comprehensive Services to Crime Victims**, is based on respect for the human rights of crime victims, especially those who are vulnerable. The guiding principles are respect for the dignity of victims, self-determination, equality and non-discrimination, bearing in mind that services must be tailored to the special needs and circumstances of the victim.

11. The Information System of the Public Prosecution Service includes the LGBTI category in the personal data it records when receiving complaints. It also includes the name used by the individual concerned in his or her social relations. The person's gender identity – male or female – must be included.

12. The Strategic Plan 2015-2019 of the Public Prosecution Service includes a general policy on victim services under which victims receive specialized assistance, depending on the type of victim and the crimes involved. Special attention is given to groups of persons with special needs, such as women victims of gender-related crimes, indigenous peoples, children and LGBTI persons.

13. In 2015, the Training Unit of the Public Prosecution Service began to raise awareness and train prosecutors throughout the country to properly handle cases of violence and hate crimes based on sexual orientation and gender identity. Twelve courses were offered to a total of 268 persons. The prosecutors received training on international instruments pertaining to the LGBTI community, including the Yogyakarta Principles.

14. On 14 May 2015, the Ministry of the Interior and the National Civil Police conducted training for high-ranking police officers on human rights and the LGBTI population. The training covered prevention, education and individual rights in the context of sexual diversity.

15. In April 2016, training on sensitivity and treatment of LGBTI persons was given to agents of the National Civil Police assigned to the human rights offices of different institutions and to assistant prosecutors in the Office of the Special Prosecutor for Human Rights of the Public Prosecution Service.

16. Since 2012, the Public Defenders Institute has conducted visits to the LGBTI population in prisons, in order to inspect the conditions in which they are held and to make recommendations. Based on a decision of the allegedly aggrieved parties, no complaints have been reported. The Office of the Coordinator for Gender Issues and Human Rights has a database of LGBTI persons deprived of their liberty.

17. In 2015, training workshops were held for public defenders and administrative staff to raise awareness and prevent discrimination based on sexual orientation or gender identity. Lectures on sexual diversity and human rights were also given.

18. In November 2016, the Ministry of Public Health and Social Welfare launched the Comprehensive Differentiated Health Strategy for Transgender Persons in Guatemala 2016-2030 to provide comprehensive differentiated services for transgender persons. The strategy focuses on (a) promoting health and preventing disease, (b) comprehensive health care, (c) institutional strengthening, and (d) follow up and evaluation.

Complaints of violence against the LGBTI population

19. The Public Prosecution Service reports that during the period 2010-2015, it received 11 complaints of violence directed specifically at the LGBTI population (see Appendix II).

20. The Office of the Human Rights Advocate has a Sexual Diversity Unit which is charged, among other things, with referring, advising and following up on complaints of human rights violations against sexually diverse communities.

Equality of women and men in all spheres, including their participation in political life

21. As part of its effort to encourage women to vote, the Supreme Electoral Tribunal decentralized the boards of polling officers in 2007. Municipal electoral districts were created in communities having a population of more than 500; the number of these districts has increased in successive election cycles.

22. In 2011, with support from the USAID Local Governance Project, which promotes the multiplier network for advocacy and participation in the political and electoral process, women received training and information on elections and voter registration. Awareness-raising campaigns targeted women at the community level in order to encourage them to participate in the 2011 elections.

23. This effort was reflected in the voter registration records for the general election and the election for the Central American Parliament. In 2015, a total of 7,559,873 eligible citizens were registered, including 4,074,450 women and 3,485,423 men. These figures represent an overall increase of 1,569,844 compared with 2007 (see Appendix III).

24. Women's participation in elections rose from 47 per cent in 2007 to 54 per cent in the last elections, while men's participation fell from 53 per cent to 46 per cent (see Appendix IV).

25. The number of female candidates has fluctuated. The number of women who were elected as deputies ranged from a minimum of 19 in 2007 to 24 in 2015 (see Appendix V). In 2011, a woman was elected vice-president of the country for the first time ever (see Appendix VI).

26. Between 2012 and 2014, in an effort to empower women, the Supreme Electoral Tribunal provided training on civil, political and electoral issues to 6,875 women.

27. In February 2015, an educational programme designed to encourage girls and women to fully exercise their rights as citizens organized a series of workshops on constructing citizenship with young Maya women from Cobán Alta Verapaz. Their participation was the result of an advocacy initiative carried out during the election cycle of 2015. Workshops for female community leaders were conducted with Maya women in the department of Salamá and the municipality of Rabinal, Baja Verapaz and with Keqchi women in Cobán and the municipality of San Pedro Carchá. The following departments and their municipalities were included: Zacapa, Chiquimula, Santa Rosa, Jutiapa, San Marcos, Huehuetenango, Petén and Guatemala.

28. The Supreme Electoral Tribunal appointed a Technical Board on Equity to draw up its Equality and Equity Policy 2015-2023, with a view to implementing programmes designed to promote equal, effective and mindful participation of women in political organizations and encourage them to stand for elected office.

Strengthening of government institutions responsible for providing services to indigenous and Afro-descendent women

29. The following actions were taken to strengthen institutions that promote the rights of indigenous and Afro-descendent women.

30. The budget of the Guatemalan Indigenous Peoples Development Fund was increased by 18,461,459 quetzals between 2011 and 2015 (see Appendix VII), in order to improve services and increase the impact of the institution's programmes, including the following:

(a) In fiscal year 2013, total spending amounted to 15,565,961.15 quetzals, and services were provided to 37,276 persons, including 23,231 women and 14,045 men,

through programmes in the following areas: virtual network, development management, political training for government and indigenous authorities;²

(b) The Virtual Network Project I and II was presented in March 2016. This consists of providing electronic tablets to public educational centres in 16 departments, so as to facilitate access to software and hardware and enhance the learning and teaching skills of students and teachers.

31. The Presidential Commission against Discrimination and Racism against the indigenous peoples of Guatemala was granted a budget increase of 2,634,248 quetzals (see Appendix VII). Some of its more important actions were the following:

(a) The Public Policy on Harmonious Relations and Elimination of Racism and Discrimination was adopted in May 2014. The objective of this policy is to implement programmes to foster development of a plural State by identifying and eliminating the mechanisms that lead to racism and racial discrimination;

(b) Since 2013, the Organic Act on the Budget has included a stipulation that budget execution reports must include categories for gender, indigenous peoples, education and reduction of malnutrition. Accordingly, the agencies concerned must report on their objectives, goals and target population by gender, ethnic group, age and geographic location (Decree 101-97, art. 17 *quater*);

(c) The Presidential Commission against Discrimination and Racism is a member of the Cabinet of Indigenous Peoples and Intercultural Affairs (Government Decision 11-2014). The purpose of the Cabinet is to design and coordinate actions to ensure the cultural relevance of government projects carried out by the ministries and other units of the executive branch. The Cabinet is comprised of the President and the Vice-President of the Republic, the Ministry of Education, the Ministry of Culture and Sports, the Ministry of Labour, the Ministry of Finance, the Ministry of Agriculture, Livestock and Food, the Ministry of Energy and Mines, the Ministry of the Environment and Natural Resources, the Ministry of Public Health and Social Welfare and the Ministry of Development;

(d) The Protocol and Critical Route for dealing with cases of discrimination and racism was adopted in October 2013. This document serves as a guide and a tool for resolving difficult issues relating to the correct approach to cases of discrimination. Reference is made to criminal procedure, reporting of complaints, evidence, phases of criminal proceedings and conclusion of the process. Guidelines for assistance to victims of discrimination are also included;

(e) Additions were made to the agreement on inter-agency cooperation with the Public Prosecution Service with the aim of facilitating coordination with prosecutors throughout the country.

32. With regard to the human rights of Afro-descendants, Guatemala has carried out the following actions aimed at achieving the objectives of the International Decade for People of African Descent 2015-2014, bearing in mind United Nations General Assembly resolution 68/237, proclaiming the Decade, and General Assembly resolution 69/16, outlining the programme of activities for implementation of the Decade:

(a) In September 2014, the Inter-Agency Working Group on People of African Descent was set up; member agencies are the Ministry of Foreign Affairs, the Ministry of Education, the Ministry of Culture and Sports, the General Secretariat for Planning and Programming of the Office of the President, the Presidential Commission on Coordination of Human Rights Policies of the Executive Branch, the Presidential Commission against Discrimination and Racism against the indigenous peoples of Guatemala, the Office of the Advocate for Indigenous Women and the Guatemalan Indigenous Peoples Development Fund;

(b) In 2015, plans for the Decade were discussed with civil servants and civil society through workshops, round tables and diplomate courses, including a diplomate

² *Memoria Anual de Labores*. FODIGUA, p. 9.

course on racism, discrimination and human rights of the Garifuna people and people of African descent. This activity was coordinated with the Presidential Commission on Coordination of Human Rights Policies of the Executive Branch, the Presidential Commission against Discrimination and Racism, the National Council on Enforcement of the Peace Agreements and the National Institute of Public Administration;

(c) The formal launching ceremony for the Decade was held on 4 November 2015;

(d) In collaboration with the Office of the High Commissioner for Human Rights (OHCHR) in Guatemala, work began on drawing up a national plan of action for achieving the objectives of the Decade.

33. The budget of the Office of the Advocate for Indigenous Women was increased by 808,524 quetzals between 2011 and 2015.(see Appendix VII). In 2015, its programmes benefitted 8,299 women, as follows: health care (108), psychological counselling (1,708), social programmes (3,076), legal assistance (3,353), cases of sexual violence (54).

34. The budget of the Presidential Secretariat for Women was reduced (see Appendix VII); however, as some of its activities were financed by international cooperation agencies, it was able to achieve the following:

(a) The Programme on Prevention and Eradication of Domestic Violence was established by Government Decision 111-2013 as a unit within the Presidential Secretariat for Women to advise, coordinate and implement prevention, and to address and eradicate domestic violence;

(b) In 2013, the Presidential Secretariat for Women and the National Registry of Persons signed a letter of understanding to coordinate efforts throughout the country to issue personal identification documents for women;

(c) During the period from 2012 to 2014, the Presidential Secretariat for Women advised on implementation of the National Policy on Promotion and Comprehensive Development of Women in 291 government agencies, including municipal women's offices. It provided information on implementation of the policy to 642 women's organizations which channel their demand for services through government institutions;

(d) In 2015, it adopted a project on generation and development of the institutional capacities of the Presidential Secretariat for Women for implementation of the National Policy on Promotion and Comprehensive Development of Women, with emphasis on sexual and reproductive health and prevention of violence against women at the central and territorial levels for the period 2015-2019. Among other things, a study will be conducted with a view to revising, updating and ensuring the viability of a proposal for coordinating follow up, monitoring and evaluation of public policies on: (a) promotion and comprehensive development of women, (b) prevention of violence and crime, and (c) combatting human trafficking and providing care for victims of violence, in particular, violence against women, femicide and human trafficking.

35. The programmes carried out by the Presidential Secretariat for Women in 2014 and 2015 benefitted a total of 223,789 persons, as follows: prevention of domestic violence (113,904), advisory services to municipal women's offices (30,828), services to victims of domestic violence and violence against women (25,256), sensitivity training for civil servants (75,515) (see Appendix VIII).

36. In 2001, the Public Defenders Institute set up offices of public defenders for indigenous peoples; there are now 15 such offices in different departments throughout the country (see Appendix IX).

37. The work of the public defenders for indigenous persons is carried out by teams comprised of an intercultural defender, an assistant and an interpreter. Team members all speak the language of the indigenous majority of the region. Public defence services are currently provided by 17 intercultural defenders and 13 interpreters.

38. In 2012, the Public Defenders Institute signed an agreement with the Presidential Commission against Discrimination and Racism to lay the bases for cooperation between

the two institutions, with a view to improving their performance and promoting comprehensive services to facilitate access to justice, especially in terms of eliminating racism and racial discrimination, with due regard for the sphere of competence of each agency.

39. A number of actions were implemented under the aforementioned agreement, including diplomate courses organized by the Presidential Commission against Discrimination and Racism, which were attended by personnel of the Public Defenders Institute.

40. The Public Defenders Institute, in coordination with the National Commission for Monitoring and Supporting the Strengthening of Justice and the Council of Ancestral Authorities of the Maya, Garifuna and Xinca Peoples of Guatemala, carried out workshops on the rights of indigenous women for indigenous authorities and community leaders. Training was provided to 362 indigenous leaders and authorities in 2013, and to a total of 317 in 2014 (see Appendix VI).

Salary gap between men and women

41. Article 102 (b) of the Constitution stipulates that all work shall be fairly remunerated, except when the law determines otherwise, and article 102 (c) provides that equal wages shall be paid for equal work performed under equal conditions, productivity and seniority.

42. Article 151 of the Labour Code prohibits employers from treating women employees differently based on their marital status or family responsibilities, terminating women who are pregnant or breastfeeding, and requiring pregnant women to perform heavy physical work.

43. The National Policy on Promotion and Comprehensive Development of Women and the Equal Opportunities Plan 2008-2023 are also aimed at facilitating and guaranteeing equal access to jobs for women and men.

44. The National Employment Policy,³ entitled Generating Safe, Decent and Quality Employment (2012-2021), was adopted in 2012. The policy aims to (i) enforce labour law in companies; (ii) increase job opportunities to 47,000 jobs per year and improve worker productivity; (iii) promote local and foreign investment; (iv) improve the quality, efficiency and innovativeness of domestic production; (v) guarantee legal certainty; (vi) update labour legislation; (vii) prepare for recurring crises. The Employment Cabinet was created; it is comprised of the Ministry of Labour; the Ministry of Economic Affairs; the Ministry of Agriculture, Livestock and Food; the Ministry of Education; the Ministry of Communication, Infrastructure and Housing and the National Competitiveness Programme.

Combatting labour discrimination; Inspectorate-General of Labour; domestic workers

45. With regard to discrimination in the workplace, article 14 *bis* of the Labour Code prohibits discrimination based on race, religion, political beliefs and economic situation, in establishments providing social welfare services, education, culture, entertainment or commerce, which operate for the use or benefit of workers, in privately owned companies or workplaces. Article 89 stipulates that equal wages shall be paid for equal work performed under equal conditions, productivity and seniority within the same company.

46. With the support of the German Agency for International Cooperation (GIZ), a seminar on the Inspectorate-General of Labour: Basic Steps, 2020 Vision was held from 13 to 25 May 2015, with the participation of 300 inspectors from the 21 departmental offices

³ *Política Nacional de Empleo*, generated by the Ministry of Labour and the Ministry of Economic Affairs.

of the Inspectorate-General of Labour. The aim of the seminar was to improve implementation of the single inspection protocol, the virtual training platform for the operations manuals.

47. The Inspectorate-General of Labour reports that in 2011, it carried out 8,000 visits to verify compliance with labour legislation in 2011; that number rose to 36,000 in 2013⁴ and 27,286 in 2015.⁵

48. Ministerial Decision 177-2013 of the Ministry of Labour, on instructions for setting timetables for the work of the Inspectorate-General of Labour (*Instructivo para la Fijación de los Plazos en la Labor de la IGP*) (Ministerial Decision 177-2013 of the Ministry of Labour) was adopted in 2013. The instructions standardize time limits for administrative staff and inspectors in the Inspectorate-General of Labour so as to ensure that all complaints are processed efficiently and guarantee the right to defence and due process. The timetables will apply to the taking of complaints, delivery of case files, internal procedures, issuing of warnings, verification, archiving and any other actions required by law.

49. In an effort to find alternatives for regulating domestic work, in 2014, the Ministry of Labour submitted for discussion International Labour Organization (ILO) Convention 189, on Decent work for domestic workers. The content of the Convention was discussed by the Tripartite Commission on International Labour Matters.

50. In March 2013, discussions among State and civil society organizations were organized, with support from UN Women. Issues relating to women, youth and child labour, especially the worst forms of labour, were addressed. The discussions included the participation of Asociación de Trabajadoras del Hogar a Domicilio y de Maquila, Sindicato de Trabajadoras Independientes de Trabajo Doméstico, similares y a cuenta propia, Mujeres con Valor Construyendo un Futuro Mejor and Semilla de Mostaza, among others.

51. To benefit domestic workers, the Guatemalan Social Security Institute created the Prevention Programme for Female Domestic Workers⁶ (Government Decision 236-2009, adopted by the Board of Directors of the Guatemalan Social Security Institute). This programme covers medical maternity care, assistance and monitoring of children under 5 years old, and accidents. Employers pay a contribution of 2.5290 per cent, and workers contribute 1.2645 per cent; the percentages refer to the minimum wage. Workers may claim benefits when they have contributed to the programme for six months.

52. In June 2016, the Ministry of Labour organized a workshop on ILO Convention 189, on Decent work for domestic workers, with the aim of developing a protocol for the Inspectorate-General of Labour to deal with cases of maquila workers.

Violence against women

53. Fifty-eight public policies on violence against women are currently in force; 10 of them are aimed at preventing and reducing violence, including violence against women (see Appendix XI).

54. The National Policy on Prevention of Violence and Crime, Citizen Security and Harmonious Relations 2014-2034 (Government Decision 281-2014) was adopted on 20 August 2014. The policy covers three dimensions:

- (a) Prevention of violence and crime;
- (b) Strengthening of citizen security;

⁴ *Informe Tercer Año de Gobierno 2014-2015*. Gobierno de Guatemala, p. 30.

⁵ *Informe Anual de Evaluación y Análisis sobre la Ejecución y Resultados del Presupuesto del Ejercicio Fiscal 2015*. Guatemala, March 2014, p. 77.

⁶ *Programa de Prevención para las Trabajadoras Domésticas* (PRECAP)

(c) Implementation of a culture that promotes harmonious relations by conviction.

55. The policy was drawn up in order to reduce manifestations of violence and crime in the country by promoting community organization and citizen participation. It prioritizes prevention of violence and appropriate prosecution of crime and effective differentiated services for victims so as to prevent them from being revictimized. It is based on five strategies for preventing violence: (a) against children, (b) against adolescents and young people, (c) against women, (d) armed violence, (e) violence on the road and traffic accidents.

56. In line with the National Policy on Prevention of Violence and Crime, Citizen Security and Harmonious Relations 2014-2034 and the related National Plan of Action, the Municipal Policy on Prevention of Violence and Crime, Citizen Security and Harmonious Relations 2015-2019 was adopted. Under this policy, municipal authorities work at the territorial level to prevent crime and ensure citizen security and harmonious relations.

57. In 2013, the Ministry of the Interior drew up guidelines designed to enhance understanding of legal instruments for promoting rights, providing protection and preventing domestic violence and violence against women. These guidelines were distributed among personnel of the Unit on Community Prevention of Violence for promotion and dissemination throughout the country.

58. In 2014, the Ministry of the Interior adopted a referral protocol for cases of domestic violence, femicide, human trafficking and illegal adoption, as well as a manual for delegates and tools, including a flip chart, for developing local plans on prevention of violence.

59. Between 2010 and 2015, the National Civil Police provided training on violence for a total of 66,598 persons, including police officers, members of civil society and students (see Appendix XII). It conducted 393 workshops at several police stations on prevention of violence against women (see Appendix XIII).

60. In September 2014, the National Commission for Monitoring and Supporting the Strengthening of Justice established a sectoral policy on inter-agency coordination for improving the handling of cases of violence against women in the court system of Guatemala, as well as a basic plan for implementing the policy. The aim is to enhance the handling of cases of violence against women in the criminal justice system through coordinated actions designed to optimize services involved in these cases, provide services to victims and deal with discrimination and impunity.

61. The judiciary's Policy on Gender Equality and Promotion of Women's Human Rights was adopted on 8 March 2016. This policy is consistent with several international conventions that incorporate the gender approach so as to ensure equality and respect for human rights in the administration of justice.

62. The policy, which includes five main lines of action,⁷ was drawn up by the Secretariat for Women and Gender Analysis of the Judiciary. It was developed, with support from the Justice and Gender Foundation and several institutions, on the basis of studies and workshops throughout the country.

63. In 2008, the Public Defenders Institute established free legal assistance for victims of violence and their family members (Decision 64-2008, of 27 June 2008); the regulations adopted to reinforce the service (Decision 5-2013) specify the requirements and profile that must be met by attorneys and public defenders. In 2008, the legal assistance programme was put underway in eight venues; by 2014, 14 such offices had been set up nationwide. A hotline (telephone number 1571) is available to provide services and support for women

⁷ Policy on Gender Equality and Promotion of Women's Human Rights. Lines of action: (1) gender equality in the sphere of the courts, (2) gender equality in the administrative sphere, (3) access to justice with quality and warmth, (4) social communication with a gender approach, and (5) intra- and inter-agency coordination to promote gender equality and respect for human rights, with a focus on ethnic, cultural and age-appropriate action.

whose life or physical integrity are at risk; the hotline receives emergency calls, complaints and queries relating to women, children and adolescents who are victims of domestic violence 24 hours a day, 365 days a year.

64. Between 2010 and 2015, the Public Defenders Institute helped a total of 18,080 victims through hotline 1571 (see Appendix XIV).

65. The National Forensic Science Institute of Guatemala adopted guidelines for medical examinations of victims of sexual abuse (*Guía para Reconocimiento Médico Legal de Víctimas de Agresión Sexual*) (16 February 2015), which describe the procedure to be followed in examining women victims of sexual violence and gathering evidence. The Guidelines include appendices containing forms on informed consent for medical examination and related procedures (*Consentimiento informado para la realización de reconocimientos médicos y procedimientos relacionados*), sexual assault medical forensic examinations (*Reconocimiento Médico Forense Sexológico*) and items of evidence (*Indicios de Análisis*).

66. With regard to data gathering, the system for recording and monitoring requests for expert appraisals from the National Forensic Science Institute makes it possible to consolidate all expert appraisal information on a single platform. The system has the following features: (a) deconcentrated access from any unit of the National Forensic Science Institute (650 registered users), (b) consolidation of online information (95.11 per cent availability nationwide), (c) data entry on a single information platform, (d) queries and reports, based on the information, for follow-up and monitoring of requests, (e) publication of numerical data on the web, (f) interaction with agencies (Public Prosecution Service, the courts, National Registry of Persons, National Civil Police).

67. Seventeen offices of the Public Prosecution Service in different departments of the country have prosecutors assigned specifically to deal with women's issues; these units are open 24 hours a day 365 days a year. In 2015, the Public Prosecution Service drew up guidelines for evaluating risks, security measures and/or protection of women and dealing with sexual offences and ill-treatment of minors (*Guía de Orientación para Evaluación de Riesgos, Medidas de Seguridad y/o Protección contra la Mujer, Delitos Sexuales y Maltrato contra Personas Menores de Edad*). It also drew up a protocol on standards and criteria for preparing psychological reports for victim-assistance offices (*Protocolo con Estándares y Criterios para la Elaboración de Informes Psicológicos para las Oficinas de Atención a la Víctima*).

68. During 2015, 22 posts were added to the offices of special prosecutors for women; of these, 17 are assistant prosecutors assigned to provide full services in cases of violence against women, sexual violence and ill-treatment of minors. A prosecutor was appointed for the office in Quetzaltenango.

69. In March 2016, hotline number 1572 was placed in service (a panic-button application for mobile telephones). On this line, officers of the National Civil Police take calls 24 hours a day 365 days a year; support is provided by analysts from the Office of Special Prosecutors for Women of the National Prosecution Service.

70. Between 2010 and 2015, the Training Unit of the Public Prosecution Service held 195 training events (workshops, courses, diplomate courses) for Service. A total of 3,195 participants received training on matters relating to violence against women (see Appendix XV).

Specialized courts

71. With regard to sentences handed down by criminal courts for the period 2010-2015 in connection with offences covered by the Act against Femicide and other Forms of Violence against Women, a total of 9,290 decisions were handed down, including 683 on femicide (153 acquittals and 530 convictions) and 8,607 on other forms of violence against women (1,999 acquittals and 6,608 convictions) (see Appendix XVI).

Complaints and investigations of violence against women, including sexual violence

72. Concerning reports of violence against women, including sexual violence, between 2010 and 2015, the Public Prosecution Service, working through its Special Prosecutor for Women and Child Victims, dealt with a total of 57,456 cases, including 48,647 involving adults, 5,606 adolescents and 3,203 children (see Appendix XVII).

73. A total of 21,668 investigations were conducted between 2010 and 2015. In 2015, 8,194 cases were under investigation, as well as in previous years; most of the cases involved violence against women (see Appendix XVIII). A total of 32,162 alternative procedures were allowed (see Appendix XIX).

Reparations for victims, including rehabilitation

74. The Victims Assistance Institute was created by Decree 12-2016 (1 March 2016) to provide assistance and care for victims and enable them to receive appropriate reparations. The relevant 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

75. On 30 October 2015, steps were taken to revitalize the National Coordination Agency for the Prevention of Domestic Violence and Violence against Women, which had been inactive for three years. Technical and legal teams from the Presidential Secretariat for Women, the Office of the Third Vice-Minister of the Interior, the Guatemalan Women's Group, the Secretariat Against Sexual Violence, Exploitation and Human Trafficking, the Office of the Attorney-General and the Office of the Advocate for Indigenous Women drew up a proposal for amending the Regulations to the Act on Prevention, Punishment and Eradication of Domestic Violence (Government Decision 831-2000). On 6 October 2016, the new members of the National Coordination Agency for the Prevention of Domestic Violence and Violence against Women were sworn in.

76. With regard to the Comprehensive Support Centres for Women Survivors of Violence, Agreement 19-2014, of 13 June 2014, was approved by Government Decision 565-2014, of 12 August 2014. Under this measure, 9.5 million quetzals were transferred to the Guatemalan Women's Group; these funds were earmarked for the work of six support centres.

77. Female deputies in the Congress of the Republic and officials of the Ministry of the Interior and the Ministry of Finance met on 5 October 2016 to include an allocation for the support centres in the 2017 budget.

Femicide

78. In 2015, in order to combat femicide and strengthen its services, the Public Prosecution Service hired additional human resources and implemented constant monitoring of cases. Work began on unifying into a single file all complaints brought by the same woman against the same aggressor, in order to gather more information with which to demonstrate the cycle of violence. So far, 598 case files have been consolidated.

79. To prevent harm to women and protect their lives, the Public Prosecution Service and the Ministry of the Interior set up a panic-button hotline with telephone number 1572. It inaugurated the Office of the Special Prosecutor for Femicide on 23 November 2016.

80. Instruction 6-2013 (27 August 2013), which governs investigations by the Public Prosecution Service, provides for specific procedures to be followed in cases of femicide. This entails setting up a technical group comprised of the Directorate of Criminal

Investigations and the Specialized Criminal Investigation Division (of the National Civil Police), with support being provided by the National Forensic Science Institute (see Appendix XX).

81. Collateral victims of femicide are referred to specialized personnel who provide assistance so as to prevent them from being revictimized.

82. The National Civil Police has carried out the following training activities on issues related to violent murders of women:

(a) In 2011, the staff of section 110 of the Office of the Deputy Director General of Operations received sensitivity training on telephone assistance to victims;

(b) In April and May 2013, 18 workshops were held on the protocol for dealing with violence against women and on gender-related legislation that has been implemented and/or discussed in combatting femicide;

(c) In 2014, 10 workshops were held on mainstreaming the gender approach in the policy on security and justice, with emphasis on police action and services. Five thousand copies of the training manual of the National Civil Police were distributed.

Statistics on murders of women

83. The National Statistical Institute, in coordination with the Presidential Secretariat for Women, created the National System of Information on Violence against Women,⁸ which is comprised of the judiciary, the Public Prosecution Service, the Office of the Human Rights Advocate, the Ministry of the Interior, the National Civil Police, the Public Defenders Institute, the Legal Aid Office of the University of San Carlos and Rafael Landívar University, the National Forensic Science Institute of Guatemala, the Directorate-General of the Prison System, the Ministry of Education and the Ministry of Public Health and Social Welfare (included in 2013). The objective of the initiative is to provide information on the issue of violence against women.

84. The National Statistical Institute is responsible for gathering information from agencies' databases, which it then reviews and analyses. If it finds inconsistencies, it requests the source agency to correct the information. The Institute then conducts a critical appraisal of the data, codifies it, cleans it up and tabulates it, after which it develops indicators of violence against women.

85. In 2015, the criteria for including general variables in the National System of Information on Violence against Women were standardized so as to enhance the existing variables and add new ones to expand the analysis of issues pertaining to violence against women. The end product was a report on General Variables for the National System of Information on Violence against Women (*Variables Generales para el SNIVCM*) which includes definitions, glossaries and variable validations.

86. The variables that are studied have to do with registration, general data on the victim, the event, the aggressor and the reporting institution. Information is available for the period between 2008 and 2013;⁹ information for 2013 and 2015 is currently being processed.

Abortion

87. Guatemalan legislation on abortion is still in force; however, a protocol has been adopted to allow for therapeutic abortions to save the life and health of women. In cases of induced or forced abortion, the national health system is required to provide care for women who request it.

⁸ Act against Femicide and Other Forms of Violence against Women, art. 20.

⁹ See: <https://www.ine.gob.gt/sistema/uploads/2014/11/26/QEiybJS3uiYB8IFMFWKNDI97INfffwog.pdf>.

88. A system is in place for providing services for pregnant girls and adolescents, as well as a protocol for care of survivors of sexual violence, a national reproductive health programme, a strategy on comprehensive services for girls and women in the community, and a policy on working in coordination with midwives, among other important actions.

Maternal mortality

89. According to the National Statistical Institute, maternal mortality dropped from 317 cases in 2011 to 308 in 2014 (see Appendix XXI).

Unwanted pregnancies, sex education, reduction of maternal mortality rate

90. The Ministry of Public Health and Social Welfare set up a system for monitoring teen pregnancies, using improved data-collection methods. In 2012, it adopted the Teen Pregnancy Prevention Plan, which is coordinated with the National Council on Youth. The aim is to reduce the prevalence of teen pregnancies by promoting sexual and reproductive health among adolescents and young people and improving access to services and programmes designed to foster their all-around development and improve their quality of life, as well as to provide access to contraception for adolescents and young people in friendly settings.

91. The Ministry of Public Health and Social Welfare and the Ministry of Education carry out programmes in the context of the Framework for Prevention with Comprehensive Sex Education, with the aim of including sex education in school curricula so that adolescents can: (a) take decisions about their body and their sexuality, (b) delay the start of sexual relations and have fewer partners, (c) adopt behaviours that will prevent unwanted pregnancy and use contraception and other preventive practices, (d) use condoms and reduce the risk of sexually transmitted infections.

92. The National Plan for Preventing Pregnancy among Adolescents and Young Women 2013-2017¹⁰ and the Special Cabinet on Women¹¹ began implementing prevention projects in five departments and 16 municipalities considered priorities.

93. A campaign entitled *Protégeme del embarazo* (“Protect me from pregnancy”) was launched in 2013 to prevent pregnancy and raise awareness among parents, educators and civil society concerning pregnancy among girls under 14 years old, which constitutes rape. Posters were printed and television and radio ads in Spanish and in the Mayan languages were broadcast throughout the country.

94. In 2014, the National Literacy Committee distributed pamphlets on sex education and reproductive health in the departments of Huehuetenango, Alta Verapaz and Quiché.

95. The Ministry of Public Health and Social Welfare adopted the Manual on Sexual and Reproductive Health (*Manual para el Abordaje de Salud Sexual Reproductiva*) (updated in 2015), the Guidelines for Implementing Friendly Environments (*Guía de Implementación de los Espacios Amigables*), the Contraception Guidelines for Adolescents (*Guía de anticonceptivos para adolescentes*) and the Circle of Pregnant Teen Girls (*Círculo de adolescentes embarazadas*).

¹⁰ The objectives of the National Plan for Preventing Pregnancy among Adolescents and Young Women 2013-2017 are, inter alia, to reduce teen pregnancies by 5 per cent, to create awareness so as to raise the age of first pregnancy, to ensure access to comprehensive sex education, to provide information on family planning methods, to promote the relevance of sex education in secondary schools and for adolescents.

The Plan establishes parameters for inter-agency cooperation so as to implement actions and develop a roadmap for preventing pregnancy and providing prenatal care.

¹¹ The objective is to coordinate and promote institutional actions for implementation of public policies, plans, programmes and projects focusing on comprehensive development of women.

96. In September 2016, the Secretariat Against Sexual Violence, Exploitation and Human Trafficking carried out an activity entitled *Esto no es NORMAL* (“This is not NORMAL”), which consisted of placing pregnancy simulators on three men and some well-known leaders who are concerned with the issue of children and adolescents, in Plaza Mayor de la Constitución. The idea was to raise awareness so as to prevent teen pregnancies and report such cases.

97. In October 2016, the Ministry of Public Health and Social Welfare, the Ministry of Development, the Ministry of Education, the National Registry of Persons, the Office of the Attorney General, the Public Prosecution Service and the Secretariat Against Sexual Violence, Exploitation and Human Trafficking presented the enhanced roadmap for comprehensive services for pregnant girls under 14 years old. The roadmap describes procedures to be followed in services for pregnant girls under 14 who are victims of sexual violence. The aim is to prevent them from being revictimized and ensure that they receive rapid and effective assistance.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment, and the fight against impunity (arts. 2, 6 and 7)

Amnesty, the Ríos Montt Case, Commission on Missing Persons

98. The following information on procedural incidents in the criminal prosecution of José Mauricio Rodríguez Sánchez and José Efraín Ríos Montt is submitted at the Committee’s request.

99. Court for High-Risk Crime A issued a conviction against José Efraín Ríos Montt on 10 May 2013. José Mauricio Rodríguez Sánchez was acquitted.

100. On 19 May 2013, the Constitutional Court vacated the conviction for genocide and crimes against humanity issued on 10 May 2013 against José Efraín Ríos Montt, citing procedural flaws. It also nullified all proceedings undertaken before 19 April 2013.

101. On 27 May 2013, pursuant to the ruling of the Constitutional Court, the Court of Appeal ordered Court for High-Risk Crime A to address the motion for recusal filed by the defence against the judges of Court A. On 4 June 2013, the Constitutional Court directed Court for High-Risk Crime B to take charge of the proceedings. In April 2014, the decision was made to move forward with the case. The Court announced that proceedings could resume on 5 January 2015.

102. The defendants filed a writ of *amparo* against the chief judge of Court for High-Risk Crime 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 relief; the Constitutional Court confirmed its ruling via order 1097-2013, on 3 April 2013.

103. On 4 April 2013, the chief judge of lower Court for High-Risk Crime B informed the Constitutional Court that he could no longer preside over the matter, given the ruling of the First Chamber of the Court of Appeal. Accordingly, on 9 April 2013 the Constitutional Court transferred jurisdiction to another judge, who was tasked with completing the intermediate phase of criminal case 0176-2011-00015.

104. The ruling issued by the Constitutional Court in response to consolidated *amparo* filings 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 its capacity as an *amparo* court, be revoked; (b) That the appeals filed by the Justice and Reconciliation Association, the Centre for Legal Advocacy 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 appeals for reversal, be suspended, pursuant to

the decision to vacate all proceedings enacted after 23 November 2011; and (e) That the defendants be restored to their former legal status.

105. Public oral arguments before Court for High-Risk Crime 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.

106. The defendants invoked amnesty in case 1076-2011-00015 before lower Court for High-Risk Crime 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. The chief judge denied the motion.

107. The motion cited article 32 (2) of the Code of Criminal Procedure, on amnesty, as well as article 1 of Decree-Law 8-86. The defence argued that amnesty had been enacted to apply, 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.

108. The presiding 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 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.

109. The defence for José Efraín Ríos Montt filed a constitutional writ of *amparo* on 16 April 2013. The *Amparo* and Pretrial Chamber found that the right to legal defence had been violated. The defence had argued in its *amparo* motion that the applicable instrument was Decree 8-86 rather than the National Reconciliation Act.

110. On 22 October 2013, in consolidated cases 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 in the *amparo* filed by José Efraín Ríos Montt.

111. The appeal was filed by the Justice and Reconciliation Association, acting as an interested third party, as well as by the Public Prosecution Service. They argued that Decree-Law 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.

112. 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 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..." (see Appendix XXII).

113. By order of the Constitutional Court, the judicature (the Chamber) must now issue a ruling explaining why Ríos Montt may be entitled to benefits under the judicial pardon enacted by Executive Order 8-86. That ruling, by the First Chamber of the Court of Appeal for Drug and Environmental Offences, is currently pending.

114. On 18 August 2015, Court for High-Risk Crime 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.

115. 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 1,000 quetzals for offensive remarks during the proceedings.

116. 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 Advocacy on Human Rights and the Justice and Reconciliation Association.

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

Abuse of *amparo*

118. The State agrees that constitutional law needs to be amended to be brought in line with regional and international human rights standards and the constitutional rules developed under article 175 of the Constitution and articles 164 (a) and 192 of the Act on *Amparo*, Habeas Corpus and Constitutionality, which provide that a prior favourable ruling of the Constitutional Court and a favourable vote of two thirds of the Congress are required, and that initiatives must be brought by bodies or persons that are empowered to do so by the Constitution.

119. The following proposals were made to amend the Act on *Amparo*, Habeas Corpus and Constitutionality (Decree 1-86 of the National Constituent Assembly): initiative 3319, submitted by the Supreme Court of Justice and the judiciary on 25 August 2005; initiative 4289, submitted by the Supreme Electoral Tribunal on 5 April 2011, and a proposal submitted for discussion by the International Commission against Impunity in Guatemala, the Public Prosecution Service and OHCHR-Guatemala on 14 October 2015.

The National Reparations Programme

120. In 2012, the National Reparations Programme began to adopt a more comprehensive approach to implementing reparations by giving priority to rebuilding the social fabric of those affected by the internal armed conflict. Steps were taken to address the psychosocial impact of the conflict on individuals, their families and their community through measures such as psychosocial support, rehabilitation and restoration of dignity to victims.

121. The approach focuses on material reparations consisting of investments in production activities so as to foster participatory social processes that foster the development of new opportunities and institutional actions and improve the capacities of survivors and their quality of life.

122. Production projects are underway whereby seed capital is transferred to groups, organizations and communities among the population whose human rights were violated during the internal armed conflict. The projects also include psychosocial support, rehabilitation, restoration of dignity to victims and cultural reparations.

123. Between 2012 and 2015, the National Reparations Programme covered expenses for reparations to victims of the internal armed conflict totalling 260,100,067.51 quetzals (see Appendices XXIII and XXIV). The highest amount was granted for material reparations totalling 192,460,109.84 quetzals, followed by economic reparations in the amount of 49,304,319.19 quetzals (see Appendix XXV).

124. Before State reparations are granted, certain legal requirements must be met (depending on the type of reparation), given that public funds are subject to oversight and audit, and there should be no unjustified delays. For example, since the programme is not in the business of building housing, inter-agency agreements were signed for the transfer of funds.

125. A total budget of 468,223,730 quetzals was approved for the National Reparations Programme between 2012 and August 2015.

Definition of torture as a crime

126. With regard to the definition of torture in article 201 *bis* of the Criminal Code, on 17 July 2012, in case 1822-2011, the Constitutional Court ruled that the definition of torture in article 201 *bis* of the Criminal Code was unconstitutional on grounds of omission, thus recognizing and applying in an innovative manner the block of constitutionality and international standards as parameters for monitoring the constitutionality of laws or their unconstitutionality on grounds of partial omission, incorporating doctrine and international jurisprudence in developing the subject (see Appendix XXVII).

Reports of acts of torture and ill-treatment

127. Records of the Information System of the Public Prosecution Service show that 469 reports of torture and ill-treatment were received between 2010 and 2015. Of these, 18 were archived, 31 were disallowed, and 248 are under investigation (see Appendix XXVIII).

Strengthening the National Civil Police

128. To ensure adequate staffing and material resources for operations of the National Civil Police, its budget was increased by 359,885,079 between 2012 and 2015 (see Appendix XXIX).

129. Since 2012, the following steps have been taken to ensure that the National Civil Police has adequate human and material resources: Spending priorities were set; the gap between budget allocations and execution was reduced; candidates for police officer posts were selected; different types of equipment were purchased and distributed nationwide. In 2014, the process of destroying firearms that were not in use was completed, so that all equipment is now in good working order. In addition, 14,146 pistols and 100 submachine guns were purchased.

130. Under the National Policy on Prevention of Violence and Crime, Citizen Security and Harmonious Relations 2014-2034, the police force had a total of 35,000 active officers in 2014, i.e., almost 10,000 more than in 2012. It also had specialists in investigation, criminal statistics, the fight against organized crime and citizen security.

Investigation of National Civil Police officers for ill-treatment and torture

131. 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 confirmed, the investigation continues until an administrative sanction is imposed; if there is criminal liability, the investigation proceeds and is reported to the Public Prosecution Service. When there are civilian victims, staff are immediately assigned to provide protection.

132. Between 2012 and 2015, 18 cases of ill-treatment were reported to the National Civil Police; 59 disciplinary cases were opened for human rights violations, and 18 disciplinary sanctions were imposed (see Appendix XXXI).

133. Between 2012 and 2015, the Public Prosecution Service received 308 reports of serious or minor injuries and/or torture (see Appendix XXXII).

The National Civil Police and the Army

134. With respect to coordination between the National Civil Police and the army, the Act on Support for Civil Security Forces (Decree 40-2000) and the Protocol for Inter-Agency Action: Support by the Army for Civil Security Forces (Government Decision 285-2012), which establish channels for collaboration and coordination and describe the spheres of action of the National Civil Police and the Army, have not been amended.

Private security

135. The Act Regulating Private Security Services (Decree 52-2010), which went into force on 2 May 2011, established the Directorate-General of Private Security Services, which, among other duties assigned to it (art. 7) is charged with monitoring and supervising private security services, enforcing regulations and procedures for such services, authorizing operating licenses for security services and keeping an up-to-date registry of individuals and companies that provide services. It is also empowered (art. 9) to conduct visits for the purpose of monitoring, overseeing, supervising and enforcing the Act Regulating Private Security Services and the regulations thereto and to supervise training for security services, impose pecuniary administrative sanctions, and issue licenses and permits to companies covered by the Act.

136. Since the entry into force of Decree 52-2010, all individuals and companies that provide or wish to provide private security services must register, apply for and process a license to operate. The Directorate-General of Private Security Services is responsible for granting the license or rejecting the application.

137. The Act Regulating Private Security Services is supplemented with:

(a) The Regulations to the Act Regulating Private Security Services (Government Decision 85-2001 of the Ministry of the Interior, 1 March 2009);

(b) The Arms and Ammunition Act (Decree 15-2009), the regulations to which spell out the requirements that must be met by private security companies in order to carry firearms,¹² charges the Directorate-General of Arms and Ammunition Control with supervising the bearing and carrying of firearms by private security agents. It also establishes requirements that must be met by members of private security companies in order to bear firearms for civilian use (art. 79);

(c) The National Civil Police Act (art. 5) stipulates that individuals and private companies that provide investigation, protection and custody services for individuals, goods or public or private services are subject to active oversight by the National Civil Police. When requested by authorities, they must collaborate and provide any information that will help prevent the commission of criminal acts.

138. Pursuant to article 8 of the Act Regulating Private Security Services and article 45 of the Regulations thereto, the Directorate-General of Private Security Services is responsible for conducting *ex officio* supervisory visits. To that end, it carries out the following activities:

(a) Carrying out monitoring, supervision and oversight visits by multidisciplinary teams made up of members of the Directorate-General of Private Security Services and the National Civil Police. The supervision and oversight applies to legal, administrative, personnel, financial and accounting matters; arms and ammunition, logistics, housing and health facilities; education and training; informatics and technology. Two visits are conducted each week;

(b) Reviewing annual reports on operations and administrative personnel which are sent by security companies during the first eight days of each year;

¹² Regulations to the Arms and Ammunition Act. Licence to carry firearms for personnel of private security companies.

(c) Reviewing ownership and registration documents and detailed inventory of arms and ammunition currently in use and of any that are stored in locations assigned and authorized for that purpose;

(d) Conducting an inventory of agents' ID badges with consecutive numbering and distinguishing devices and logos authorized by the Directorate-General of Private Security Services;

(e) Keeping a record of the description and detailed identification of vehicles and global positioning devices used by the company;

(f) The National Civil Police has a system for monitoring private security companies which consists of a database containing monthly reports that security companies are required to submit for statistical purposes. The reports, which contain information on operations personnel, arms, radios and vehicles, are sent to the Directorate-General of Private Security Services every 45 days;

(g) Keeping a database on private security agents who are certified and accredited;

(h) Supervising the training and development of personnel of private security companies (there are 11 training centres).

139. The Directorate-General of Private Security Companies identifies companies that violate human rights. Depending on the violation involved, the company is either fined or has its private security license revoked. If it appears that an offence has been committed, the institutions concerned are notified, pursuant to articles 51, 52 and 54 of the Regulations to the Act Regulating Private Security Services and article 58 of the Act Regulating Private Security Services.

140. A total of 278 cases against private security agents were reported to the Public Prosecution Service between 2010 and 2015; of these, 63 were disallowed, eight were archived, and 99 are under investigation (see Appendix XXXIII).

141. The following activities have been carried out in connection with the monitoring of firearms and ammunition:

(a) Training workshop on the Arms and Ammunition Act, for 50 members of the technical staff of the Unit, in 2014;

(b) Training workshop on duties of the Directorate-General of Arms and Ammunition Control, for 20 members of the technical staff of the Unit on Community Prevention of Violence;

(c) Development of a module on prevention of armed violence; 2,000 copies were printed for distribution in training workshops to members of the Unit on Community Prevention of Violence.

Death penalty; accession to the Second Optional Protocol to the Covenant

142. In 2012, the Supreme Court of Justice overturned the death penalty for 53 convicts. The convicts, most of them found guilty of kidnapping, murder and rape, were then sentenced to 50 years imprisonment.

143. On 14 January 2011, the executive branch submitted a bill proposing amendments to decrees 17-73, 51-92 and 48-98, and replacing the term *pena de muerte* (death penalty) by the term *prisión de alto impacto* (high-impact imprisonment). This was done to comply with commitments arising from international human rights instruments.

144. As regards ratification of the Second Optional Protocol to the Covenant, the information provided in the list of issues sent to the Committee in 2011 for its one hundredth session has not changed.

Persons with disabilities (arts. 2, 7, 9, 10 and 26)

145. The National Disability Policy (2012) was adopted by Decree 16-2008; it was not until 2011 that a budget of 5 million quetzals was allocated for it from the general budget of income and expenditures. The allocation was increased to 70 million quetzals in 2016.

146. With this budget, the National Council for Persons with Disabilities has gradually increased its technical staff, so that in 2016, it had nine promoters covering 22 departments. It is also carrying out strategic political advocacy with the aim of influencing public and private entities and civil society to implement the disability policy.

147. Ten 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.

148. Priority is given to providing psychiatric care in six hospitals belonging to the hospital networks in Quiché, Petén, Jutiapa, Santa Rosa, Sololá and Chimaltenango. Since 2015, each of the hospitals has had a psychiatric specialist on staff and a medical specialist on contract.

149. The Secretariat of Social Welfare of the Office of the President provides free services for children and adolescents with disabilities; minors under 18 who have intellectual disabilities cared for at the Alida España de Arana Centre and the Occupational Training Centre. There are also temporary homes where residents are sent by a judge as a protective measure.

Oversight of mental health care and social assistance

150. There is no established inspection mechanism for monitoring or supervising mental health institutions; however, the advocates for persons with disabilities in the Office of the Human Rights Advocate conduct visits to those centres.

Federico Mora National Mental Health Hospital

151. The Federico Mora National Mental Health Hospital had 343 residential patients in May 2016, a population that has remained constant since 2015. The hospital has an installed capacity for 350 patients.¹³ It has 565 employees, including psychiatrists, internists, residents, psychologists, a pharmacist, dentists, professional nurses, nurses' aides, social workers and administrative personnel (operations and management).

152. The hospital provides psychiatric services, dental care, social work, rehabilitation and outpatient care. A multidisciplinary team serves on a committee, known as the reinsertion committee, which works for the social reinsertion of patients.

153. Meals are provided, including breakfast, lunch, dinner, morning snack and evening snack. The food is prepared in the hospital, and only bread and tortillas are purchased outside. For security, patients do not have bedding or uniforms; they are provided with clothing received as donations to the hospital. Surveillance cameras are placed in strategic locations. The hospital has its own security staff (30 persons).

154. The following measures are taken to guarantee the rights and integrity of patients in Dr. Federico Mora National Mental Health Hospital:

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

¹³ *Informe del Consejo Nacional para la Atención de las Personas con Discapacidad*. Ref. DG.910-06-2016, p. 4.

(b) Around 30 psychogeriatric patients were transferred to Zacapa as a precaution to prevent them from suffering violence and abuse;

(c) A rehabilitation programme including physical and occupational therapy was implemented;

(d) A commission was set up to create a programme for patients with mental disabilities. The commission is made up of hospital staff, members of the Presidential Human Rights Commission, the judiciary, the Office of the Attorney General, the Social Works Secretariat of the President's Wife and the Social Welfare Secretariat of the Office of the President;

(e) Financial and economic penalties were established for personnel who are negligent on the job, especially in regard to their treatment and care of patients;

(f) The Directorate-General of the Prison System and the National Civil Police drew up a consolidated list of persons deprived of their liberty who have mental disabilities in order to transfer them to custody under the Directorate-General of the Prison System;

(g) A protocol was developed for admitting and discharging patients as well as for the treatment by the prison system of persons deprived of their liberty who have mental disabilities;

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

(i) In April 2016, the population of men deprived of their liberty who have mental disabilities was transferred to module IV in Dr. Federico Mora Mental Health Hospital, under the custody of the Directorate-General of the Prison System, with medical care provided by the hospital;

(j) Regarding reports of abuse, the National Mental Health Hospital is coordinating intervention by the Inspectorate of the Prison System and the National Civil Police so as to comply with due process;

(k) In 2015, the National Registry of Persons began registering all inmates so as to issue their personal identification documents;

(l) In June 2016, training was provided for 50 guards assigned to persons deprived of their liberty who have mental illness.

Reports of ill-treatment or abuse against persons with disabilities

155. The Protocol for Comprehensive Services to Crime Victims (General Instruction 04-2014) of the Public Prosecution Service establishes guidelines for services to be provided to persons with disabilities who are victims of crime, taking into account their specific needs (p. 52).

156. The Public Prosecution Service provides ramps to facilitate access by persons with disabilities, as well as accessible toilets. The Information System of the Public Prosecution Service disaggregates information on persons with disabilities, including by type of disability. The Strategic Plan 2015-2019 includes line of action 2, on services to crime victims, the objective of which is to transform care of crime victims, especially those with special needs.

157. With regard to the number of complaints lodged against Dr. Federico Mora National Mental Health Hospital, a total of five complaints were received during the period

2010-2015; of these, three were reported in 2014 and two in 2015. Of the total number of complaints, two were archived, and three are under investigation.¹⁴

158. The Ministry of Labour reports that between 2013 and 2015, it received 12 complaints of violation of labour rights of persons with disabilities.

Trafficking in persons (art. 8)

159. The Protocol for Action to Care for Victims of Trafficking, adopted by the Public Prosecution Service in 2015, lays down procedures to be followed in providing care, protection, referral and comprehensive restoration of the rights of persons who have been victims of trafficking.

160. To investigate and punish human trafficking, a protocol is being drawn up which includes general instructions for care of victims, coordination and intervention by the Public Prosecution Service and strategy for criminal prosecution of trafficking in persons (*Instrucción General que Regula los Mecanismos de Atención, Coordinación e Intervención del Ministerio Público en Materia de Atención a Víctimas y Persecución Penal Estrategia del Delito Trata de Personas*). The protocol outlines strategic mechanisms for the prosecution, throughout the country, of the offence of trafficking in persons. It establishes parameters for coordination of victim care and preliminary investigation of the offence; referral of cases being dealt with by prosecution services in districts, municipalities and sections; communication and advisory services offered by the Human Trafficking Section; coordination with criminal investigation units, and recording of information in the Public Prosecution Service.

161. Actions for prevention and protection of victims are carried out through training workshops in centralized, decentralized and autonomous institutions, in order to give them the necessary tools to provide prevention, detection and rescue of trafficking victims.

162. In August 2016, the State joined the Blue Heart Campaign against Human Trafficking promoted by the United Nations Office on Drugs and Crime (UNODC). The campaign will include awareness-raising workshops for prosecutors in the Public Prosecution Service, officers of the National Civil Police and the general population, with the aim of combatting human trafficking.

Statistics on human trafficking

163. The Comprehensive Services Unit in the Human Trafficking Section of the Public Prosecution Service covers the areas of social work¹⁵ and psychology.¹⁶ Between 2012 and

¹⁴ *Informe del Ministerio Público*. Oficio núm. SPAE-73-2016 (COPREDEH-10-2016), 22 April 2016, p. 21.

¹⁵ The Social Work Area coordinates with prosecutors and assistant prosecutors to request the inclusion of victims in the Family Subsidies Programme; home visits to conduct socioeconomic studies, to determine vulnerability of victims, and prepare reports on restoration of dignity; support and protection for victims and their families during transfer to shelters; visits by institutions to coordinate referrals and support for victims of 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 Ciudad de la Alegría (a non-governmental organization) to obtain student scholarships for trafficking victims.

¹⁶ The Psychology Area provides care for direct or collateral victims from the time a case is brought to the attention of prosecutors, accompanies victims to the medical examiner, to the doctor in the Victim Services Office and to the National Forensic Science Institute; prepares and accompanies them in the Gesell chamber for preliminary depositions and provides emotional support after the deposition, conducts psychological evaluations, prepares psychological reports, provides psychological care and psychoeducation (concerning their rights, the offence of which they are victims, responsible parenting, sexual orientation and STDs, orientation on use and abuse of drugs and alcohol, life plans and others) for victims of different offences involved in human trafficking.

March 2016, services were provided to a total of 571 persons; this does not include the figures for 2013 in both areas, or for 2012, in social work (see Appendix XXXIV).

164. As regards foreign victims, 907 persons of different nationalities were helped during the period between 2012 and 2015 (see Appendix XXXV)

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

166. According to the office of the special prosecutor dealing with this issue, the Information System of the Public Prosecution Service shows that 2,454¹⁷ cases of trafficking were reported between 2010 and 2015 (see Appendix XXXVII). The records also show that there were 51 convictions for different types of trafficking (see Appendix XXXVIII).

167. During the period 2010-2015, the courts handed down a total of 134 sentences (57 acquittals and 77 convictions).¹⁸

Training on human trafficking

168. The Training Unit of the Public Prosecution Service reports that between 2010 and 2015, a total of 322 persons (167 men and 155 women) received training on issues relating to human trafficking (see Appendix XXXIX).

Right to liberty and security of person, rights of persons deprived of their liberty, right to a fair trial and due process (arts. 6, 7, 9, 10, 14 and 24)

Conditions of detention

169. In regard to prisons, the State has carried out the following actions:

(a) To deal with overcrowding, the Directorate-General of the Prison System has drawn up a list of persons deprived of their liberty who have served enough time to request a reduction of their sentence; this would help alleviate overcrowding in detention centres;

(b) To improve the infrastructure, access to health care and conditions of hygiene, work is underway on construction of two new modules to alleviate overcrowding,¹⁹ with resources provided by the Directorate-General of the Prison System and with the help of the European Union Technical Assistance Support Programme to Security and Justice Sector (SEJUST). Plans are underway for construction of new detention centres;

(c) To segregate minors, women and men deprived of their liberty, the Act on the Prison System stipulates that only women deprived of their liberty have the right to keep their children under age 4 with them. The plan is to eventually provide infrastructure and equipment to separate minors from their mothers who are deprived of their liberty;

(d) For their own protection during transfer, female detainees are transported by the Inmate Transport Unit separately from men deprived of their liberty;

(e) With regard to the situation of self-government, the Unit for the Analysis of Prison Information and the Offices of the Deputy Director and the Inspector General of the

¹⁷ *Informe del Ministerio Público*. Oficio núm. SPAER-73-2016 (COPREDEH-10-2016), 22 April 2016. p. 50.

¹⁸ *Informe P-371-2017 del Organismo Judicial*. 10 de noviembre 2016. Anexo 1. Folio 145.

¹⁹ <http://dgsp.gob.gt/ampliacion-cof/>.

Prison System are coordinating efforts to implement early warning of crises or emergencies in prisons. Regular inspections are conducted in detention centres in order to effectively prevent prohibited objects or substances from being brought in;

(f) To prevent violence among inmates, persons deprived of their liberty are separated according to their legal status, criminal profile, age, sex, gender, behaviour, social belonging and health.

170. The aforementioned measures are envisaged in the strategic and crosscutting lines of action embodied in the National Prison Reform Policy (Government Decision 149-2015, of 22 June 2015) to be implemented over a 10-year period. The Policy includes 10 main lines of action, as follows: inter-agency coordination; implementation of career jobs in the prison system; continuing specialization; strict application of a progressive regimen; construction, renovation and modernization of infrastructure; internal and external security; promotion of refamiliarization; community and business involvement; socioeconomic reinsertion of persons; special attention to women, men, children and adolescents in the prison environment.

171. Overall, 40 general strategies and 209 specific actions are being implemented to address institutional issues and provide services for the vulnerable population. The following actions are worth noting:

(a) Eradication of violence against women: include programmes and courses on women's human rights in all training activities in the judiciary and in public administration;

(b) Racism and discrimination against women: create, strengthen and implement training programmes for civil servants to provide adequate assistance to Maya, Garifuna, Xinka and Mestiza women so as to eradicate racist practices in all public services;

(c) Establishment of a protocol for adequate removal of children of female inmates in detention centres, in coordination with the Office of the Attorney General. A Gender Unit was set up in the Directorate-General of the Prison System in order to develop policies with a gender approach. There is also a Women's Office and a Multiculturality Area.

172. Discussions are currently underway on reform of the prison system and the Technical Secretariat of the National Security Council, with a view to prioritizing strategic areas and short- and medium-term actions in three dimensions: (a) prevention, rehabilitation and re-education; (b) administrative and financial efficiency; (c) internal controls, security and prison intelligence.

Pretrial detention

173. As provided for in the Criminal Code, there has been a growing trend towards the use of alternative measures in order to limit the use of imprisonment. Between 2010 and 2015, such measures were granted in a total of 107,342 cases. During that period, pretrial detention was imposed in 65,052 cases; between 2013 and 2015, other solutions (provisional confinement, discontinuance, stay of proceedings) were granted in a total of 54,640 cases (see Appendix XL).

174. It is estimated that of 20,207 persons deprived of their liberty, 9,585 are in pretrial detention.

175. The Telematic Surveillance Act (Decree 49-2016) was adopted in September 2016. This measure provides for implementation of electronic and technical systems to be used by the Directorate-General of the Prison System to improve surveillance of persons who have been convicted but have been granted alternative measures (house arrest) and wear a GPS monitoring device.

176. Creation of a judgeship to oversee telematic surveillance is being considered, as well as a system of surveillance cameras within the prison system, which would be managed by the Directorate-General of the Prison System. Such a measure would comply with the

Criminal Code and make it possible to apply pretrial detention only in extreme cases. This would bring it in line with article 9 of the Covenant.

Appointment of high-level judicial authorities

177. Article 269 of the Constitution and articles 137, 151, 152, 157, 158, 163 and 164 of the Act on *Amparo, Habeas Corpus* and Constitutionality provide that the following institutions or bodies charged with appointing magistrates (judges) to the Constitutional Court (five magistrates and five alternates): the Supreme Court of Justice, the President of the Republic in the Council of Ministers, the plenary of the Congress, the Higher University Council of the University of San Carlos and the Assembly of the Guatemalan Bar Association. The magistrates are elected for five -year terms and may be re-elected.

178. The Congress of the Republic, the Supreme Court of Justice, the Higher University Council of the University of San Carlos and the Guatemalan Bar Association issue public invitations to anyone interested in applying for the position of magistrate of the Constitutional Court. The Electoral Tribunal of the Guatemalan Bar Association set up 40 polling stations throughout the country, and more than 20 of the Association's active members were nominated.

179. In the case of the Higher University Council of the University of San Carlos, all 41 members of the Council cast their vote. The voting takes place after candidates are interviewed and potential public objections are considered.

180. In the case of the plenary of the Supreme Court of Justice, after the public invitation is issued, and as stipulated in the Act on Nominating Committees (Decree 19-2009 of the Congress of the Republic), the Court considers the interview reports, psychometric tests and any objections received by the Bar Association and the national archive of *protocolos* (original legal instruments), in order to elect the best lawyers based on the following scoring system: academic merit, 35 points; professional merit, 60 points, and human projection, 5 points; psychometric tests and interviews are counted as 10 points.

181. To begin the process of calling for and receiving applications, the Congress of the Republic appoints a nominating committee to evaluate and screen the candidates, who are voted on by the plenary of the Congress.

182. The President of the Republic issues an invitation to lawyers. The Council of Ministers then evaluates their professional careers and their history of public service.

183. In all cases, the constitutional right to public disclosure of administrative acts, as envisaged in article 30 of the Constitution, is respected.

184. Pursuant to article 195 of the Constitution, the President of the Republic, the Vice-President and the Ministers of State make up the Council of Ministers, which considers matters submitted to its consideration, including the election of a magistrate and his or her alternate, as envisaged in article 269 (c) of the Constitution. The Council of Ministers and the President are jointly responsible for the actions of the public administration, hence the need for the full Council to make the appointment.

185. The President is a member of the Council of Ministers but does not act alone in the aforementioned election; thus (a) the appointment must be made at a special meeting of the Council of Ministers; (b) candidates must meet the requirements set forth in article 270 of the Constitution, and (c) once the election has been completed and the appointment made, the decision must be made public (see case file 688-2011, non-appealable decision on *amparo*, 7 December 2011).

186. Bearing in mind the above, the heads of the three branches of Government, acting together and joined by the members of the technical board, submitted a draft amendment to the Constitution on the matter of the court system. The document was submitted to the officers of the legislature, where it was listed as number 5179 and subsequently endorsed by 52 members of Congress.

187. Following are the main points set forth in the proposed amendment on the election of magistrates:

(a) Nominating committees: Eliminate the nominating committees for the selection of candidates for magistrate of the Supreme Court of Justice, appeals chambers and Attorney General;

(b) Constitutional Court: Increase the membership of the Constitutional Court to nine, and extend their terms to nine years. There shall be three alternates. One third of the members of the Constitutional Court shall be renewed every three years. Requirements: 20 years of experience practicing the law, or eight years of service as magistrate in the appeals court or the Supreme Court of Justice;

(c) Membership: Three magistrates shall be elected every three years. Three bodies shall take part in the election: the National Justice Council, the President of the Republic in the Council of Ministers and the Congress. Each one shall elect one magistrate from a slate proposed by the other two bodies:

(i) The President of the Constitutional Court, by lot, for a three-year term;

(ii) Alternates: the three alternates shall be selected in the same manner as the magistrates. The alternates must serve on the Constitutional Court on a full-time basis;

(d) The Supreme Court of Justice shall be made up of 13 magistrates; the majority (nine) must be career magistrates, while other “outside” lawyers may be chosen by competitive examination. A new body, to be called the National Justice Council, shall submit a slate of three candidates chosen by the Congress. The administrative duties of the Supreme Court of Justice shall be transferred to the National Justice Council;

(e) Magistrates of the Appeals Chamber: Three-fourths of the membership of the Chamber shall be career judges (with eight years of experience), the remaining fourth shall be outside lawyers with at least 15 years of experience practicing the law. They shall all be elected by the Directorate of the Judiciary. The magistrates of the Appeals Chamber and justices of the peace and trial judges shall have lifetime tenure, subject to evaluation every two years;

(f) The National Justice Council shall have two directorates: the Directorate of the Judiciary and the Directorate of Administration.

Protection of judges and prosecutors in high-impact cases

188. According to the Ministry of the Interior, between 2010 and 2015, 100 judges in high-impact cases and 10 special prosecutors, totalling 110, were under protection. This required the deployment of 288 officers of the National Civil Police (see Appendix XLI).

Penalty imposed by the Honour Tribunal of the Guatemalan Bar Association against a judge for allegedly offending one of the lawyers representing Efraín Ríos Montt

189. A penalty imposed by the Honour Tribunal of the Guatemalan Bar Association against a judge for offending the defence attorney representing Efraín Ríos Montt was overturned, as a writ of *amparo* was accepted by the Constitutional Court, which recognized the independence of the judiciary and the powers of judges under article 203 of the Constitution.

Combatting structural violence in the State Party

190. The following activities have been carried out in the context of the National Policy on Prevention of Violence and Crime, Citizen Security and Harmonious Relations (2014-2034):

- (a) Launching of the Policy throughout the country (2014);
- (b) Visit by seven mayors to Medellín, Colombia, to learn about municipal observatories (2014);
- (c) Launching of the Plan of Action for the Policy (2015);
- (d) Discussions on the Policy with 336 municipal mayors (2014-2015);
- (e) Creation of the National Commission on the Policy, made up of vice-ministers of State (2015);
- (f) Establishment of the Board of Cooperating Agencies;
- (g) Implementation of the Policy in annual operating plans in 308 municipalities (2015);
- (h) Discussions on the Policy with 50 new mayors elected for the 2016-2020 term;
- (i) Discussions on the Policy with 21 governors of departments (2016).

191. In 2015, two training events were carried out for staff of the Unit on Community Prevention of Violence. A workshop was held for facilitators of municipal policies on prevention of violence and crime, citizen security and harmonious relations (17 and 18 June 2015), at which 66 persons were trained, including 41 men and 21 women. A workshop on gender and multiculturalism was organized for technical and professional staff of the Unit on Community Prevention of Violence (16 and 17 November 2015). Forty-three departmental delegates, along with personnel from the Unit on Community Prevention of Violence were trained, making a grand total of 150 persons (78 women and 72 men).

Lynchings

192. The judiciary's National Commission on Prevention of Lynching was set up in April 2005.²⁰ The following agencies joined the Commission between 2007 and 2013: the National Literacy Committee, the Unit for Modernization of the Judiciary, the National Disaster Reduction Coordinating Board (2007), OHCHR-Guatemala (as observer, 2008) and the Human Rights Office of the Archbishop.

193. Since June 2015, the American Friends Service Committee has provided support and attended regular (once a month) and special (when necessary) meetings of the Civitas Centre and the Human Rights Defenders Unit.

194. The National Commission on Prevention of Lynching has carried out the following actions, among others:

- (a) Protocol for intervention of the National Civil Police to prevent attempts, assault and battery, and lynchings;
- (b) Fifty workshops were carried out to raise awareness and train judges, community leaders and judicial facilitators in departments identified as having a higher level of social conflict (Sololá, Alta Verapaz, Huehuetenango, Quiché, Totonicapán);
- (c) Training and informational materials for prevention campaigns were designed, developed, printed and distributed;
- (d) The National Commission on Prevention of Lynchings holds monthly meetings which are convened by the judiciary.

²⁰ The inter-agency agreement that led to the creation of the judiciary's National Commission on Prevention of Lynching was signed in April 2005 by the judiciary, the Ministry of the Interior, the Public Defenders Institute, the Ministry of Education, the Office of the Human Rights Advocate, the Presidential Human Rights Commission, the Presidential Secretariat for Peace, the Guatemalan Tourism Institute, the Institute for Comparative Studies in Crime Science and the Office of the Advocate for Indigenous Women.

Bearing of firearms and ammunition

195. The Ministry of the Interior seized a total of 27,431 firearms and ammunition between 2010 and 2015 (see Appendix XLII).

196. Decree 15-2009 was issued in response to arms-control commitments undertaken by the State, in recognition of the need to pass legislation not only to control the circulation of arms and ammunition, but also to have legal tools for prosecution of persons accused of offences involving illegal circulation of firearms.

197. One of the requirements was to legislate on the marking of firearms at three points in time: (1) when the arms are manufactured, (2) when they are imported, and (3) when they are confiscated and turned over to State security forces.

198. Marking is a mechanism designed to track firearms. The symbols used by each country must identify the origin of the arms; the symbol for Guatemala is GUA.

199. Decree 15-2009 incorporates and modifies the definition of offences involving the possession, manufacture and illicit trafficking of arms, going beyond illegal imports or exports to suggest that trafficking occurs whenever a State involved in a transaction has not authorized it.

200. Decree 15-2009 also increased the penalties for certain offences and misdemeanours; for example, penalties of six months to one year were raised to over five years, and no provision was made for waiving them.

201. Another issue addressed by the decree is that of the suitability of a person to be granted a license to bear arms, as the decree provides for evaluation of applicants. A first-time applicant must submit to psychological evaluation and be tested on his or her knowledge of the law, as well as on safety techniques and measures.

202. The Regulations to the Arms and Ammunition Act (Government Decision 85-2011, of 7 April 2011) lay down procedures and concepts for implementing the mechanisms established in the Act, as well as the phases of registration and control of arms held by State entities and private security companies and the type and manner in which testing for arms licenses is carried out.

203. As regards the purchase and possession of firearms, the Regulations to the Arms and Ammunition Act (art. 18) lays down the following requirements for purchasing a firearm for civilian use, sports or individual use and handling:

- (a) A form for the permit to bear arms, issued by the Directorate-General of Arms and Ammunition Control;
- (b) A notarized photocopy of the applicant's personal identification document;
- (c) A recent black-and-white photograph, front view, without eyeglasses;
- (d) Original birth certificate issued by the National Registry of Persons;
- (e) Certification of a background check showing no police or criminal record;
- (f) *Boleto de ornato* (receipt for city beautification tax);
- (g) Proof of employment or certification of income.

204. The requirements must be sent to the Directorate-General of Arms and Ammunition Control for review and verification, to establish that there is no legal impediment for authorizing the purchase. Once the sale is authorized, the Directorate-General of Arms and Ammunition Control must issue the permit to the new owner.

205. The Directorate-General of Arms and Ammunition Control issues to Guatemalan nationals and foreigners holding temporary or permanent residence unlimited authorization to bear firearms in one specific location; i.e., the bearer is not allowed to carry or move the firearms in question outside the authorized location.

206. The permit covers up to a maximum of three firearms. Article 30 of the Regulations to the Arms and Ammunition Act requires the following:

- (a) An application for the licence, issued by the Directorate-General of Arms and Ammunition Control, including:
 - (i) Full name and surnames, age, marital status, nationality, profession or activity, personal identification number and address for receiving notifications;
 - (ii) Brand, model, calibre, barrel length, serial number of the firearm and identification of calibre conversions, if applicable;
 - (iii) Sworn statement that the bearer does not have and has never had a mental illness, is not a deserter from the Guatemalan Army and/or has not quit a job with the National Civil Police;
- (b) The application must include the following documents:
 - (i) Notarized photocopy of the personal identification document;
 - (ii) Certification that the applicant does not have a criminal or police record, issued by the competent authorities;
 - (iii) Certificate of completion of evaluations established in article 75 of the Arms and Ammunition Act, when applying for the first time;
 - (iv) Licence and photocopy of the decision issued by the Directorate-General of Immigration, granting temporary or permanent residence, in the case of foreigners.

Freedom of expression and association (arts. 9, 19, 21 and 22)

Protection of journalists and human rights defenders; Unit for the Analysis of Attacks against Human Rights Defenders

207. The launching ceremony for the Public Policy for the Protection of Human Rights Defenders began on 13 September 2016, in compliance with section C.4, on Guarantees of non-repetition,²¹ of the judgement of the Inter-American Court of Human Rights in *Human rights defender et al v. Guatemala* (28 August 2014). The activity was carried out jointly by the Public Prosecution Service, the Congress of the Republic, the judiciary, the executive branch and representatives of civil society organizations.

208. The Unit for Prosecution of Crimes against Journalists Unit was separated from the Unit for Prosecution of Trade Union by Decision 49-2011 (27 May 2011).

209. In 2012, union leaders, journalists and LGBTI persons were included among the population covered by the Unit for the Analysis of Attacks against Human Rights Defenders, which is coordinated by the Human Rights Unit of the Ministry of the Interior, and makes recommendations for preventing attacks. The Public Prosecution Service conducts the necessary investigations through the Special Prosecutor for Human Rights and the units on crimes against human rights activists, crimes against justice officials, crimes against journalists and crimes against union leaders, in order to prosecute and punish those responsible for the attacks.

210. The National Civil Police provides three types of security and protection, as follows:

- (a) **Personal security.** Plainclothes officers of the National Civil Police provide 24-hour protection for persons who are at risk for as long as necessary until the risk disappears or the established time has concluded;

²¹ C.4. Guarantees of non-repetition. C.4.1. Public policy for the protection of human rights defenders. The Commission and the representatives asked the Court to order the State to adopt measures of a legislative, institutional, judicial or, in the case of the representatives, administrative nature, aimed at reducing the risks faced by human rights defenders. The State reiterated that it was not proven that Mr. A.A. was a human rights defender or that his death was “related to his supposed role as a defender [...]” It also held that it “has already adopted the measures required in this regard by the Commission [...]”

(b) **Perimeter security.** This is the mechanism for protection of physical perimeters in order to detect and prevent the presence of persons or situations that threaten the life, security and integrity of the protected persons;

(c) **Fixed-point security.** This is the security provided in stationary fashion, usually in buildings, dwellings or offices in which the defenders carry out their daily activities.

211. The three types of security are not mutually exclusive, and they are agreed on with the beneficiaries.

212. The aforementioned security measures are designed to protect the life and integrity of individuals who, owing to their role in society or their vulnerability arising from longstanding discrimination and exclusion, are especially threatened. Priority is given to human rights defenders, including indigenous authorities and leaders, environmentalists, union leaders and justice officials, as well as women, children and adolescents, journalists, immigrants, refugees, the LGBTI population, persons with disabilities and persons deprived of their liberty.

213. In July 2016, the President of the Republic endorsed a proposal for a programme to protect journalists, bearing in mind their special situation. This was done to meet the commitment undertaken by the State in Geneva in 2012, on the occasion of the Universal Periodic Review.

214. The proposal was agreed on by consensus by the representatives of journalists. It was endorsed by numerous national and international communications media, including Reporters without Borders; the Committee to Protect Journalists; the IFEX Network Americas Region, comprised of Asociación para los Derechos Civiles (Argentina), Canadian Journalists for Free Expression, Centro de Archivos y Acceso a la Información Pública (Uruguay), Centro Nacional de Comunicación Social de Mexico, Espacio Público de Venezuela, Foro de Periodismo Argentino, Fundación para la Libertad de Prensa de Colombia, Fundación Karisma de Colombia, Fundamedios de Ecuador, Instituto de Prensa y Libertad de Expresión de Costa Rica, Instituto Prensa y Sociedad de Peru, Instituto Prensa y Sociedad de Venezuela, Observatorio Latinoamericano para la Libertad de Expresión de Perú, PEN American Center, PEN Canada, Sindicato de Periodistas de Paraguay, all defenders of these rights; Freedom House, and Federación Latinoamericana de Periodistas, among others.

215. The Office of the Human Rights Advocate and the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights have expressed their support for the journalists' association and their willingness to provide technical assistance for the process.

216. The following actions were taken to protect journalists and human rights defenders:

(a) A hotline for human rights defenders was set up with telephone number 1543 to receive emergency calls from journalists and human rights defenders and provide support, as required by circumstances, such as by arranging for immediate protection measures and investigation, in accordance with the protocols established for this purpose;

(b) The Human Rights Defenders Unit of the Ministry of the Interior was reinforced as additional investigators were recruited and trained;

(c) On 17 November 2011, the Public Prosecution Service and the Ministry of the Interior signed an inter-agency agreement providing that no changes may be made in the staff of the investigation units that work with the Office of the Special Prosecutor for Human Rights except in cases of force majeure, in which case, replacements shall be made immediately. The Specialized Criminal Investigation Division of the National Civil Police, which provides support for the Office of the Special Prosecutor for Human Rights, was reinforced. In February 2014, the staff was increased from one officer in charge and six investigators to 20 investigators and one officer in charge. Its work is also coordinated with the Protection of Persons and Security Division of the National Civil Police, which provides ongoing preventive personal protection for human rights defenders and their families when they have been attacked or threatened.

Reports of threats, attacks against journalists and human rights defenders

217. As regards criminal proceedings during the period 2010 to 2015 in connection with threats, violent attacks and murders of journalists, as well as outcomes, including convictions of those responsible and reparations to victims, the Public Prosecution Service reports a total of 262 complaints, 33 conclusive reports, 15 sentences and 15 decisions for *critero de oportunidad* (leniency for criminal informants) (see Appendix XLIII). In the case of human rights defenders, it has received a total of 528 complaints, with six sentences being handed down (see Appendix XLIV).

Campaigns against human rights defenders

218. With regard to statements stigmatizing or discrediting human rights defenders, journalists and traditional authorities and leaders, the State reiterates that it recognizes their efforts to defend and stand for human rights. The State intends to give priority to dialogue and equal treatment in all situations for everyone, bearing in mind fundamental principles of human rights, such as equality, respect, liberty and non-discrimination.

219. A review of the Human Rights Policy 2006-2015 and the Plan of Action on Human Rights 2007-2017 was undertaken in April 2016. This was done in coordination with the Human Rights Commission of the Congress of the Republic.

220. The State wishes to reiterate that the Government has not made any attempt to criminalize the actions of human rights defenders or social protest movements. The provisions on offences and penalties in the Criminal Code are not intended to weaken or disorganize activism and social protest. The substantive criminal law covers events or acts committed by a perpetrator; it does not target the roles played by individuals in society.

Reports of illegal detention

221. There are mechanisms for human rights defenders to report on their situations, as well as indirect legal mechanisms for protection of human rights defenders, such as the provision for reporting crime set forth in article 297 of the Code of Criminal Procedure or the action envisaged in article 302 of the Code, the *recurso de responsabilidad* (remedy of accountability) or amendment of the decree at the request of any citizen, pursuant to article 138 of the Constitution. The legislation includes procedural mechanisms such as *amparo*, habeas corpus or a motion of unconstitutionality in specific cases or in general cases involving partial or total violations of the Constitution, as envisaged in articles 263, 264, 265, 266 and 267 of the Constitution and the Act on Amparo, Habeas Corpus and Constitutionality.

Bill 4843

222. Bill 4843, which was submitted to the Congress of the Republic in 2014, was drafted to promote fair competition in terms of supply and demand. There are groups, however, who see the bill as an attempt to limit access to public information, thwart freedom of expression, silence complaints of unsatisfied consumers, block investigations of corruption and discourage social protest.

223. As provided in the Constitution, the Congress will be responsible for deciding whether to adopt or reject it, following the established procedure.

Reports of attacks on and murder of union leaders. Collective bargaining

224. The Public Prosecution Service reports that between 2010 and 2015, it received a total 67 complaints against union members.

225. Article 34 of the Constitution recognizes the right of free association and states that individuals have the right to associate freely and may not be required to belong to an organization. The Labour Code regulates the right to join a trade association and defines a trade union as any permanent association of workers or employers or persons belonging to an independent profession or trade (independent workers) that is set up for the sole purpose of studying, improving and protecting their shared economic and social interests, as the case may be.

226. Both rural and urban unions are recognized; trade unions must always be governed by democratic principles of respect for the will of the majority, secret voting and one vote per person. The persons referred to in the law have the right freely to form trade unions, which shall have standing as legal entities capable of exercising rights and undertaking obligations.²²

227. As regards registration of trade unions, during 2015, 34 unions obtained the status of legal entities. Pursuant to articles 102 (q) and (t) and 103 of the Constitution, the Directorate-General of Labour of the Ministry of Labour established a model for facilitating registration of trade unions. The Ministry's website lists the requirements for registering, establishing credentials of members, and other details, at <http://www.mintrabajo.gob.gt/index.php/servicios-al-ciudadano/dgt/registro-laboral.html>.

Measures for the protection of minors (arts. 7 and 24)

Adolescents in conflict with the law

228. In 2012, the judiciary issued instruction CP-11-2012, providing that priority must be given to processing initial statements by adolescents in conflict with the law.

229. Guatemala has four centres for persons deprived of their liberty, the Juvenile Detention Centre for Women and three centres for males only. Two of the male detention centres are interim centres for males in provisional detention. The Juvenile Detention Centre for Men only holds persons being held in custody and members of the *Barrio 18* gang.

230. The Technical Group on Adolescents in Conflict with the Law was been set up to work on a project for the construction of two model centres for adolescents. Authorization for a loan from Italy is being negotiated for this purpose.

231. Adolescents who are charged with committing offences receive free legal aid from the Public Defenders Institute from the moment they make their first statement and, in many cases, when they are still under investigation.

232. The Public Defenders Institute has a staff of 29 public defenders throughout the country, one in each court for adolescents who are in conflict with the law, except in Guatemala City, where nine lawyers work with *órganos de jurisdicción de primera instancia* (lower courts), *de ejecución* (enforcement courts), *juzgados de paz* (justices of the peace) and conduct hearings by videoconference.

233. In October 2015, the Public Prosecution Service introduced the model for treatment and specialized prosecution of adolescents in conflict with criminal law. The model focuses on three aspects: (1) a socio-educational approach, (2) restoration and (3) responsibility.

234. The High-level Technical Group on Criminal Courts (made up of the Ministry of the Interior, the Social Welfare Secretariat of the Office of the President, the judiciary, the Public Prosecution Service and the Public Defenders Institute) developed the Strategic Plan 2016-2019, which provides for the creation of new courts, hiring of judges and joint training for all personnel of the juvenile criminal justice system. The Plan was presented in March 2016.

²² Arts. 206, 207, 209 and 210 of the Labour Code.

235. The second Regional Workshop on Juvenile Criminal Justice was held in November 2016. The purpose of the workshop was to find better mechanisms for inter-agency coordination in the region, with a view to implementing prevention strategies on behalf of juveniles involved in illicit acts.

Juvenile justice

236. To ensure adequate protection of children, the judiciary and UNICEF signed a Letter of Understanding on 31 July 2015. With the collaboration of China-Taiwan, 10 centres for the protection and defence of children and adolescents were opened.

237. Decision 40-2016 extends competence so that cases involving children and adolescents that had been considered in the second instance by the Mixed Court of Appeal, which is based in Guatemala City, may also be admitted and resolved in civil, mercantile and family chambers of appeal in Quetzaltenango, Huehuetenango and Alta Verapaz, Cobán, Alta Verapaz and Quetzaltenango, Izabal, Petén, Sololá, Retalhuleu, Suchitepéquez, Jalapa, Zacapa, Antigua Guatemala, Escuintla, Chimaltenango and Santa Rosa. These courts are authorized to resolve cases involving children and adolescents in order to streamline and decentralize proceedings.

238. In July 2016, the B-Learning refresher programme on proceedings involving children and adolescents in conflict with the law was inaugurated. The refresher course is carried out in three on-site sessions using the b-learning platform. This is the first time this type of training on subjects related to children and adolescents has been implemented.

Child labour, domestic work

239. Despite the efforts made by the State, child labour increased nationwide, from 9.2 per cent in 2013 to 11.8 per cent in 2015 (see Appendix XLV).

240. The National Commission for the Eradication of Child Labour developed a strategic framework for achieving the goals established in the ILO programme on Decent work in the Americas: An agenda for the Hemisphere. The idea is to develop a roadmap for making Guatemala a country free of child labour and its worst forms. Several participating agencies are charged with combatting child labour and its worst forms; in particular, the Office of the Attorney General is responsible for comprehensive protection of the rights of children and adolescents, and for prosecution, application of criminal penalties and restoration of the rights of victims.

241. Implementation of the roadmap and progress in meeting the goals established in the Agenda for the Hemisphere entails the following:

- (a) Eradicating the worst forms of child labour by 2016;
- (b) Eradicating all child labour by 2020.

242. This plan provides the bases for programming and integrating complementary interventions to prevent and eradicate child labour in the following areas: the fight against poverty, health policies, educational policies, legislative framework and protection, and social mobilization.

243. To help overcome the problem, the Ministry of Labour conducts inspections in agricultural enterprises, maquilas and security companies, as well as in sectors with high rates of child labour. It also provides technical assistance on transitional justice and children's rights to the Office of the Special Prosecutor for *Amparos* of the Public Prosecution Service.

Registration of births

244. To ensure that children are registered and identified at birth, the National Registry of Persons, the Ministry of Public Health and Social Welfare and the Guatemalan Social

Security Institute signed inter-agency cooperation agreements. Letters of understanding were signed with some private hospitals to set up Registry offices within the facility so as to ensure timely registration of births and deaths of minors.

245. The National Registry of Persons is promoting a pilot plan called *Alerta Temprana de Vida* (Early Warning of Life), which is designed to ensure the registration of births attended by midwives in rural areas. The Registry has taken all necessary steps to register births immediately through its mobile units, in order to reach all children in the country, especially in rural areas.

246. To improve registration and identification of births, the National Registry of Persons works with other agencies, such as the Social Welfare Secretariat of the Office of the President, the Ministry of Education and associations that promote the comprehensive child development, children's rights and improvement of their living conditions. To this end, it is highlighting late registrations with a view to eliminating under-registration. It is conducting awareness-raising campaigns and training in the context of the National Plan for Eradication of Under-registration (begun in 2013). There were 57,659 late registrations in 2014.

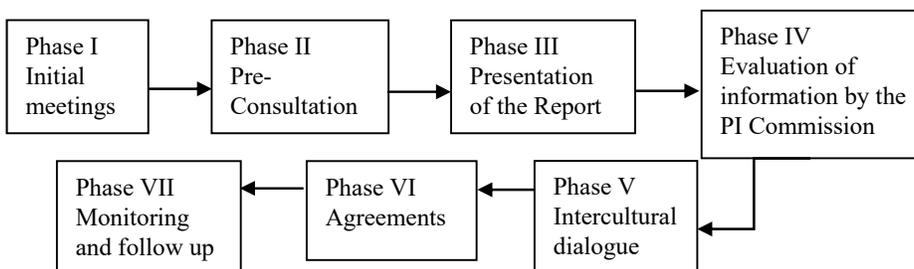
247. The National Registry of Persons is working to provide free registration of births, following the guidelines laid down in the legislation, in collaboration with mayors, community leaders, public institutions, international organizations, churches and volunteers. By the end of 2014, 5,217,412 births had been registered.

Rights of indigenous peoples (arts. 2, 26 and 27)

Consultations with indigenous peoples

248. In case 1149-2012, of 10 September 2015, the Constitutional Court ordered the Ministry of Energy and Mines to take all necessary measures to carry out consultations with the indigenous communities affected, according to the applicable international standards, by the installation of the La Vega I hydroelectric power plant.

249. In response to that decision, the Ministry of Energy and Mines developed a methodological proposal for carrying out the consultations in seven phases. The plan was accepted and approved by the Indigenous and Ancestral Authorities of Santa María Nebaj, Quiché.



250. On 8 June 2016, the Ministry of Energy and Mines signed the institutional agreement with the General Secretariat for Planning and Programming of the Office of the President, with the aim of strengthening territorial management and providing timely advance information in those territories where energy and mining projects were in place, and opened information offices in the departments.

Collective ownership

251. The Constitutional Court has established jurisprudence on collective ownership in its decisions on violations of the right to ancestral ownership, in keeping with the decisions of the Inter-American Court of Human Rights in cases 5955-2013, of 25 November 2015; 628-2013, of 24 June 2014, and 2275-2014, of 6 June 2016.

252. The Constitutional Court, along with its counterparts in Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Peru and Venezuela and the regional Court, has highlighted the unquestionable actionability of consultations with indigenous peoples in Guatemala, as evidenced in the decisions on cases 1179-2005, 1408-2005, 2376-2007, 3878-2007, 1031-2009 and cumulative cases 156-2013 and 159-2013, preambular paragraph VI.

253. Standards of international law are also reflected in the decisions on cases 3878-2007, 1031-2009, 1072-2011, 4419-2011, 1008-2012 and 1008-2012.

States of emergency

254. Whenever constitutional guarantees were suspended, it was done pursuant to and in a manner consistent with the provisions of articles 138 and 139 of the Constitution and the Public Order Act. In full observance of the *pro persona* principle and the guarantees set forth in article 27 of the American Convention on Human Rights and article 4 of the International Covenant on Civil and Political Rights, the State immediately informed the Secretary General of the Organization of American States and the Secretary-General of the United Nations as to which provisions were suspended and the reasons for declaring the state of emergency. At the same time, the work of the Human Rights Advocate was guaranteed, pursuant to articles 274 and 275 of the Constitution.

255. The highest number of states of emergency were declared during the administration of Álvaro Colom Caballeros, who used it 42 times; the previous administration used it 14 times (see Appendix XLVI).

Indigenous Affairs Unit of the Judiciary

256. The judiciary set up the Indigenous Affairs Unit in 2012 to promote and advise on implementation of public policies on the rights of indigenous peoples in its plans and projects. The Unit has a budget of 2,576,397 quetzals for its operations; it is staffed by 98 interpreters and seven workers.

257. The Unit collaborates with the Institutional Training Unit on training and sensitization programmes on the rights of indigenous peoples, juridical pluralism and related subjects, for judicial and administrative officials and staff members. It carries out studies and proposes solutions to guide and advise authorities on such matters, in order to establish coordination mechanisms for highlighting cultural and gender-related relevance while ensuring access to justice and juridical pluralism.

Access of indigenous persons to justice in their own language

258. The Indigenous Interpretation and Translation Centre and the Network of Legal Interpreters and Translators have been active since 2013, working in all 22 Maya languages. As of November 2013, there were 89 official interpreters. In addition, there are five community justices of the peace.

259. The main purpose of the National Judicial Facilitators Service Act (Decree 12-2016, of 2 February 2016) is to provide a liaison between citizens and the judiciary through the justices of the peace, independently of which branch of law is involved, so as to guarantee genuine and efficient access to justice, thus promoting a culture of peace and strengthening mechanisms for prevention and alternative solutions to conflicts among the population. There are currently 1,474 facilitators.

260. A judicial facilitator is a person chosen by his or her own community who has volunteered to serve as liaison between the population and the justice of the peace in their municipality. The facilitator works exclusively within his or her own municipality, specifically in the community of his or her residence. Any action taken by the facilitator outside the territorial boundaries of his or her community is null and void. The facilitator acts solely at the request of the justice of the peace or of the parties concerned, within his or

her domicile or any space within his or her neighbourhood, village or community. The facilitator must be bilingual and must be able to read and write Spanish and the language of the municipality in which he or she works.

261. Where there is an indigenous authority, judicial facilitators coordinate their work with the official and the indigenous justice systems; in terms of application, the indigenous justice system of the community prevails.

262. In 2015, the Public Defenders Institute facilitated legal interpretation and translation to indigenous languages in 1,025 cases.

***Amparo* 1552-2012 denies the existence of indigenous jurisdiction**

263. Despite the fact that *amparo* 1552-2012 denies the existence of indigenous jurisdiction, the Criminal Chamber issued decisions 41-2008 and 51-2008 and circular 7-2012 recognizing the existence of the indigenous legal system. As a result, access to justice was enabled throughout the republic.

Corruption (arts. 14 and 25)

Combatting corruption. The International Commission against Impunity in Guatemala (CICIG)

264. The Special Prosecutor against Impunity of the Public Prosecution Service took the following actions, among others:

(a) The Special Prosecutor against Impunity initiates investigations *ex officio* in response to anonymous reports and information published in the print, radio and television media and social networks. Case files are requested from the 24-hour records unit and subsequently assigned in order to initiate proceedings;

(b) Standing task forces are assigned to follow up on cases, with the support of international agencies such as the United States Agency for International Development (USAID) and the United States Bureau of International Narcotics and Law Enforcement Affairs (INL);

(c) With the approval of the cooperation agreement between the Public Prosecution Service and the Office of the Comptroller-General, a task force is set up to ensure that investigations will be thorough;

(d) Guidelines for investigating crimes involving corruption have been implemented;

(e) Institutional and inter-agency discussions are held to ensure the effectiveness of investigations.

265. In cases investigated by the Special Prosecutor against Impunity, a total of 197 penalties were imposed between 2011 and March 2016.

266. With regard to the support provided by the Public Prosecution Service to CICIG, on 12 December 2006, the Government of Guatemala and the United Nations signed the Agreement on the establishment of CICIG, which was approved by the Congress of the Republic in Decree 35-2007. The Commission is charged *inter alia* with collaborating with the State in the dismantling of illegal security groups and clandestine security organizations and promoting the investigation, criminal prosecution and punishment of those crimes committed by their members; with recommending to the State the adoption of public policies for eradicating clandestine security organizations and illegal security groups and preventing their re-emergence, including the legal and institutional reforms necessary to achieve this goal.

267. The Public Prosecution Service appointed the Special Prosecutor against Impunity to ensure the adequate handling of cases identified by CICIG, as provided for in article 3.1 (b)

and (c) of the Agreement establishing it. The position was established in the context of the Agreement establishing CICIG and the Bilateral Cooperation Agreement between the Public Prosecution Service and CICIG, on 27 February 2008. The Special Prosecutor against Impunity is charged with directing criminal investigation and prosecution in cases established by the Commission pursuant to its mandate.

268. In the case of actions in which the participation of the Public Prosecution Service is legally required, CICIG works in coordination with the staff of the Office of the Special Prosecutor against Impunity, requesting that steps be taken, such as summons, inspections, registration and other applicable measures, or processing of requests to judicial authorities, including summons to appearances or taking of statements by witnesses, experts or defendants, inspections, police raids, searches and other applicable measures, in accordance with the Code of Criminal Procedures and the relevant legislation, which are processed without delay.

269. At the request of CICIG, the Public Prosecution Service facilitates the available information and the processing of certain cases. When necessary, it provides certified copies of actions or detailed reports on the cases involved. Case files may also be made available to duly accredited staff of CICIG for consultation on the premises of the Public Prosecution Service. The requirement for the Public Prosecution Service to facilitate information is not limited to cases in which CICIG is conducting the proceedings assigned to it.

270. When CICIG selects one or more cases for investigation and prosecution by the Public Prosecution Service, the Commissioner representing CICIG reports the matter directly to the Attorney General of the Republic so that the Special Prosecutor against Impunity can initiate criminal proceedings.

271. The Public Prosecution Service and CICIG coordinate the protection of witnesses who are to make statements during the investigation or the criminal proceedings, who are victims or who provide information on crimes allegedly committed by members of illegal security forces and clandestine security organizations, who are experts or who will be testifying in any other applicable capacity, pursuant to the Act on Protection of Parties in Trials and Persons involved in the Administration of Criminal Justice and other relevant legislation. To this end, CICIG may directly request that such protection be provided by the Protection Office of the Public Prosecution Service.

272. Bearing in mind that the mandate of CICIG ends in 2017, the President of the Republic requested that it be extended for another four years at the Special Session of the United Nations General Assembly on the World Drug Problem, held in April 2016.
