



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

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COMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION**

**Replies of the Government of Mexico* to the Conclusions and Recommendations
of the Committee against Torture
(CAT/C/MEX/CO/4)**

[12 August 2008]

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

Report of the Government of Mexico arising from the request in paragraph 25 of the Conclusions and Recommendations of the Committee against Torture (CAT/MEX/CO/4), adopted following the review of the Fourth Periodic Report of Mexico

1. This report is submitted to the Committee against Torture (hereinafter “the Committee”) in response to the Final Observations for Mexico issued on 6 February 2007 (CAT/C/MEX/CO/4).

The State party should ensure that both federal and state legislation characterizes the crime of torture in keeping with international and regional standards, including the Convention against Torture and the Inter-American Convention to Prevent and Punish Torture.

2. At the present time, all states in the country have legislation on the subject, either characterizing the crime of torture in special laws or including the crime in the penal law of the state.

3. At present, a draft model law to punish torture has been developed by civil society and is under consideration by several governmental fora.

The State party should finalize the reform of the whole system of justice in order to, inter alia, introduce an oral accusatory model of criminal proceedings which fully incorporates the presumption of innocence and guarantees the application of the principles of due process in the evaluation of evidence.

4. On 18 June 2008 the Official Journal of the Federation published the Decree reforming and supplementing various provisions of the Constitution of the United Mexican States (hereinafter “the Constitution”) with regard to the system of administration of justice, through which modifications have been made in articles 16, 17, 18, 19, 20, 21, 22, 73, 115 and 123 of the Constitution. The reform encompasses the following:

- a) It establishes a system of guarantees ensuring respect for the rights of the victim, the offender and accused, based on the presumption of innocence for the latter. The system will be public and adversarial in nature, with unified submission of evidence in a single tripartite oral proceeding in which the Public Prosecutor’s Office (Ministerio Público) will conduct the prosecution, the accused will be able to defend himself, and it will be the judge in the end who determines the appropriate course. Oral proceedings will contribute to promoting transparency, at the same time providing for a direct link between the judge and parties, thus tending to make criminal procedures simpler and more flexible.
- b) It provides for the inclusion of a supervisory judge (juez de control) who, immediately and by any means, rules on requests for interim measures, restraining orders and methods of investigation of the requesting authority, ensuring that the rights of the parties are respected and that actions by the party bringing charges are in compliance with the law. The supervisory judge is in charge of the case from the time the suspect is charged to the opening of the trial. The oral hearings are conducted by a judge or court that has not had contact with the case, and the application of the penalty is under the responsibility and supervision of a sentencing judge.
- c) It establishes new regulations with respect to interim measures, including preventive detention, which can be applied exceptionally when other interim measures are not

sufficient to secure the appearance of the accused at trial, the pursuit of the investigation, protection of the victim, witnesses or the community, or when the accused is being tried for or has previously been convicted of a crime of malice (delito doloso). It also contemplates application of preventive detention in all cases of organized crime, intentional homicide, rape, abduction, crimes committed with violent means such as arms and explosives, and grave crimes defined by law against the security of the nation, against the free development of the human person, and against health.

- d) It provides for alternative dispute-resolution mechanisms which, by express constitutional mandate, seek to effect reparation of damage to crime victims, subject to judicial oversight in accordance with the terms deemed appropriate under secondary legislation. This measure will be conducive to judicial economy and attain a fundamental objective: ensuring that the victim of a crime is protected and that the defendant is held accountable for his actions, repairing the damage done insofar as possible.
- e) In the defence of the accused, the reform eliminates the “trusted individual” (“persona de confianza”) and ensures the right to an adequate defence conducted by a lawyer. In order to reach that objective and ensure equality in its fulfilment, provision is made to establish a quality public defender’s service for the population and to create conditions for a professional career for public defenders, providing that their emoluments may not be less than those of agents of the Public Prosecutor’s Office (Ministerio Público).

5. The reform will raise short-term detention to the constitutional level and will include a definition of “organized crime”:

- a) **Short-term detention:** The draft Decree proposes to incorporate short-term detention into article 16 of the Constitution, exclusively for cases of investigations and prosecutions pertaining to organized crime. It may apply under the terms and conditions laid down by the judge in keeping with the applicable law, and for a period of up to forty days, with the possibility of its extension for another forty days, provided that the circumstances which originally justified it still exist.
- b) Inclusion of short-term detention was proposed because the increasingly organized character of crime was jeopardizing judicial institutions and procedures. In that regard, the judicial reform initiative seeks to broaden the spectrum of effective measures in order to contain the impact of organized crime on public security. The aim is to ensure that accused persons do not evade legal process initially or judicial proceedings at a later stage and that they do not hamper investigation or affect the integrity of persons involved.
- c) **Organized crime:** The decree proposes a special regime for organized crime. It empowers the Congress of the Union to legislate on this matter, defining it at the constitutional level as “an organization in fact consisting of three or more persons to continuously or repeatedly commit crimes under the terms of the governing law.” For these cases, short-term detention may be decreed by the supervisory judge at the request of the prosecutorial authority subject to the modalities of time and place provided by law, so long as it is necessary for the success of the investigation, for

protection of persons or property, or when there is a well-founded risk that the accused may escape the administration of justice. It may not exceed forty days, which term may be extended only upon a showing by the prosecutorial authority that the causes which gave rise to it still exist, and may not in any event exceed eighty days.

- d) It is important to point out that the exceptional provisions laid down against organized crime are intended exclusively to combat this type of crime and in no event may be used for other kinds of conduct, which will prevent the competent authority from abusing the powers conferred.
- e) The definition contains elements that distinguish organized crime from conspiracy (asociación delictuosa), since the latter applies to any offense contained in the criminal laws, while the regime for organized crime is created to address a very special form of crime as regards operational capacity, organization, sophistication and impact.

6. As required by Article 135 of the Constitution, The Senate of the Republic has submitted the decree for approval by the majority of the country's 31 state legislatures.

7. In parallel, and as part of the reform of the State, the Congress of the Union is considering a reform of the Constitution with respect to human rights, which will raise the protection of fundamental rights to constitutional rank. An Executive Commission for Negotiation and Formation of Agreements of the Congress of the Union (Comisión Ejecutiva de Negociación y Construcción de Acuerdos del Congreso de la Unión (CENCA)) has been established as the lead entity in this reform process. In this framework, a pluralistic and open process of discussion is taking place with regard to various initiatives submitted by deputies, senators, the federal executive and civil society.

8. It should be noted that, through the changes in article 20 of the Constitution, contained in the comprehensive reform of the criminal justice system published in June 2008, an uncompromising stand has been taken against torture by prohibiting the use at trial of confessions obtained by duress.

9. That reform deprives all confessions not made directly to a judge of evidentiary value. This provision, together with the provision that only evidence presented at trial shall be considered for purposes of sentencing, eliminates the possibility of a forced confession being used to enter a conviction.

10. Similarly, the reforms contemplated in various provisions --for example, constitutional recognition of the presumption of innocence, the general rule which suppresses all evidence obtained in violation of fundamental rights, and the obligation that any confession by a suspect must be made with the assistance of counsel-- will curb the practice of torture.

Oral trials in Mexico

11. The reform provides that the accusatory criminal justice system provided for in the relevant articles, including article 20, will enter into force when so provided by the relevant secondary legislation, without exceeding eight years.

12. At present, various federative units of the country are in the process of implementing oral trials.

- a) **State of Nuevo León:** As from 28 July 2004 the state of Nuevo León has been using the accusatory oral trial in criminal cases, incorporating the presumption of innocence and ensuring application of due process in evaluation of evidence, as a confession has full evidentiary value only when it meets the following requirements laid down in article 311 of the Nuevo León Code of Penal Procedure:
- (i) *That it be made by a person not less than eighteen years of age, capable of understanding and volition, and with a full understanding of the charges brought against him;*
 - (ii) *That it be made by and against himself;*
 - (iii) *That it be made with assistance of counsel before the office of the public prosecutor (ministerio público) responsible for the investigation or before the judge or court hearing the case;*
 - (iv) *That it be made without the use of incommunicado detention, intimidation, torture or any other form of duress or physical or psychological violence; and*
 - (v) *That there be no indicia which, in the view of the judge or court, would render it implausible.*

The judicial police may file reports but may not obtain confessions; if they do so, said confessions shall have no evidentiary value.”

Accordingly, a statement obtained as a result of torture would lack any evidentiary value.

- b) **State of Chihuahua.** Since January, 2007, the state of Chihuahua has had a new, comprehensive code of criminal procedure of the public, accusatory and transparent type.
- c) **State of Aguascalientes.** The state of Aguascalientes submitted to the state Congress in July of 2006 a proposal for reform of the Code of Criminal Procedure for implementation of oral trials.
- d) **State of Mexico.** The state of Mexico has also undertaken action to implement the accusatory oral trial model. It will soon have in operation 18 courts, located in Toluca and Tlalnepantla, where oral trials will be held for less serious offenses. At present, two courts are in operation which attend to matters involving small sums. The first oral trial took place in August of 2006 in the criminal court of Toluca, state of Mexico, in a case involving a charge of assault and battery.
- e) **State of Hidalgo.** The Code of Family Procedure of the state of Hidalgo contemplates various scenarios with regard to oral trials.
- f) The states of Baja California, Coahuila, Jalisco, Morelos, Sonora, Tabasco, Tamaulipas, Veracruz and Zacatecas are still in the discussion stage in the implementation of oral trials.

13. The states of Chihuahua and Oaxaca, the latter since 1980, have a Code of Criminal Procedure of the public, accusatory, oral type.

The State party should take the necessary steps to prevent all forms of detention which may be conducive to the practice of torture, investigate allegations of arbitrary detention and punish any persons who have committed an offence.

14. In order to combat the practice of arbitrary detention, on 19 June 2001 the National Human Rights Commission (CNDH) issued General Recommendation No. 2, which recommended that the Attorney-General of the Republic (Procurador General de la República) and state prosecutors (Procuradores Generales de Justicia), the Federal Secretary of Public Security and public security officials of the states:

FIRST.- Issue express instructions to Judicial Police officers and personnel of police forces to the effect that they immediately cease arbitrary detentions; this pursuant to the observations contained in the body of the present document.

SECOND. Issue express instructions to agents of the office of the public prosecutor (Ministerio Público) that, in cases where persons arbitrarily detained by police bodies are placed at their disposal, they report any administrative irregularities to the competent internal oversight organs and, when so required, initiate the appropriate preliminary investigation.

THIRD. That human rights training and refresher courses, competitive examinations, periodic performance reviews and civil service selection competitions in the areas of justice and public security give stronger emphasis to this subject, with a view to achieving prompt and complete administration of justice.

15. The CNDH has a Training Programme providing courses addressed to public servants in the area of administration of justice, police and prisons. The programme is designed to strengthen actions aimed at promoting respect for human rights.

16. Although arbitrary detention is not defined as a crime in the Federal Penal Code, there are other offenses that can be considered as equivalent, such as: abuse of authority, unauthorized exercise of public authority, misuse of public office, offenses committed by public servants, or false imprisonment, among other offenses.

17. The statistics below present the number of complaints that have been filed with the CNDH in this regard.

2003

<i>Number of cases received</i>	<i>Concluded</i>	<i>Pending</i>
291	291	0

<i>Cause of conclusion</i>	<i>Number of complaints</i>
Guidance	169
Lack of interest by complainant	31
Resolved in proceeding	29
Guidance: remand to local organ	18
Mediation	16
Abandonment by complainant	14
Joinder	8
No jurisdiction	3
Not justiciable	2
Recommendation	1

2004

<i>Number of cases received</i>	<i>Concluded</i>	<i>Pending</i>
357	357	0

<i>Causes of conclusion</i>	<i>Number of complaints</i>
Guidance	246
Lack of interest by complainant	40
Mediation	21
Not justiciable	17
Abandonment by complainant	11
Resolved in proceeding	10
No jurisdiction	7
Joinder	3
Recommendation	2

2005

<i>Number of cases received</i>	<i>Concluded</i>	<i>Pending</i>
342	342	0

<i>Causes of conclusion</i>	<i>Number of complaints</i>
Guidance	246
Mediation	50
Lack of interest by complainant	19
Not justiciable	10
Joinder	6
Resolved in proceeding	5
Abandonment by complainant	4
Recommendation	2

2006

<i>Number of cases received</i>	<i>Concluded</i>	<i>Pending</i>
320	319	1

<i>Causes of conclusion</i>	<i>Number of complaints</i>
Guidance	241
Mediation	23
Not justiciable	23
Lack of interest by complainant	11
Resolved in proceeding	8
Abandonment by complainant	6
Recommendation	5
Joinder	2

2007

<i>Number of cases received</i>	<i>Concluded</i>	<i>Pending</i>
432	383	49

<i>Causes of conclusion</i>	<i>Number of complaints</i>
Guidance	286
Not justiciable	45
Lack of interest by complainant	14
Mediation	13
Resolved by proceeding	9
Abandonment by complainant	6
Recommendation	5
Joinder	3
No jurisdiction	2

The State party should ensure that cases involving violations of human rights, especially torture and cruel, inhuman or degrading treatment, committed by military personnel against civilians, are always heard in civil courts, even when the violations are service-related [see also the Committee's recommendation to this effect contained in its report on Mexico in the context of article 20 of the Convention (CAT/C/75, para. 220 (g)).

The State party should also reform the Code of Military Justice to include the crime of torture.

18. With respect to the commission of crimes by military personnel, article 13 of the Constitution provides as follows:

19. Article 13 of the Constitution:

“The power of court martial for crimes and actions against military discipline exists, but in no case will military tribunals extend their jurisdiction to persons who do not belong to the armed forces. When a crime or action against military discipline has affected a civilian, the matter shall be heard by the corresponding civil authority.”

20. In this regard, article 57 of the Code of Military Justice (CJM) lays down the following as offenses against military discipline:

- (i) *those stipulated in the second book of CJM;*
- (ii) *those of a common or federal law character when committed in any of the circumstances set out below:*

- a) *they were committed by military personnel during the performance of their duties or of acts related thereto;*
- b) *they were committed by military personnel aboard a warship or in a military building or military occupied point, provided that, as a consequence, disturbance or disorder resulted among the troops at the site where the crime was committed or military service was interrupted or adversely affected;*
- c) *they were committed by military personnel in territory declared under a state of siege or in a place subject to martial law in accordance with the laws of war;*
- d) *they were committed by military personnel before troops in formation or under colours;*
- e) *the crime was committed by military personnel in connection with another of those referred to in sub-section (i)*
- f) *when both military personnel and civilians are involved in the cases set out under section ii, the former shall be tried by military courts.*

Crimes of a common character that must be litigated in order to be investigated and punished shall not be within the jurisdiction of military tribunals, save in the cases referred to in sub-paragraphs (c) and (e) of section ii.

21. Likewise, article 58 of CJM provides:

“...when, pursuant to the foregoing article, military tribunals take cognizance of crimes of a common character, they shall apply the penal code in force in the place of the events at the time the crime was committed and, if the crime is of a federal character, the penal code that governs in federal districts and territories...”

22. Based on the foregoing provisions, military tribunals hear cases of torture and other cruel, inhuman or degrading treatment **when the crime is committed by military personnel in the performance of their duties or as a result thereof, applying** the Federal Penal Code (CPF) and the Federal Act to Prevent and Punish Torture (Ley Federal para Prevenir y Sancionar la Tortura (LFPST)).

23. With regard to the military laws that remain in force, these are, and should be understood to be, the sphere of jurisdiction that military tribunals have to deal with crimes and breaches of military discipline committed by individuals belonging to the armed forces.

24. To that end, the military authorities have organs of military law, including the Military Attorney-General's Office (Procuraduría General de Justicia Militar (PGJM)), which is entrusted pursuant to articles 13 and 21 of the Constitution with investigating crimes and prosecuting offenders in order to determine whether penal measures are warranted.

25. There is likewise a Supreme Military Tribunal (Supremo Tribunal Militar (STM)), to which other military judges are accountable, and ordinary and extraordinary courts martial, whereby military penal law is applied pursuant to its jurisdiction. In parallel, there is a corps of appointed

legal defenders, military lawyers who ensure that in every proceeding, as from the start of the preliminary investigation, there is compliance with formal procedural requirements and constitutional guarantees in favour of the accused and that the defence is competently conducted.

26. Persons who are accused or who are standing trial also have the right to invoke the remedy of *amparo* before the federal courts, which are civilian authorities and are constitutionally empowered to determine whether acts by authorities were contrary to the guarantees established under the Constitution.

27. It should be noted that in procedures for follow-up to the preliminary investigation and trials in which military personnel are involved, there is also participation by civilian lawyers, who have the same powers as those of appointed military defence counsel.

28. On 1 January 2008, the Ministry of Defence (Secretaría de la Defensa Nacional (SEDENA)) issued Press Release No. 001, announcing that “in order to strengthen the legal structure of the Ministry of Defence and to ensure that all activities of the Land and Air Forces are conducted with respect for Human Rights and International Humanitarian Law, on 1 January 2008 approval was given to the General Directorate of Human Rights,” which shall have, inter alia, the following functions:

- a) To advise this Ministry on matters of human rights and international humanitarian law;
- b) To attend to human rights complaints submitted by public organs for the defence of human rights and by international organs;
- c) To propose actions aimed at consolidating a culture of respect for human rights and international humanitarian law in the Armed Forces;
- d) To assist agencies of the Federal Executive which so request in fulfilling international commitments assumed by Mexico in this regard;
- e) To grant intervention to organs of this agency so that they may, within their sphere of competence, implement administrative or penal procedures appropriate to the resolution of matters in this area.”

In the light of the federal Supreme Court’s decision, the State party should ensure that arraigo penal is eliminated both from legislation and in actual practice, at the federal and state levels.

29. See reply to Recommendation No. 2 with regard to short-term detention.

The State party should:

- (a) ***Investigate all allegations of torture as such, in a prompt, effective and impartial manner, and ensure that in all cases a medical examination is carried out by an independent doctor in accordance with the Istanbul Protocol [see also the Committee’s recommendation to this effect contained in its report on Mexico in the context of article 20 of the Convention (CAT/C/75, para. 220 (k))];***

30. At the federal level, through Agreement A/057/2003 issued by the Attorney-General of the Republic in August 2003, guidelines are laid down that are to be followed by agents of the

Federal Public Prosecutor's Office (Ministerio Público de la Federación), experts in legal and/or forensic medicine and other personnel of the institution with regard to the application of the Specialized Medical-Psychological Opinion in Cases of Suspected Torture and/or Ill-treatment under the Istanbul Protocol. Accordingly, when the victim, his legal representative or any other person reports an act of torture, the Public Prosecutor's Office has the responsibility of initiating a preliminary investigation of the offense of torture and will immediately call for the application of the Specialized Medical-Psychological Opinion, in which any person believed to have been tortured will undergo a medical and psychological exam in accordance with the rules of the Istanbul Protocol.

31. The expert opinion encompasses medical and psychological assessments and evidence that will determine whether an alleged victim was subjected to torture and/or mistreatment. It should be noted that if the required procedure is not followed, the authority in charge will be held accountable under penal and/or administrative law.

32. Similarly, the Ministry of Defence has a "Systematic operational procedure for applying the initial exam to individuals detained by military personnel," based on the Istanbul Protocol.

33. Moreover, it should be noted that, at the different levels of government in Mexico, the Executive takes part in appointments of prosecutors, magistrates and judges, including those for military law.

(b) Take the necessary steps to provide professional training for medical personnel whose task it is to attend to alleged victims and check their condition, and guarantee the independence of such personnel and extend the implementation of the Istanbul Protocol to all states

34. The Attorney-General of the Republic is working on the implementation of the Istanbul Protocol throughout the country.

35. As of the first half of 2008, the Offices of the state's attorney have received training and/or are able to use this specialized instrument in each of the following states: Aguascalientes, Baja California, Baja California Sur, Campeche, Chiapas, Chihuahua, Coahuila, Colima, Federal District, Durango, state of México, Guanajuato, Guerrero, Hidalgo, Michoacán, Morelos, Nayarit, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tamaulipas, Tlaxcala, Yucatán and Zacatecas.

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

37. From 2005 to 2007, five workshops were held in: Mexico City; Monterrey, Nuevo León; Veracruz, Veracruz; San Miguel Regla, Hidalgo; and Nuevo Vallarta and Nayarit. In addition, with a view to furthering knowledge of the Protocol, two workshops were conducted at the invitation of the state human rights commission of Sonora and one on the initiative of the state human rights commission of Baja California Sur.

38. The Ministry of Defence has a Centre for Army and Air Force Studies where two courses are given yearly entitled "Workshop on medical examinations, documentation of torture and

forensic investigation of deaths suspected to have occurred in violation of human rights,” designed on the basis of the guidelines laid down in the Istanbul Protocol, addressed to officers specialized in medicine, dentistry, psychology and law, providing training in the application of the Protocol.

(c) *Ensure that if acts of torture are evidenced by independent medical examinations carried out in accordance with the Istanbul Protocol, these examinations are considered to be unchallengeable in court*

39. It should be noted that the result of the application of the Specialized Medical-Psychological Opinion in Cases of Suspected Torture and/or Ill-treatment is part of the preliminary investigation and, if taken into evidence, will be evaluated by the judge together with the other evidence contained therein.

(d) *Try and punish persons responsible for acts of torture in a manner consistent with the seriousness of the acts committed*

40. The crime of torture is addressed at the federal level in the Federal Act to Prevent and Punish Torture and in the 32 states of the Republic either by specific laws or in the state criminal law.

41. In this regard, every act of torture is duly tried and punished by the competent authorities.

42. It is important to mention that at the federal level and in all the federal entities, the crime of torture is characterized as a grave crime; this means that an accused who is placed on trial does not have the benefit of posting bond in order to remain free during the trial.

(e) *Finalize the penal reform so as to ensure that crimes against humanity, and in particular torture, are not subject to limitations*

43. See reply to Recommendation No. 1.

In the light of article 3 of the Convention, the State party should take all necessary steps to ensure that interested parties have access to judicial remedies enabling them to challenge the expulsion decision, and that such remedies have the effect of staying the decision.

44. Under the Mexican legal framework, it is the responsibility of the Federal Executive to decide as to the expulsion of a foreigner who falls within the situations envisaged in article 33 of the Constitution and article 125 of the General Population Act.

45. In practice, the authority competent to expel foreigners from the national territory is the National Institute of Migration (Instituto Nacional de Migración (INM)), which is governed by the Regulations of the General Population Act in conducting expulsion proceedings.

46. The difference between the expulsion procedure contemplated in article 33 of the Constitution and that of article 123 of the General Population Act is that the former is an exceptional measure that falls exclusively to the Federal Executive and is not subject to challenge by *amparo* and review; the latter is an administrative procedure against which legal recourse may be pursued by *amparo* and review.

47. Pursuant to article 209 of the Regulations of the General Population Act, when a foreigner is held at an immigration office because he has violated the General Population Act, the following procedure is followed:

- a) A medical examination is conducted to ascertain the person's physical-psychological condition;
- b) He is allowed to communicate with a person of his choosing by telephone or by any other means available;
- c) If he so requests, his accredited consular representative in Mexico will be immediately notified, and if he does not have a passport a request will be made that a passport or travel identification document be issued;
- d) An inventory will be drawn up of the personal effects he is carrying, and those personal effects will be deposited in a place designated for that purpose;
- e) From the moment when the migrant is detained, a statement is taken in administrative form and in the presence of two witnesses; he is apprised of the facts held against him, his right to offer evidence and to assert such defences as he may be entitled to; provided that the migration authority did not take his statement at the time he was detained. If necessary, an interpreter will be provided for this purpose.

48. As indicated in the initial report of Mexico to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, paragraphs 48 to 51, there are two avenues open to a person seeking to obtain effective redress in an expulsion proceeding: the non-judicial and the judicial.

49. With regard to the non-judicial remedy, persons may request that the Civil Service Secretariat initiate an administrative proceeding against the civil servant who issued the order of expulsion. If that Secretariat concludes that the civil servant is responsible and that he has caused damages to the complainants, they may apply to the Internal Oversight Body of the National Institute of Migration (Órgano Interno de Control del INM) to issue an appropriate determination for the payment of compensation. Similarly, when a recommendation has been accepted from the institution which is legally responsible for oversight and defence of human rights which proposes that compensation be paid for damages, the appropriate office will confine itself to determining the cash amount and issuing the corresponding order of payment.

50. Likewise, complainants may opt to seek judicial redress and request from that authority the payment of compensation for damages and, if appropriate, for the moral injury referred to in the Federal Civil Code.

51. The Federal Law on Patrimonial Liabilities of the State (Ley Federal de Responsabilidad Patrimonial del Estado), which entered into force on 1 January 2005, lays the foundations and provides procedures to recognize a right to compensation for persons who, without any legal obligation to do so, sustain damage to their property and rights as a result of irregular administrative activities of the State.

52. The extra-contractual liability of the State is objective and direct, and compensation must be in keeping with the terms and conditions set out in said Law and the other legal provisions to which it refers.

53. It should be noted that an expulsion decision that has already been carried out and is subsequently revoked does not in itself give rise to a right to compensation.

54. As previously mentioned, within the framework of Executive Commission for Negotiation and Formation of Agreements of the Congress of the Union (CENCA), discussion is taking place on a number of initiatives for reform of the Constitution with respect to human rights, which would give constitutional status to the protection of fundamental rights, including judicial remedies against expulsion.

The State party should:

- (a) ***Ensure that force will be used only as a last resort and in strict conformity with the international rules of proportionality and necessity in the light of the existing threat;***
- (b) ***Implement recommendation No. 12 concerning “the unlawful use of force and firearms by officials or public servants responsible for law enforcement” proposed by the National Human Rights Commission in January 2006;***
- (c) ***Investigate all allegations of human rights violations by public officials, especially those suffered by persons arrested during these police operations, and try and properly punish those responsible.***

55. Pursuant to General Recommendation No. 12 of CNDH of 26 January 2006 on the unlawful use of force and firearms by law-enforcement personnel, the Government of Mexico has undertaken the following actions:

Use of force and firearms:

56. The Ministry of Public Security has begun preparing protocols on the use of force and firearms with a view to approving guidelines that regulate the use of force by police officers in a proportionate, gradual and necessary manner, in keeping with full respect for the dignity and rights of persons. The following are some of the topics to be addressed:

- a) Ethical and legal foundations for the legitimate use of force and firearms;
- b) Arrest, detention and apprehension;
- c) Prevention of torture in police work;
- d) Use of public force;
- e) Use of public force in civil disturbances, states of emergency and armed conflicts;
- f) Police conduct towards victims of crime and of abuse of power;
- g) System of command, management and control.

Training of federal government personnel

57. In 2006, the Office of the Attorney-General for the Federal District conducted 476 courses, workshops and talks on human rights, which included the following topics:

- a) Ethics and public service;
- b) Human rights and the administration of justice, emphasizing the Code of Conduct for law-enforcement officers;
- c) The use of force and firearms by law-enforcement officers;
- d) Treatment of indigenous persons;
- e) Discrimination;
- f) Minors; and
- g) Prevention, investigation and punishment of torture.

58. The Ministry of Public Security (SSP), for its part, is carrying out the following actions in order to comply with national and international commitments with regard to combating torture:

- a) National Programme for the Promotion of Human Rights: actions are being pursued through this programme for promotion of, knowledge about and full respect for human rights among public servants of the SSP and its decentralized administrative entities.
- b) The programme focuses on three thematic areas:
 - human rights applicable to the police function;
 - human rights applicable to the correctional function; and
 - alternative conflict resolution methods.
- c) Under the first two headings, the thematic contents are: international law of human rights; procedure for detention, treatment of the detainee and his remand to the prosecutorial authorities; prevention of torture, cruel, inhuman and/or degrading treatment; control of civil disturbances; respect for and protection of human rights of civil communicators and defenders in the performance of their work; human rights of vulnerable groups (migrants, indigenous people, women, children, etc.); use of force by prison police and treatment of inmates and persons visiting prisons.

Summary of results of training January 2005 to 30 June 2008

<i>Areas trained</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
State and municipal police			1626	6627
Population			2219	
SSP and decentralized administrative organs	7424	7925	10285	17365
Totals	7424	7925	14131	23992

- d) The third heading refers to actions undertaken for promotion, dissemination and implementation of alternative methods of peaceful conflict resolution (mediation, negotiation, conciliation and restorative justice), which are designed with a view to

creating an integrated perspective on public security through a framework of respect for human rights.

<i>Period</i>	<i>Quant.</i>	<i>Actions</i>	<i>Population</i>
2005	1	Mediation forum	260 people from Government institutions, NGOs, educational institutions and various social organizations.
	1	Mediation workshop	34 public servants of SSP and of OADPRS ¹
2006		Preparation and printing of proceedings of Mediation forum to be used as information and teaching materials	
	5	Workshops on mediation and on: family issues, handling emotions, prevention, procedures for and social adaptation of minors in trouble with the law	70 public servants of SSP and of OADPRS
	1	Workshop Talks on Alternative Conflict Resolution Methods	22 parents
	1	Participation in large-scale dissemination event	3,939 attendees including children, young people, parents and general public
		Development and printing of brochure "Mediation as an alternative in Solving Conflicts" for disseminating use and implementation of mediation as a peaceful alternative in solving conflicts	
2007	3	Participation in large-scale dissemination events	1,892 attendees including children, young people, parents and general public
	545	Workshop Talks on Alternative Conflict Resolution Methods	19,594 participants including parents, students in basic education, youthful offenders and public servants of OADPRS
	3	Workshops on mediation and on: community issues, planning and operation of a mediation centre, and negotiation	61 public servants of SSP and of OADPRS
	1	Seminar on mediation, restorative justice and other forms of alternative justice in indigenous towns	168 attendees including public officials representing government institutions, NGOs, educational institutions and various social organizations

¹ Detached Administrative Offices of Social Prevention and Rehabilitation of the Ministry of Public Security (OADPRS).

<i>Period</i>	<i>Quant.</i>	<i>Actions</i>	<i>Population</i>
2008	136	Workshop Talks on Alternative Conflict Resolution Methods	3,230 participants including parents, students from basic, middle basic, upper basic and high school education; youthful offenders; public servants such as technical personnel, guards and personnel of the Detached Administrative Offices of Social Prevention and Rehabilitation (OADPRS)
	1	Workshop on restorative justice	44 public servants of SSP and of OADPRS

- e) Videoconferences on human rights for the Federal Police. The SSP has established a videoconference programme to provide tools and technical knowledge to the Federal Police in carrying out their functions as guarantors of public security and in order to prevent torture while safeguarding the integrity and rights of persons, preserving liberties, and protecting public order and peace. The programme of videoconferences proposed for 2008, which will be used to train approximately 3,100 police officers, includes the following topics:

30 APRIL	I. PROTECTION OF HUMAN RIGHTS IN POLICE WORK Goal: To provide concepts and tools to strengthen the public security function within the framework of respect for fundamental rights and freedoms.
27 JUNE	II. THE INTERAMERICAN COURT OF HUMAN RIGHTS
24 SEPTEMBER	III. LEGITIMATE USE OF FORCE IN THE POLICE FUNCTION Goal: To ensure that force will be used only as a last resort and in strict conformity with the international rules of proportionality and necessity in the light of the existing threat
20 OCTOBER	IV. PREVENTION OF TORTURE Goal: To strengthen the human rights perspective, prevention of torture and treatment of victims with dignity in police work.

- h) Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)

59. In order to fulfil national and international undertakings that the Government of Mexico has assumed with regard to human rights, especially with respect to prevention and detection of torture, the Ministry of Public Security has conducted seven workshops on the application of the Istanbul Protocol whose main purpose is to share and exchange experiences among authorities, experts, promoters and defenders of human rights, both national and international. The aim is to carry out training of personnel of the high-security and medium-security Federal Centres for Detention and Treatment and those of the SSP Centres for Minors, in reference to the contents of the Istanbul Protocol, as well as the scope of Agreement A/57/03 pursuant to which the Specialized Medical-Psychological Opinion in Cases of Suspected Torture and/or Ill-treatment is issued in possible cases of torture and/or ill-treatment by the Office of the Attorney-General of the Republic, and of the National Human Rights Commission.

60. These workshops have been carried out at Federal Centres for Social Readaptation No. 1 “Altiplano”, No. 2 “Occidente”, No. 3 “Oriente”, No. 4 “Noroeste”; at the Federal Centre for Psycho-social Readaptation (CEFEREPSI); at the Centre for Diagnosis and Treatment for Women and at the “Islas Marías” Federal Penal Colony on the following respective dates: (1) 2-3 March 2006; (2) 16-17 March 2006; (3) 8-9 May 2006; (4) 18-19 May 2006; (4) 11-12 August 2007; (5) 27 August 2007; 10-11 November 2007.

61. The aforementioned workshops were organized jointly by the Ministry of Public Security of the Federal Government, the Ministry of External Relations, the Ministry of the Interior, the Office of the Attorney-General of the Republic and the National Human Rights Commission, with the participation of authorities of the Executive and Judicial branches from each federative entity where workshops have been held, as well as state human rights commissions.

62. It is noteworthy that the workshops included participation by international experts in the field, such as:

- a) José Zalaquett, Rapporteur for Mexico of the Interamerican Commission for Human Rights, and Anders Kompass, former Representative of the Office of the United Nations High Commissioner in Mexico,
- b) Amerigo Incalcaterra, former Representative of the United Nations High Commissioner for Human Rights in Mexico,
- c) Alejandro Moreno Jiménez, international expert of Physicians for Human Rights,
- d) Elías Carranza Lucero, Director General of the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD)
- e) Dr. Luis de la Barrera Solórzano, Director of the Citizens’ Institute for Studies on Insecurity (Instituto Ciudadano de Estudios Sobre la Inseguridad (ICESI)).

63. Through these workshops, the SSP trained 795 public servants who work in the Sub-secretariat for Prevention and Citizen Participation, the Detached Administrative Offices of Social Prevention and Rehabilitation of the Ministry of Public Security, the Centre for Psycho-social Rehabilitation, Federal Social Rehabilitation Centres 1, 2, 3 and 4, the General Directorate on Prevention and the Treatment of Minors, the Centres for Minors, and the Islas Marías Federal Penal Colony, of said Secretariat, as indicated in the table below:

<i>Workshop</i>	<i>Facility</i>	<i>Number of public servants trained</i>
First	Federal Centre for Social Rehabilitation No. 1 Altiplano (formerly La Palma)	111
Second	Federal Centre for Social Rehabilitation No. 2 Occidente (formerly Puente Grande)	107
Third	Federal Centre for Social Rehabilitation No. 3 Noreste (formerly Matamoros)	106
Fourth	Federal Centre for Social Rehabilitation Centre No. 4 Noroeste (formerly El Rincón)	133
Fifth	Centre for Psycho-social Rehabilitation	170
Sixth	Diagnosis and Treatment Centre for Women	111
Seventh	Islas Marías Federal Penal Colony	057
TOTAL		795

64. For its part, the National Human Rights Commission continues to train public servants in the promotion and protection of human rights.

65. During the period 2007-2008, the Office of the Attorney-General of the Republic conducted a total of 121 training activities, with participation by 4,460 public servants, for a total of 1,162 hours, as shown in the table below:

Statistics on Training Events held in 2007 - 2008

<i>Annual period</i>	<i>Events</i>	<i>Participants</i>	<i>Class hours</i>
January-December 2007	121	4,460	1,162
January-April 2008	54	1,681	326
TOTALS	175	6,141	1,488

Breakdown of personnel trained in human rights in 2007 - 2008

		<i>2007</i>		<i>2008*</i>	
<i>SUBSTANTIVE STAFF</i>	Agents of MPF	716	1,897	199	498
	Agents of PFI	1021		214	
	Experts	160		85	
<i>ADMINISTRATIVE STAFF</i>	Upper Management	846		260	
	Middle Management				
	Operational Staff				
	Support Staff				
<i>NEWLY RECRUITED STAFF</i>	Agents of MPF	0	459		
	Agents of PFI	374			
	Experts	85			
	Administrative	0			
<i>EXTERNAL PARTICIPANTS</i> Public servants of state's attorney offices, state and municipal secretaries of public security, state human rights commissions, civil society organizations (NGOs) and university students.		1,258		923	
TOTALS:		4,460		1,681	

** Information as of 30 April 2008*

66. The Office of the Attorney-General of the Republic, through the Directorate to Promote a Culture of Human Rights, is entrusted with implementing two specific programmes, namely:

- a) Institutional Programme for Human Rights Training and Educational Services, and
- b) Institutional Programme to Promote a Culture of Human Rights.

67. Both programmes have the following goals:

- a) Promoting among the institution's civil servants a culture of respect for human rights by developing training programmes and conducting promotional campaigns;
- b) Recognizing the importance of teaching human rights as a strategy to prevent violations;
- c) Strengthening the training of civil servants of the Office of the Attorney-General of the Republic who are assigned to the protection and promotion of human rights, and ensuring their continuing education and improvement;
- d) Ensuring that civil servants of the Office of the Attorney-General of the Republic enjoy credibility in the eyes of the citizenry.

68. With regard to human rights training activities, these were continued in both basic and specialized modalities, through the holding of *workshops, seminars and lectures* aimed at civil servants of the institution at both central and state offices, with participation by internal and external instructors, all of whom were specialists in this field.

69. This area of the Office of the Attorney-General seeks to enhance the quality of training courses both in contents and in programme specialization, with the aim of improving performance in substantive and administrative areas of the institution as regards human rights.

General courses:

70. During 2007, the "Basic Course on Human Rights" continued to be given, with a total of 19 events, of which 7 took place at the Federal Agency for Investigation, 7 at central offices and 5 at state offices of the institution in Durango, Tabasco, Tamaulipas, Yucatán and Zacatecas.

71. It is noteworthy that, through this course, training has been provided to 507 civil servants, both substantive (Federal Public Prosecutor's Office, Federal Investigative Police, and experts) and administrative, with 168 class hours and an average of 26 participants per event.

72. A course entitled "Human Rights", part of the Programme of Induction Training for newly recruited agents of the Federal Investigative Police offered by the Federal Administration of Justice Training Service of the Attorney-General's Office, was taught by personnel assigned to the General Directorate for Response to Recommendations and Mediation in Human Rights of the Attorney General's Office jointly with trainers from the Technical Secretariat of the Advisory Council of the National Human Rights Commission.

73. Training was provided through this activity to 374 applicants, distributed in 10 groups, with an average of 37 participants per event, with a total of 260 class hours.

74. Similarly, at the request of the National Institute of Correctional Sciences, personnel of the Office for Human Rights, Victim Response and Community Services of the Attorney-General's Office conducted a course entitled "Human Rights" as part of initial training for professional experts, addressed to a group of 54 applicants, with a total of 20 class hours.

75. During the reporting period, personnel of the Office for Human Rights, Victim Response and Community Services of the Attorney-General's Office held 8 lectures, both at central offices and at state offices of the Attorney-General's Office, with a total of 534 participants, including staff and external personnel, stressing the following topics: *Legitimate Use of Force, Culture of Human Rights and Gender Equity, and Care of Crime Victims*.

Specialized courses

76. One way to prevent violations of human rights is to conduct continuing training on the subject, which is currently addressed to all civil servants of the institution, in order to enable substantive personnel to enhance their knowledge of specialized aspects with the aim of improving the instruments available to professionals in the performance of their duties.

77. 24 courses were held on "*Detention: human rights in police practice*".

78. These courses were attended by personnel of the Public Prosecutor's Office and the Federal Investigative Police, as well as administrative staff, for a total of 697 civil servants, i.e. an average of 29 participants per event.

79. Six courses were held at central offices, 7 at the Federal Agency for Investigation and 11 at state offices of the Attorney-General's Office in: *Baja California Sur, Guanajuato, Guerrero, Jalisco, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sonora, Veracruz and Yucatán*.

80. The aforementioned course aims at preventing and eradicating the practice of arbitrary detention, which is one of the main reasons for complaints of alleged human rights violations filed with the National Human Rights Commission.

81. This training largely fulfils what is laid down in Circular C/003/01 of the Attorney-General of the Republic and General Recommendation 02/2001 of the National Human Rights Commission.

82. Four "*Seminars on Human Rights in the Area of Indigenous Issues and Federal Criminal Justice*" have been held, with the aim of raising awareness among agents of the federal justice authorities and the Federal Investigative Police, so that when ministerial action affects indigenous people, their rights and procedural protections will be respected. These seminars took place in the Federal District, with participation by 290 people, including civil servants from other federal agencies of the Federal District as well as organized civil society, with an average attendance of 72 people per event.

83. Six "*Seminars on Administration of Justice and Human Rights*" were held, with participation by agents of the Federal Public Prosecutor's Office and the Federal Investigative Police, professional experts and technicians, as well as administrative staff, totalling 151 civil servants, with an average attendance of 25 people per event.

84. Jointly with the General Directorate for Coordination of Expert Services, the Office for Human Rights, Victim Response and Community Services of the Attorney-General's Office

continued offering the “*course on the Application of the Specialized Psychological Medical Opinion in cases of Suspected Torture and/or Ill-treatment*”, addressed mainly to agents of the Public Prosecutor’s Office and experts in forensic medicine and forensic psychology. A total of 17 courses were conducted, 5 at central offices and 12 at state offices of the institution in *Aguascalientes, Campeche, Chiapas, Coahuila, Colima, Hidalgo, Nuevo León, Querétaro, Sonora, Tamaulipas, Tlaxcala and Veracruz*, with total attendance of 631 people, an average of 37 participants per event.

85. The foregoing was done pursuant to Agreement No. A/057/03 of the Attorney-General of the Republic, which lays down institutional guidelines to be followed by personnel of the Federal Public Prosecutor’s Office, forensic physicians and other personnel of the Office of the Attorney-General of the Republic in the application of the the Specialized Psychological Medical Opinion in cases of Suspected Torture and/or Ill-treatment. All of the foregoing activities are carried out with a view to enhancing activities aimed at protecting the physical and psychological integrity of persons.

86. A “*Seminar on Care of Crime Victims*” was conducted jointly with the General Directorate for Care of Crime Victims, with the primary aim of bringing substantive and administrative personnel of the Office of the Attorney-General up to date on the subject. This subject-matter is based primarily on an analysis of the Defence of the Rights of Victims in the Mexican State, in accordance with the provisions of Article 20(B) of the Federal Constitution.

87. During the reporting period, a total of 20 events were held, of which 8 were at central offices, 9 at offices of the Attorney-General’s Office in the states of *Baja California Sur, Coahuila, Durango, Querétaro, San Luis Potosí, Sonora, Tlaxcala, Veracruz and Yucatán*; 2 at the Centres for Care of Victims located in the states of Coahuila and Morelos; and one more addressed to the personnel of the Office of the Attorney General of the State of Baja California, with total attendance of 680 people and an average of 34 participants per event.

88. As part of these same specialized activities, 6 seminars on “Preventing Crime in the Exercise of Journalism” were held in coordination with various media associations nationwide.

89. The seminars were held in the states of Coahuila, Colima, Jalisco, Michoacán, Morelos and Yucatán, with attendance by 347 people, including journalists from the aforementioned associations, civil servants of the institution and university students.

90. These events aim at helping to harmonize freedom of expression and confidentiality of sources of information with proper administration of justice, and to comply with Agreement A/118/2003 of the Attorney-General of the Republic, as well as to disseminate knowledge about the Office of the Special Prosecutor for Crimes against Journalists.

91. In addition, as part of a vigorous policy of administration of justice with a human rights perspective in combating torture and mistreatment, the Office of the Attorney-General published a Basic Guide for combating torture. This publication is aimed at strengthening the thematic contents of training courses about this problem that the institution has conducted.

Investigation of all allegations of human rights violations committed by civil public officials.

92. On 29 September 2004, in the city of Guadalajara, Jalisco, the Second Inspector General of the National Human Rights Commission met with legislators of the Congress of the State of Jalisco, civic groups and relatives of persons detained on 28 May 2004 in that city. He indicated

that the Commission is prepared to disclose each and every one of the items of evidence gathered to show to the authorities that they must assume responsibility for investigating the abuses and excesses in the use of force committed by agents of the authorities on the occasion of Summit of Heads of State and Government of the European Union, Latin America and the Caribbean.

93. The Second Inspector General reiterated the Commission's willingness to engage in dialogue, provided that the state government expressed a genuine will to examine and take cognizance of the evidence held by the Commission and take appropriate action.

94. Finally, on 5 September 2006, the State Commission on Human Rights of Jalisco (CEDHJ) issued recommendation No. 6/2006 addressed to Mr. Salvador González de los Santos, Attorney-General of the State of Jalisco, which reports that there are seven complaints for commission of the crime of torture.

National Human Rights Programme

95. As part of the commitment of the Mexican Government to comply with the recommendations of human rights commissions, it was decided that the previous National Human Rights Programme will now include a commitment by agencies to fulfil said recommendations.

96. The present National Human Rights Programme for the period 2008-2012 is under consideration, with a view to identifying the most appropriate way to ensure compliance with the recommendations.

The State party should:

- (a) ***Conduct a prompt, effective and impartial investigation into the incidents which occurred during the security operation in San Salvador Atenco on 3 and 4 May 2006, and ensure that those responsible for the violations are tried and properly punished;***

97. The Government of the state of Mexico decided to undertake administrative and judicial proceedings against members of the State Security Agency (Agencia de Seguridad Estatal (ASE) for the events in San Salvador Atenco on 3 and 4 de May 2006. The results are as follows:

(a) Administrative proceedings:

On 13 June 2006, the General Secretary of Government of the state of Mexico and the Internal Auditor announced at a press conference that 4 heads of detachments of the ASE had been removed from office and 5 had been suspended for 90 days for "Tolerating violent treatment by their colleagues against persons whom they were assigned to transport and failing to ensure their physical integrity."

(b) Judicial proceedings:

On 14 June 2006, the Attorney-General of the state of Mexico announced that members of the ASE who were probably responsible for committing the crime of abuse of authority and, in some cases, sexual assaults alleged by some female detainees, would be arrested and brought before the judicial authorities.

98. With regard to investigation of the alleged acts of sexual abuse committed against detained women, the National Human Rights Commission has recommended the following:

- a) On 3 May 2006 the National Human Rights Commission decided to proceed with the complaint based on the events arising from the clash between federal, state and municipal police and inhabitants of Texcoco and San Salvador Atenco.
- b) On 22 May 2006, the Commission issued a preliminary report on actions carried out in the case relating to the acts of violence that occurred in the towns of Texcoco and San Salvador Atenco. The document indicated that the aforementioned acts gave rise to 211 complaints filed with the Commission which contemplated possible violations of human rights that were under investigation.
- c) On 16 October 2006, the Commission published recommendation 38/2006 relating to the ex officio complaint arising from the acts of violence of 3 and 4 May 2006 in the towns of Texcoco and San Salvador Atenco, state of Mexico.

99. The recommendation was accepted by the Governor of the state of Mexico and the Commissioner of the National Institute of Migration. At present, the recommendation is deemed to be fully complied with by the Governor of the state of Mexico and partly complied with by the National Institute of Migration.

(b) Ensure that the victims of the acts complained of secure fair and effective compensation

100. It should be noted that, in the matter of responding to the needs of crime victims, the Office of the Attorney-General of the state of Mexico has an Institute for the Care of Crime Victims which is composed of a network of 42 Crime Victim Care Units. These are attached to the Specialized Agencies for Intra-family and Sexual Violence of the State Prosecutor and the Centres and Agencies of the Acting State Prosecutor, distributed strategically across the territory of the state.

(c) Ensure that all women who have been subjected to sexual violence have access to appropriate services offering physical and psychological rehabilitation and social reintegration

101. Since the events of 3 and 4 May 2006, the necessary conditions have been established for representatives of national and international civil society organizations to have the opportunity to speak with persons who reported human rights violations and with representatives of the authorities involved in those events. Medical and psychological care was also provided through state medical services.

102. During 2006, the government of the state of Mexico, through the Institute for Crime Victims of the state Attorney-General's Office, engaged in an intensive campaign seeking to strengthen the state's family services and to restore normalcy to the lives of all those persons who have been victims of any crime and who require psychological assistance.

103. In that same year, the State of Mexico provided 40,324 services to victims of intra-family violence and 20,216 services to victims of sexual violence. As a result, 679 psychological diagnoses and 1,376 psychological assessments were prepared. There were likewise 209 home visits, 144 socio-economic studies, 2 awareness-raising courses, 50 workshops, 368 lectures on

prevention of violence and of child abuse, and 11 courses on prevention of intra-family and sexual violence and other topics.

104. There were also a series of courses, workshops and lectures which break down as follows: one awareness-raising course, 49 workshops, 310 lectures on prevention of violence and child abuse, seven courses on prevention of intra-family and sexual violence and other topics.

105. According to information provided by the Office of the Attorney-General of the state of Mexico, during the operations carried out on 3 and 4 May 2006 in San Salvador Atenco a total of 207 people were arrested, among whom there were 9 minors, 5 foreigners and 50 women.

106. With regard to the specific situation of the detained women, and at the express request of the State Security Agency, these women were placed in the women's section of the Centro Santiaguito in a specific area separate from the inmate population and were permitted to obtain the advice of professional or court-appointed counsel. They also had physical and psychological medical assistance.

107. Representatives of national and international civil society organizations have had the opportunity to speak with persons who assert that they have been the victims of human rights violations and with representatives of the authorities involved in those events.

(d) Establish transparent criteria to make it possible to determine clearly, in the event of jurisdictional disputes between judicial authorities, cases where the Special Prosecutor responsible for handling offences involving acts of violence against women can exercise jurisdiction in respect of specific offences against women

108. For the Government of Mexico, the subject of violence against women continues to be a priority; this was the reason for promoting the creation of the General Law on Access by Women to a Life Free of Violence as well as the entry into force of the Law to Prevent and Punish Trafficking in Persons, published in November, 2007.

109. To follow up on the problem of violence against women, the following actions have taken place:

- (a) Several states in the Republic are legislating with respect to violence against women on the basis of the General Law on Access by Women to a Life Free of Violence;
- (b) In November, 2007, the Diagnosis of the Situation of Human Rights in Mexico was updated. This study was prepared by the office in Mexico of the United Nations High Commissioner for Human Rights and was entitled "Human Rights of Women." It highlights both the advances made and the pending challenges in this area.
- (c) On 31 January, 2008, Agreement A/024/08 was approved. This Agreement creates the Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons, which takes over from the Office of the Special Prosecutor for Offences Involving Acts of Violence against Women:
 - (i) The Special Prosecutor will have powers to investigate and prosecute the crimes laid down in the Law to Prevent and Punish Trafficking in Persons, save when they are committed by members of organized crime, and those acts of violence against women in the country which fall under federal jurisdiction.

- (ii) The director will be an officer of the Federal Public Prosecutor's Office (Ministerio Público) and will have jurisdiction to investigate and prosecute federal crimes related to acts of violence against women, as well as those relating to trafficking in persons, pursuant to the applicable legal provisions.
- (iii) The current incumbent of the Office of the Special Prosecutor is Guadalupe Morfín Otero.

The State party should:

- (a) ***Step up its efforts to find and properly punish the persons responsible for these crimes***

110. The state of Chihuahua has recognized that there were irregularities and inconsistencies in the investigations of the killings of women in Ciudad Juárez in the previous decade and the beginning of the present decade; however, as from 2004, the investigations into these cases began anew.

111. The investigations begun in 2004 have two characteristics: (1) involvement by new and highly qualified personnel in the administration of justice institutions of the state of Chihuahua, and (2) a substantial economic investment by the state government on scientific equipment to facilitate the investigations.

112. The Government of the state of Chihuahua has carried out the following efforts:

- (a) It has allocated more than 34 million pesos for laboratory equipment in Ciudad Juárez and Chihuahua and ordered the construction of the Criminal and Genetic Forensic Laboratory in Ciudad Juárez, which required an investment of over 38 million pesos.
- (b) As from 2004, cooperation by international institutions in the investigation of killings of women has been obtained.
- (c) The Argentine Forensic Anthropology Unit was contracted and has successfully cooperated in procedures for identification of victims.
- (d) An agreement was arrived at for participation by the United States Agency for International Development (USAID), which funded the cost of services by the BODE² laboratory in Virginia (United States of America), which carried out the analyses of DNA samples found at places where some of the bodies of the victims were discovered.
- (e) The investigative effort has yielded positive results. During the period from 21 January 1993 to 18 May 2007, action was taken in 389 cases of killings of women in the state of Chihuahua. Of these:
 - (i) 168 cases were fully resolved by jurisdictional organs with firm sentences imposed on the perpetrators, all of whom were adults;

² <http://www.bodetech.com/index.html>

- (ii) 59 are pending in criminal proceedings before the courts, with the accused under detention;
- (iii) 14 were referred to the Juvenile Court; all the perpetrators were convicted;
- (iv) 127 are under investigation and preliminary investigation;
- (v) 3 were referred to the Federal Public Prosecutor's Office for further action because they are cases within federal purview;
- (vi) 18 cases were closed as cases of suicide.

113. For its part, the Federal Ministry of Public Security, in order to combat violence against women in Ciudad Juárez and promote basic principles of human rights protection in a framework of public security and preventive policies, through a culture of non-violence and peaceful conflict resolution, is conducting the following programmes and actions:

114. Through the Gender Programme of the Federal Preventive Police, personnel of the National Institute for Women (INMUJERES) conducted training on violence and gender equity for 650 police recruits and staff of the Federal Preventive Police Training Centre.³

115. It should be stressed that the Ministry of Public Security (SSP) installed the equipment for the telephone hot line of the National System for Guidance and Telephone Orientation for Women and Girls Facing Violence, of INMUJERES, at the facilities of the Federal Preventive Police.⁴

116. The Gender Awareness-raising Programme was conducted by INMUJERES and by the Ministry of Public Security for 15 middle and upper managers of the General Directorate on Prevention and the Treatment of Minors of the Detached Administrative Offices of Social Prevention and Rehabilitation.⁵

117. With a view to preventing, punishing and eradicating violence against women, the following were conducted:⁶

- (a) Five courses on "Family Violence" at the Women's Centre for Diagnosis and Treatment⁷, attended by a total of 96 female youthful offenders;
- (b) Two workshops on "Sexuality and Family Violence" at the Women's Centre for Diagnosis and Treatment⁸, attended by a total of 62 minors under treatment at the centre.

³ Report of PROEQUIDAD SSP, December-January 2004, page 15

⁴ Sixth Report of Mexico to CEDAW, page 12

⁵ Report of PROEQUIDAD SSP, December-January 2004, page 15.

⁶ Report of PROEQUIDAD/PRONAVI SSP, December-January 2005.

⁷ The courses took place on the following dates: 30/04/05, 14/06/05, 16/06/05, 21/06/05 and 24/06/05, respectively.

⁸ The workshops took place on the following dates: 7/06/05 and 9/06/05, respectively.

118. With a view to preventing, punishing and eradicating violence against women, awareness-raising courses of the Sub-programme on Gender Equity were given for civil servants of the Federal Ministry of Public Security:⁹

- (a) *Workshop course: "Building a world of Equity without Violence"* for 35 staff members of the Federal Preventive Police at the Federal Police Training Institute.
- (b) *Workshop: "A Meeting with Me: Time for Reflection"* for 44 civil servants of the National Public Security System.
- (c) *Workshop: "Violence and Sexual Abuse"* for 34 civil servants of the Council on Minors.
- (d) *Workshop: "Family Violence"* for 17 members of the Ministry of Public Security's General Coordinating Bureau for Citizen Participation and Human Rights.
- (e) *Talk: "Men in Police Work"* for 50 civil servants of the Federal Preventive Police.
- (f) *Talk: "Family Violence"* for 60 civil servants of the General Coordinating Bureau for Citizen Participation and Human Rights.
- (g) *Workshop: "A Meeting with Me: Time for Reflection"* for 22 women of the then General Coordinating Bureau for Citizen Participation and Human Rights.

119. With a view to preventing, punishing and eradicating violence against women, a programme of talks was conducted under the title **Programme on crime prevention and women in high-risk environments in Ciudad Juárez, Chihuahua (preventive talks)**.¹⁰

120. Preventive talks on "Family Violence" for:

- 62 women of the SUNRICE company, Ciudad Juárez, Chihuahua.
- 38 women of the TATUNG company, Ciudad Juárez, Chihuahua.
- 40 women of the municipality of Guachochi, Chihuahua.
- 40 women of the TATUNG company, Ciudad Juárez, Chihuahua.
- 185 women of the TORO PLANTA II company, Ciudad Juárez, Chihuahua.
- 90 women of the ITESA SIEMENS CD1 company, Ciudad Juárez, Chihuahua.
- 40 people of the town Fronteriza Baja, Ciudad Juárez, Chihuahua.
- 61 women of the NICH company, Ciudad Juárez, Chihuahua.
- 55 women of the NICH company, Ciudad Juárez, Chihuahua.
- 1100 women of the HONEYWELL company, Ciudad Juárez, Chihuahua.

⁹ Report of PROEQUIDAD/PRONAVI SSP, December-January 2005.

¹⁰ Report of PROEQUIDAD/PRONAVI SSP December-January 2005.

- 23 women of the MONARCH LITHO company, Ciudad Juárez, Chihuahua.
- 246 women of the district Estrella del Poniente, Ciudad Juárez, Chihuahua.
- 97 women inmates at the Centre for Social Rehabilitation (CERESO) of Ciudad Juárez, Chihuahua.
- 58 women of the ROPER-MEX-TEAM company, Ciudad Juárez, Chihuahua.
- 32 women of the BLUEBERRY HILL FOODS company, Ciudad Juárez, Chihuahua.
- 80 women of the ADC BROADBAND company, Ciudad Juárez, Chihuahua.
- 172 women of the ADC BROADBAND company, Ciudad Juárez, Chihuahua.
- 60 women of the ADC BROADBAND company, Ciudad Juárez, Chihuahua.
- 83 women of the ADC BROADBAND company, Ciudad Juárez, Chihuahua.

121. Further, an information briefing was recorded on the work of the Ministry of Public Security at the Talks on Prevention of Family Violence in Ciudad Juárez, Chihuahua.

122. With a view to preventing, punishing and eradicating violence against women, *training of trainers courses were held as part of the Subprogramme on Gender Equity for civil servants in various states of the Republic.*¹¹

123. Training of Trainers Course on “Prevention of Family Violence” for:

- a) 13 civil servants of the Directorate for Crime Prevention of the Ministry of Public Security in Chihuahua.
- b) 42 civil servants of the Regional Area of the Federal Preventive Police and the Prevention Area of the Ministry of Public Security of Ciudad Juárez, Chihuahua.

124. The first Training of Trainers Course at the national level was conducted in the Federal District as part of the Subprogramme on Gender Equity and Application of the Gender Equity Manual on the themes “Human Rights of Women and Self-esteem”, “Masculinity and Self-esteem”, and “Family Violence and Assertiveness” for 35 civil servants of the state Secretariats of Public Security, the state Offices of the Attorney-General, the state Executive Secretary of the Council on Public Security, the state Institute for Women, and the Office for Defence of Minors and the Family of the states of Tabasco, Chihuahua, Durango, Guanajuato, Hidalgo, Yucatán, Puebla, Veracruz, Querétaro and Tlaxcala.

125. Course on Training of Trainers and Application of the Gender Equity Manual under the Subprogramme of Gender Equity on “Women’s Rights and Self-esteem” for 73 civil servants, professors and general population in Tehuacan, Puebla.

126. Course on Training of Trainers and Application of the Gender Equity Manual under the Subprogramme of Gender Equity on “Masculinity and Self-esteem” for:

¹¹ Report of PROEQUIDAD/PRONAVI SSP December-January 2005.

- a) 36 civil servants, professors and general population in Tehuacan, Puebla.
- b) 73 civil servants, professors and general population in Tehuacan, Puebla.

127. With a view to preventing, punishing and eradicating violence against women, **Impact of training of trainers on the Subprogramme of Gender Equity in Ciudad Juárez, Chihuahua** through the Directorate for Crime Prevention of the Ministry of Public Security of the state of Chihuahua reported an impact of 4,238 for talks on “Prevention of Family Violence” for women maquiladora employees of ADC, TRAJUSA, PROCORSA, VALMEX, ITESA SIEMENS (Río Bravo). TORO PLANTA I, SYLVANIA, S-MART, CAPCOM, FOAMEX, FLUTEC, PARQUE CENTRAL, COOPER LITHING, AAMSA, SCIENTIFIC ATLANTA, PHILIPS ATLANTA, ARCHWAY, SMART, FMC, WOODBURN, OPERACIONES DE MAQUILA and GREGORIO TORRES Q.¹²

128. With a view to preventing, punishing and eradicating violence against women, talks were given on “*Preventing Family Violence*” and “*Gender Equity*” under the Subprogramme on Gender Equity for the general public of various states of the Republic.¹³

- a) Lecture: “Raising awareness of gender equity” under the Gender Equity Subprogramme, for 200 students in Tulancingo, Hidalgo.
- b) Lecture: “Family Violence” under the Gender Equity Subprogramme, for 200 students in Tulancingo, Hidalgo.
- c) As part of the state Prevention Tour for Baja California, the talk “Prevention of Family Violence and Assertiveness” under the Gender Equity Subprogramme was given to:
 - (i) 86 students at Centre for Technological, Industrial and Service Studies No. 56 in Tijuana, Baja California.
 - (ii) 170 students at Centre for Technological, Industrial and Service Studies No. 156 in Tijuana, Baja California.
 - (iii) 37 students at the Centre for Scientific, Technological and Computer Studies of Mexicali, Baja California.
 - (iv) 46 students at State Secondary Technical School No. 4 in Mexicali, Baja California.

129. A “Talk on Gender Equity” and a “Talk on Prevention of Family Violence and Assertiveness” under the Subprogramme for Gender Equity were given as part of the “Prevention Caravan” of the state of Querétaro to 66 civil servants of the Secretariat for Citizen Security of Querétaro on 20 October 2005.

130. A “Talk on Prevention of Family Violence” under the Subprogramme for Gender Equity was given to:

¹² Report of PROEQUIDAD/PRONAVI SSP December-January 2005.

¹³ Report of PROEQUIDAD/PRONAVI SSP December-January 2005.

- a) 57 mothers and fathers, students of the Municipal DIF (System of Integrated Family Development) and general population of the CECAM (Women's Training Centre) of the DIF in Tehuacán, Puebla.
- b) 42 mothers and fathers of the La Purísima C.A.I.C. (Community Child Services Centre) of Tehuacán, Puebla.
- c) 13 mothers of the de Leyes de Reforma district of Tehuacán, Puebla.
- d) 57 mothers and fathers of the 3rd C.A.I.C. (Community Child Services Centre) De Agustín de A. Cacho of Tehuacán, Puebla.
- e) 87 mothers and fathers of the Josefa Ortiz de Domínguez C.A.I.C. (Community Child Services Centre) of Tehuacán, Puebla
- f) 82 mothers and fathers of the San Pedro C.A.I.C. (Community Child Services Centre) of Tehuacán, Puebla
- g) 16 mothers and fathers of the Aquiles Serdán C.A.I.C. (Community Child Services Centre) of Tehuacán, Puebla
- h) 46 mothers and fathers of the Serdán C.A.I.C. (Community Child Services Centre) of Tehuacán, Puebla

131. With a view to preventing, combating and eradicating discrimination in our country, the Ministry conducted the following activities:

- a) **Diploma programme: "Women, Human Rights and Detention"**, jointly with the Office of the Attorney-General for the Federal District, AMDH, INCAPE and the Continuing Education Division of the Faculty of Political and Social Sciences of the National Autonomous University of Mexico (UNAM), from 6 October 2001 to 22 June 2002.¹⁴
- b) **Diploma programme: "Human Rights of Women in Detention"**, in coordination with the National Institute for Women (INMUJERES), the National Council for Culture and the Arts, and the Continuing Education Division of the Faculty of Political and Social Sciences of the National Autonomous University of Mexico (UNAM), from 15 August to 6 December 2003.¹⁵
- c) **Diploma programme: "Human Rights of Women in Detention", 3rd Generation**, in coordination with the National Institute for Women, the National Council for Culture and the Arts, the Continuing Education Centre of the Faculty of Political and Social Sciences of the National Autonomous University of Mexico and Vereda THEMIS A.C.¹⁶

¹⁴ Report of PROEQUIDAD SSP December-January 2002.

¹⁵ Report of PROEQUIDAD SSP December-January 2003.

¹⁶ Report of PROEQUIDAD SSP December-January 2004/2005.

- d) **Continuing Programme on Human Rights for Women and Children in Detention**, which addressed grievances with regard to health, intra-family violence, support for girls, transfers and furlough requests that inmates had submitted to the SSP.¹⁷
- e) **National Programme of Medical Care in wards for women with HIV in the Centres for Social Rehabilitation (CERESOs) of southeast Mexico**, in coordination with the Secretariat of Health, National Human Rights Commission, Mexican Association of Malta, A.C. and prisons in the country. In 2003, responses were received from 19 states of the Republic, of which Baja California, Colima, the Federal District, the state of México, Guanajuato, Guerrero, Nuevo León, Oaxaca and Veracruz reported women inmates with HIV.¹⁸
- f) The Programme of Human Rights Petitions focuses on programmes specifically for women inmates with a view to their social reintegration, to preventing corruption and recidivism, and to reducing crimes under federal law. Through this programme, requests were taken up regarding transfers to other correctional facilities, petitions for early release, and other requests.¹⁹
- g) **Support for women living with their children in federal social rehabilitation centres**²⁰
- (i) The Detached Administrative Offices of Social Prevention and Rehabilitation at the Islas Marías Penal Colony, **in support of women living with their children in federal social rehabilitation centres**, with a view to their social re-adaptation and seeking to contribute to family unification, working through the Directorate for Social Reintegration by Employment, provides assistance to these women by providing comprehensive care and education alternatives for their children. For this purpose, facilities are made available to them by the “Protection of Children of Inmates” Foundation at its shelter located in the city of Guadalajara, Jalisco.
 - (ii) Schooling at all levels is provided free of charge, together with medical and psychological care, room and board, providing for their full development.
 - (iii) It also processes necessary permissions from the Islas Marías Penal Colony authorities so that children can be admitted to spend time with their parents during vacations; it uses its own personnel for transportation from Guadalajara to Mazatlán and back.
- h) **Booklet on Intra-family Violence**: 5,000 copies were printed of the booklet “**Intra-family Violence**”; 4,790 were distributed to personnel of the Federal Preventive Police and 200 were distributed to newly-recruited police officers and officers assigned to the Federal Preventive Police Training Centre. The content of the booklet

¹⁷ Report of PROEQUIDAD SSP December-January 2005.

¹⁸ Report of PRONAVI SSP December-January 2004.

¹⁹ Report of PROEQUIDAD SSP December-January 2004.

²⁰ Report of PROEQUIDAD SSP December-January 2004.

was published in the Ministry of Public Security Bulletin (*Boletín Año 2/ número 7/bimestre mayo-junio 2004 de la SSP*), thus reaching a readership of 10,000 men and women employed by that Ministry.²¹

- i) Basic and specialized training on human rights in the areas of public and prison security was provided to the following personnel of the Ministry: 3,565 officers of the Federal Preventive Police; 3,418 members of the directive, administrative, technical, legal, security, custodial and guard staff of all the correctional centres belonging to the Detached Administrative Organ for Prevention and Social Re-adaptation; 1,697 state and municipal police officers; 25 internal instructors; and 22 staff members of the then General Coordinating Bureau for Human Rights and Citizen Participation.²²

132. In 2005, the General Coordinating Bureau for Human Rights and Citizen Participation of the Ministry of Public Security (SSP) conducted research in order to prepare a publication on the situation of women in women's prisons in the states of Oaxaca, Querétaro, Puebla, Hidalgo, Sinaloa, Chiapas, Veracruz y Nuevo León, Quintana Roo and the Federal District. The Bureau likewise held the First Painting Contest for women prisoners and subsequently held expositions and sales of the paintings at five offices in the Federal District.²³

133. With a view to preventing, combating and eradicating discrimination against women in detention, the SSP conducted 4 expositions and sales of paintings done by women in detention, with participation by a total of 621 women inmates.

134. As part of the Commission on Government Policy regarding Human Rights, the SSP participates in the Sub-commission to Prevent and Eradicate Violence against Women in Ciudad Juárez, which is presided over by the Secretariat of the Interior.

135. The Sub-commission being composed of various agencies and civil society organizations, it too may seek support from the Secretariat in deploying activities for the protection of women victims of violence, to whom services are provided by this entity in accordance with the scope of its functions.

136. The Ministry of Public Security, following the motto "Serve and Protect", is committed to respecting, promoting and defending human rights and devotes particular attention to protecting the physical integrity of persons, their rights and property, safeguarding freedoms, public order and peace.

137. The SSP likewise pursues various activities in the area of human rights and response to victims of crime and abuse of power. With regard to violence against women, the following are especially noteworthy:

- a) A National Registry of Missing Persons has been operational since 7 June 2007.

²¹ Report of PROEQUIDAD SSP December-January 2004.

²² Report of PRONAVI SSP October-December 2003, page 1.

²³ Sixth Report of Mexico to CEDAW, Compliance with contents of the Convention, Articles 1 and 2 page. 58.

- b) Design and instrumentation of Model Guides and Protocols for Care of Victims by type of crime, with a view to introducing uniformity in the models of service in use, and with a view to enshrining concepts that afford protection for legal values recognized within the Mexican legal order in each case, as well as protecting the fundamental rights of all persons. Noteworthy among these is the protocol for the care of victims of family violence, rape and abduction.
- c) Training of self-help groups designed to attend to people who have been victims of crime, with the aim of reintegrating the person into society, as well as training facilitators and trainers of trainers in public and/or private institutions in order to constitute community self-help groups nationwide to provide attention and support to the crime victim population.

138. The aim is to constitute community self-help groups by type of crime:

- a) Family violence
- b) Sexual violence
- c) Re-education of perpetrators
- d) Abduction
- e) Telephone extortion
- f) Robbery (to be defined)
- g) Destructive relationships and conflicts

139. Prompted by a report which appeared in the newspaper *La Jornada* on 8 April 2008 indicating that trans-sexuals, trans-gender individuals, lesbians, gays and sex workers who live and carry out their activities in the central area of Ciudad Juárez, Chihuahua, had been the object of discriminatory acts by federal police officers, the National Council to Prevent Discrimination requested the Ministry of Public Security to take appropriate interim measures.

140. The Ministry of Public Security asked to meet with the National Council to Prevent Discrimination and with the alleged victims in order to determine the interim measures necessary to protect and defend their rights, in coordination with the governmental authorities of Chihuahua.

141. The measures are aimed at protecting the life and personal integrity of transsexual, transgender and homosexual individuals and sex workers who live and carry out their activities in the central area of Ciudad Juárez, Chihuahua, as well as their right freely to express their ideas.

(b) Investigate and properly punish public servants who are reported for using methods of torture in order to obtain evidence

143. Since the year 2004, concrete measures have been taken to investigate irregularities committed in investigations of killings of women in Ciudad Juárez, resulting in sanctions being imposed on public servants found responsible.

143. The following actions have been taken:

- a) Review of participation by public servants in the cases of 255 killings of women in Ciudad Juárez and determination of appropriate sanctions.
- b) The review was carried out in four stages, determining at the end of each stage the responsibilities of particular public servants.
- c) Immediate purging as from October 2004 of public servants involved in such investigations in the Office of the Attorney-General of the state of Chihuahua.
- d) At every stage of the process, which began in 2004, dialogue with relatives of the victims has played a fundamental role.
- e) A further measure ordered with immediate effect was that, if the performance of these public servants did not meet a basic minimum in terms of training in the handling of victims, they would be immediately discharged.
- f) It was ordered that the posts rendered vacant as a result of this review would be filled with personnel who had demonstrable professional qualifications and training in two basic areas: prevention, investigation and punishment of violence against women, and efficiency of action in the handling of relatives of victims.
- g) As a result of this overall process of identifying responsibilities of public servants assigned to the Special Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez, the Office of the Attorney-General of Chihuahua and the Office of Internal Oversight of the institution determined that 255 cases deserved initial administrative action. The results were as follows:
 - (i) Immediate suspension of 16 public servants (ranging from one to four years);
 - (ii) Administrative proceedings in 29 cases, still pending;
 - (iii) Follow-up of cases by penal proceedings: 14 preliminary investigations were conducted by judicial authorities, which were ultimately resolved by jurisdictional authorities.
 - (iv) 4 cases are being investigated by local state's attorneys.
 - (v) Review of the 255 cases was carried out in four stages starting in October of 2004.

First stage

144. The Office of Internal Oversight of the Office of the Attorney-General of Chihuahua reviewed 50 cases involving action or participation by public servants that were part of the overall review of responsibilities of public servants assigned to the Attorney-General's Office. It should be noted that 21 cases dealt with criminal proceedings and 29 with preliminary investigations.

145. In 10 of the cases, facts were found which were indicative of administrative responsibility. Therefore, during August and September of 2004, administrative proceedings were initiated before the Secretariat of the Office of Internal Oversight of the Government of the state of

Chihuahua against 12 public servants: 2 heads of the office of preliminary investigations; 6 agents of the office of the state's attorney; 1 member of the Specialized Services; and 3 judicial police officers.

146. Criminal proceedings were initiated in those cases in which facts were found warranting a preliminary investigation. Nine investigations were begun under the judicial authorities (criminal courts of the judicial district of Bravos, Chihuahua), and warrants of arrest were issued for the crime of abuse of authority under article 134 (III) of the local Penal Code against 2 heads of the office of preliminary investigations, 3 agents of the Public Prosecutor's Office, 1 member of the Specialized Services; and 3 Judicial Police officers.

Second Stage

147. At this stage, 105 cases were reviewed, of which 55 related to public servants assigned to the Office of the Attorney-General of Chihuahua in criminal proceedings and 50 related to preliminary investigations.

148. Administrative proceedings were initiated against 8 agents of the Public Prosecutor's Office and 7 members of Specialized Services.

149. Criminal proceedings were also initiated against 5 civil servants: 2 officers of the Office of the Attorney-General of Chihuahua, 2 agents of the Public Prosecutor's Office and 1 subordinate agent of the Public Prosecutor's Office for alleged commission of the crime of abuse of authority. The proceeding was aimed at ascertaining possible liability for conduct contrary to the discharge of their duties, such as unjustified delay in performing the tasks assigned.

150. The cases were filed with the judicial authority in December, 2004; two arrest warrants were issued and orders of detention were issued accordingly.

Third stage

151. This stage encompassed the review of 50 cases which had involved participation by various civil servants of the Office of the Prosecutor for Homicides of Women of the Office of the Attorney-General of Chihuahua. It should be noted that those public servants participated in 23 criminal proceedings beginning in 1996 and to the year 2003; 22 preliminary investigations processed from 1994 to 2003, and 5 proceedings against minors processed from 1995 to 2001.

152. As a result of this analysis, criminal proceedings were initiated in 2 cases in which the judicial authority refused an arrest warrant; in 23 cases of civil servants the Secretariat for the Office of Internal Oversight was asked to initiate a proceeding for determination of administrative responsibilities.

Fourth stage

153. This stage encompassed the review of 50 cases which involved participation by various civil servants assigned to the Office of the Attorney-General of Chihuahua.

154. These cases included 36 criminal proceedings begun during the year 2003, 13 cases of preliminary investigation and 1 special proceeding.

155. As a result, there are now 4 case files being prepared in which possible criminal liability has been identified regarding public servants involved in the investigations; a proceeding has also begun to ascertain administrative responsibilities in 7 more cases, which relate to public servants who are already being proceeded against in other cases.

156. It is important to note that the Government of Mexico has punished all public servants that it has found responsible for irregularities or acts of negligence committed as part of their duties relating to the investigations of the murders under discussion.

157. The Government of Mexico wishes to stress that, in parallel with the above-described measures and since October of 2004, it assigned a group of professionals to carry out a comprehensive study of the cases of killings of women in Ciudad Juárez, with the aim of reviewing the performance of the institution, objectively evaluating it, and defining new directives for action.

158. As a result of that study, since October of 2004, structural changes have been effected both in the Office of the Attorney-General of the State of Chihuahua and, in particular, in the Office of the Prosecutor for Homicides of Women of the Office of the Attorney-General.

(c) Step up its efforts to fully comply with the recommendations made by the Committee on the Elimination of Discrimination against Women following its inquiry undertaken under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

159. One of the measures taken by the Mexican Government to implement the recommendations made to our country by the *Committee on the Elimination of All Forms of Discrimination against Women* was that the Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez reviewed the Programme of 40 Actions by the Federal Government, leading to evaluation, discussion and achievement of consensus by the principal stakeholders in Ciudad Juárez on a broad-based dialogue to gather and examine comments on the proposal for federal action and replace the previous programme of 40 actions.

160. Criteria were incorporated under each heading to indicate fulfilment of each action, with a view to having greater impact on the population in carrying out the task of eradicating violence against women.

161. Of the first 40 actions, more than 50% were retained, and new ones were designed, with the aim of arriving at new approaches to resolution and clarification of the situation.

162. Actions were defined in terms of three lines of operation:

- a) administration of justice and promotion of respect for human rights of women;
- b) care of victims; and
- c) strengthening of the social fabric.

163. In 2005 a workshop entitled “Men and Women Together for a Life Free of Violence” was given to police officers in Ciudad Juárez. The personnel of the Ministry of Public Security of Ciudad Juárez who are to participate in the “Programme on security and vigilance for women” took part in the workshop. This programme involved teams of one man and one woman patrolling high-

risk areas 24 hours a day and 365 days a year, responding to emergency calls from women in situations of violence and escorting them to participating organizations and agencies.

164. Care centres and shelters were strengthened or created for women who were victims of violence and the creation of centres for violent men was promoted, expanding its coverage. Services and centres attending to the needs of women victims in Ciudad Juárez were improved. A programme to promote responsible parenthood was designed and carried out. The shelters established in Ciudad Juárez are: “Casa Amiga, centro de crisis”; and “De mujer a mujer A.C.”

- a) During 2005, the Media Observatory of the National Institute for Women (INMUJERES) was launched to monitor and report via the internet sexist messages transmitted over the media. The Observatory works in coordination with the Office of the Under-Secretary for Media of Secretariat of the Interior.
- b) In March of 2006, the Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez carried out a series of meetings with the Director General and the project officer of UNIFEM, Teresa Rodríguez and Celia Aguilar Septién respectively, to examine the situation of family violence and acts of assault and discrimination committed against women both in the domestic setting and in the workplace, based on the regional experience of this United Nations office.

In accordance with article 14 of the Convention against Torture, the State party should guarantee to every victim of an act of torture, both in legislation and in practice, redress and the right to fair and adequate compensation, including the means for as full a rehabilitation as possible.

165. The right to compensation is governed by the Federal Law on Patrimonial Liabilities of the State (Ley Federal de Responsabilidad Patrimonial del Estado (LFRPE)), specifically by articles 11 to 16, which lay down modalities for adequate payment. It likewise provides that compensation will correspond to complete reparation of the damage and, as applicable, personal and moral damages.

166. It is also possible to obtain compensation of damages through civil proceedings.²⁴

²⁴ Article 1915 of the Federal Civil Code clearly defines damages. It provides:

“Reparation of the damage must consist, at the election of the aggrieved party, of being restored to his prior position, when possible, or of payment of damages.

When injury is caused to persons and results in death, total permanent disability, partial permanent disability, total temporary disability or partial temporary disability, the measure of reparation shall be determined in accordance with the Federal Labour Law. To calculate the appropriate compensation, the basis shall be four times the highest minimum daily wage prevailing in the area, and it shall extend to the number of days indicated in the Federal Labour Law for each of the aforementioned forms of disability. In case of death, the damages shall accrue to the victim’s heirs.

When the victim is a salaried employee, the damages are not transferable and will preferably be paid in a single sum, unless otherwise agreed by the parties.

The foregoing provisions shall apply in the case of article 2647 of this Code.”

To the same effect is article 1916 of the Federal Civil Code, which provides:

“Moral damages shall mean the effect which a person suffers in his feelings, sympathies, beliefs, dignity, honour, reputation, private life, physical appearance and demeanour, or the consideration in

167. It should also be noted that in recent reforms of the Financial Code of the Federal District, articles 389 to 391 provide for reparations by public institutions and civil servants when violations of human rights have been committed.

168. Similarly, the Public Prosecutor's Office may request that the jurisdictional authority require persons tried to make reparations for damage done as part of their sentence.²⁵

169. The Federal Act to Prevent and Punish Torture provides in the last paragraph of article 10 that the State shall be obligated to make reparations for damages under the terms of articles 1917 and 1928 of the Federal Civil Code. A distinction is made in those articles between the joint and several liability of the State and the accessory liability of the State, since an obligation is laid down to assume responsibility for the payment of damages caused by its civil servants in the performance of the duties assigned to them. That liability will be joint and several with regard to unlawful harmful acts such as torture, and it will be accessory in other cases.

170. Moreover, article 26 of the General Law on Access by Women to a Life Free of Violence provides as follows:

“In dealing with violent femicide, the Mexican State shall compensate damage in accordance with the parameters laid down in International Human Rights Law and shall consider as reparations:

- I) The right to speedy, expeditious and impartial justice: violations of women's rights must be investigated and those responsible must be punished;*
- II) Rehabilitation: Legal, medical and psychological services must be provided free of charge for the recovery of direct or indirect victims;*
- III) Satisfaction: these measures seek redress geared to the prevention of violations. Among the measures to be adopted are the following:*
 - a) Acceptance by the State of its responsibility for the harm caused and commitment to provide redress;*
 - b) Investigation and punishment of negligent acts or omissions by authorities which led to failure to punish violations of human rights of the victims;*
 - c) Design and instrumentation of public policies which prevent the commission of crimes against women, and*
 - d) Fact-finding and public disclosure of the truth.”*

which he is held by others. Moral damages shall be presumed when the freedom or physical or psychological integrity of persons is unjustifiably impaired or diminished.

When an unlawful act or omission causes moral damages, the person responsible shall have the obligation to make reparation in money, independently of whether material damage has been caused, both under contractual and extra-contractual liability. The same obligation of reparations shall accrue to one who incurs objective responsibility according to article 1913 of this Code, as well as the state and its civil servants in accordance with articles 1927 and 1928 of this Code.”

²⁵ Article 20 (B) (IV) and article 21 of the Constitution; article 43 of the Penal Code for the Federal District; article 2 (I) and (III) and article 9 (XV) of the Code of Criminal Procedure for the Federal District.

The State party should ensure that any statement which is established to have been obtained as a result of torture shall not be invoked, either directly or indirectly, as evidence in any proceeding, in accordance with article 15 of the Convention, except against a person accused of torture as evidence that the statement has been made.

171. At present, the case law on this matter indicates that the right of an accused not to testify includes the right not to be subjected to torture. That right applies throughout the entire criminal proceeding, including the preliminary investigation. The doctrine on this matter is as follows:

***RIGHT AGAINST SELF-INCRIMINATION. SCOPE OF ITS CONTENT IN
ARTICLE 20 (A) (II) OF THE FEDERAL CONSTITUTION***

Article 20, section A, paragraph II of the Constitution of the United Mexican States lays down as a specific guarantee the right of an accused not to testify against himself, which presupposes his freedom to testify or not and that his oral or written silence cannot lead to an inference of guilt; in other words, his right to remain silent may not be used as an indication of liability for the unlawful acts with which he is charged; therefore, the right against self-incrimination should be understood as the right that any accused person has not to be obliged to testify, either by confessing or denying the facts charged against him, for which reason incommunicado detention, intimidation and torture are prohibited, and even a confession given before any authority other than the Public Prosecutor's Office (Ministerio Público) or the Judge, or before them without the presence of defence counsel, lacks any evidentiary value. This guarantee does not mean that the accused is entitled to give false testimony before the authority, but only that he is not obliged to testify, since the recitals underlying said constitutional article indicate that the intention of the framers of the Constitution was that the accused should not confess, for reasons of convenience, to a crime that he did not commit or have a confession wrung from him through torture by the authorities, thus safeguarding the veracity of confessions as evidence or, as the case may be, entitling the accused to remain silent. Moreover, this guarantee governs the entire criminal proceeding, including the preliminary investigation, and the secondary law does not impose any limitations in this regard, in accordance with the last paragraph of section A of article 20.²⁶

²⁶ Conflicting holdings 29/2004-PS between the First Collegiate Court of the Second Circuit, now the First Criminal court of the same circuit, and the Second Collegiate Criminal Court of the Third Circuit. 22 September 2004. Unanimity of four votes. Proponent: Olga Sánchez Cordero de García Villegas. Clerk: Carlos Mena Adame

Isolated excerpt

Subject(s): Constitutional, Criminal

Ninth Term

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See annex 14.