



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

Distr.: General  
2 December 2008  
English  
Original: Spanish

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**Committee on the Elimination of Discrimination  
against Women**

**Pre-session working group**

Forty-third session

9-13 February 2009

**Responses to the list of issues and questions with regard to  
the consideration of the seventh periodic report**

**Guatemala\***

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\* The present report is being issued without formal editing.



## **I. Presentation**

1. The State of Guatemala presents to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) its responses to the list of questions raised during consideration of the Seventh Periodic Report.

2. We wish the Committee to understand that this report includes the sector policies that are currently being implemented to promote the advancement of women. Some of those policies are being pursued jointly by different organizations of the three branches of State. We recognize that the issue of women's human rights is not exclusive to any sector, and that to achieve integral development of their rights it will be necessary to coordinate interagency and intersectoral efforts.

## **II. Introduction**

3. The State of Guatemala recognizes that discrimination and violence against women constitute direct violations of women's fundamental rights, and have a profound impact on their integral development. In this respect, as a government, we denounce and reject any act that directly or indirectly affects the physical and psychological well-being of women and girls in Guatemala.

4. With a view to strengthening further the legal framework that will assure full respect for women's human rights, the State of Guatemala has signed and ratified various international instruments protecting the human rights of women. As a result, it has had to develop an internal dynamic whereby the State could progressively build a legal framework adapted to the reality and needs of women in terms of protecting the rights that are most frequently violated.

5. Despite setbacks in achieving equality and eliminating discrimination against women, the State has implemented short, medium and long-term policies, programmes and projects within its organizational structure intended to guarantee and secure the progressive satisfaction of all civil, political, social, economic and cultural rights, as well as "third-generation" rights such as those relating to the environment.

6. To conclude this section, it is important to indicate that the State recognizes that the actions and measures adopted to date must be strengthened to achieve the desired qualitative and quantitative results, but the State also wishes to reaffirm its real political will to deploy the actions and efforts necessary for greater effectiveness in securing respect, promotion and exercise of the human rights of women in the country.

## **III. Response to the list of questions**

### **Legislation and mechanisms for the advancement of women and national plans**

*1. In its concluding observations to the sixth periodic report, the Committee encouraged the State party to amend its definition of discrimination in line with Article 1 of the Convention. According to paragraph 84 of the State party's report, this has not been achieved. Please indicate the efforts made to revise the existing legislation and the difficulties encountered.*

7. With respect to this question, it is important to note that, within the national sphere, the international human rights instruments that the State of Guatemala has adopted take pre-eminence over domestic law and are incorporated as part of the domestic legal system, pursuant to Article 46 of the Political Constitution of the Republic. It is in this sense that the State accepts and recognizes the definition established in Article 1 of the Convention.

8. In this respect, the Constitutional Court has declared that, while "the constitutional Article cited previously grants pre-eminence to international instruments over domestic law, all this does is to establish that, where an ordinary law conflicts with one or more rules contained in an international treaty or convention, the latter shall prevail, but it does not mean that they may be used as a parameter for constitutionality."<sup>1</sup>

9. Notwithstanding the above, we must note that one of the main obstacles facing the country in achieving equality between men and women is the fact that Guatemalan society has historically been characterized as a patriarchal society.

10. Due to those circumstances, progress to date in taking action of a legislative, administrative and other nature has been relatively slow, and one reason for this is that every action or measure had to be preceded by intense efforts at awareness, education and information to achieve a change in social behaviour.

11. In order to move further in this direction, it has been found necessary to use mechanisms of interagency and intersectoral coordination, such as those described below:

## **12. Signature of agreements**

- An agreement for interagency cooperation between the National Office for Women's Affairs and the Presidential Secretariat for Women (SEPREM) was signed on 13 August 2008, to coordinate efforts to develop a campaign of awareness, promotion and strengthening of women's rights, and to articulate actions in the National Congress with respect to the legislative agenda on behalf of women.
- A Letter of Understanding was signed between the Women's Commission, the National Congress, and the Commission on Full Citizenship, sponsored by the Forum of Women of Political Parties, the purpose of which is to promote legal action and prepare proposals on gender issues.

A letter of understanding was signed between the Committee on Women of the National Congress and the Office of the Human Rights Procurator to reform Decree 27-2000, the HIV/AIDS Act.

## **13. Coordination of actions to promote an adequate legal framework**

- The National Office for Women's Affairs, ONAM, is holding coordination meetings with the Congressional Committee on Women and the 19 female deputies elected for the period 2008-2012 with a view to joint pursuit of the pending legal agenda, which involves in particular approval of the reform to 32 articles of the Labour Code, the Sexual Harassment Act, the

<sup>1</sup> Constitutional Court Gazette 43, Page 47, Case 131-95, Judgment of 12 March 1997.

Female Domestic Workers Act, the Trafficking in Persons Act and the Elections and Political Parties act.

- The National Office for Women's Affairs is working to reactivate the Congressional Women's Assembly, before the new legislature meets, so that this group can promote and oversee progress in the approval of proposals, and promote training and awareness of gender equity and cultural diversity among male and female deputies, as well as conduct lobbying and prepare new legislative proposals and initiatives that will favour women and avoid discrimination.
- In July 2008, the Congressional Committee on Women announced its legislative agenda for the development of Guatemalan women. It includes a) reforms to Decree Law 106, the Civil Code; b) Decree 27-2000, the General Act on Combating the Human Immunodeficiency Virus and the Acquired Immune Deficiency Syndrome and the Defence of Human Rights in the Context of HIV/AIDS; c) reforms to the Elections and Political Parties Act; d) Chapter 4 of the Labour Code and e) reforms to the Penal Code.
- Currently under study are: a) a draft law on the inclusion of women in rural development, the issue of co-ownership and inclusion of the gender focus in agrarian policies; b) reforms to the regulations governing maternal breast-feeding leave; and c) reforms to the Family Courts Act.

#### **14. Capacity building**

- With the support of the Programme to Combat Exclusion, the Presidential Secretariat for Women has succeeded in implementing a technical training course on "Inclusion of the Gender Equity Focus and Cultural Relevance in Public Policies", the purpose of which is to develop new capacities for including the rights of women and indigenous peoples in public policies. This course will be given by the National Institute of Public Administration.

2. *In its previous concluding observations, the Committee encouraged the State party to revise the discriminatory provisions in the Civil, Penal and Labour Codes so as to bring them into conformity with Article 2 of the Convention. According to paragraph 84 of the State party's report, no progress has been made in this respect. Please indicate the reasons for the delay in revising such laws*

15. As noted above, there are a number of initiatives currently before Congress. However, it must be recognized that getting legislation passed in our country is a complicated process, and its discussion and approval takes a long time.

16. Nevertheless, the Presidential Secretariat for Women, the Office of the Defender of Indigenous Women (DEMI), and the National Commission for the Prevention and Eradication of Domestic Violence and Violence against Women (CONAPREVI), in coordination with other governmental and nongovernmental bodies, are now mounting a campaign of lobbying to influence the legislative agenda and to ensure that proposed laws in favour of women have visibility and priority on the agenda.

17. Through an understanding with the Office of the United Nations High Commissioner for Human Rights, the DEMI has strengthened its legal unit with a

view to revising the civil, criminal and labour codes and other laws that contain discriminatory provisions based on gender or ethnic background. With respect to the Labour Code, a motion for unconstitutionality will be lodged in November 2008, citing discrimination with respect to farm work by women and juveniles, whom the legislation treats as men's helpers. This motion seeks to quash that rule.

3. *Paragraph 84 of the report refers to the "absence of concrete measures to ensure the enforcement and implementation of laws and decrees". Please provide information on the measures which are being considered by the State party to remedy this situation*

#### **18. Measures adopted**

- As indicated in the preceding paragraphs, one of the actions now under way to make laws and regulations more positive is a joint programme of work between the three branches of government and civil society organizations to coordinate implementation of the Policy for the Development of Guatemalan Women,<sup>2</sup> on the basis of ratified international conventions and treaties and ordinary laws in favour of women, and also to pursue awareness raising, information and training among the different social sectors.
- State institutions have been implementing the Policy for the Advancement and Development of Guatemalan Women<sup>3</sup> within their annual operating plans, in order to give effect to its thematic thrusts. Interagency commissions have been created to coordinate programmes and projects for the inclusion of the gender perspective.
- The Presidential Secretariat for Women is now preparing the Equal Opportunities Plan (PEO) to implement the PNPDIM,<sup>4</sup> working through three bodies. The first is the Policy Commission, consisting of the four institutional mechanisms for the advancement of women, SEPREM, FNM,<sup>5</sup> DEMI, and CONAPREVI, one function of which is to provide technical and financial support for preparing the PEO and to give follow-up to the decisions of the Advisory Board.
- A second body is the Advisory Board, with equal representation from 20 government institutions and 20 women's organizations and networks, selected through a public call for proposals published in the media. One of its functions is to review, discuss and provide input to the PEO document, and to approve it.
- A third body is the Technical Commission for the PEO, comprising two technical experts from the Policy Commission and the Advisory Board, appointed by the senior authorities. This team is working on the document and providing technical assistance to the other two bodies.

<sup>2</sup> Updated under the name "National Policy for the Advancement and Integral Development of Women" (PNPDIM), 2008-2023.

<sup>3</sup> Updated under the name "National Policy for the Advancement and Integral Development of Women" (PNPDIM), 2008-2023.

<sup>4</sup> National Policy for the Advancement and Integral Development of Women.

<sup>5</sup> National Women's Forum, *Foro Nacional de la Mujer*.

- With a view to strengthening the administration of justice in respect of women's human rights, the Judiciary has taken steps to update rules and procedures for applying legislation, through awareness workshops and training in gender methodology and violence against women, targeted at magistrates, judges, auxiliary justice personnel and administrative staff, and the publication of educational materials for the general public.
- Another important strategy is the Programme to Combat Exclusion in Guatemala (PLCE), in the context of the financing agreement signed between the European Union and Guatemala on 15 December 2004. The general objective of that programme is "to contribute to the social, economic and political inclusion of poor rural women, in particular the indigenous women of Guatemala."
- The Financing Agreement has the specific objective of "strengthening the capacities of the principal institutions of government, the Congress and civil society organizations in order to guarantee the inclusion of poor rural women and indigenous women in the construction and institutionalization of public policies." It expires on 15 December 2008.
- Within this framework, the programme has been implemented at the local level through various processes of learning and articulation between institutions (SEPREM, DEMI, FODIGUA, COPREDE<sup>6</sup>H and SEGEPLAN<sup>7</sup>), with the municipal women's offices, and with women's social organizations. A concrete example was the coordination among those bodies in defining participation profiles for female leaders in civic and political training processes.
- With the support of the Programme to Combat Exclusion, the General Secretariat of Planning (SEGEPLAN) produced a diagnosis of the extent to which the identity and rights of indigenous peoples have been institutionalized in the executive branch. This offers an analysis of the institutional structure and the response of institutional mechanisms with respect to: a) inclusion of the identity, gender and rights of indigenous peoples in the government of the Republic; b) identification of the underlying conceptual frameworks; and c) recommended lines of action for the executive branch in constructing a multicultural State.

## 19. Violence against women

4. *According to the Special Rapporteur on extrajudicial, summary or arbitrary executions, the female homicide rate increased by 117 per cent from 2001 to 2006. Please explain the causes of this trend, and whether the measures and strategies which have been taken to reverse it, as indicated in paragraphs 168-178, have shown any positive results. Please also provide information on how many of these murders are investigated, and how many of them result in the conviction of the perpetrator.*

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<sup>6</sup> Presidential Commission on Human Rights.

<sup>7</sup> General Secretariat of Planning.

## 20. Causes of violence

21. As we have informed the Committee on other occasions, violence against women in Guatemala has many causes and effects. Some are of a historical nature,<sup>8</sup> others are the consequence of the culture of violence that reached its peak during the time of the domestic armed conflict (36 years), while still others are the product of a society in which, unfortunately, common and organized crime as well as drug trafficking and other social problems have made the situation even more acute.

22. At the present time, despite efforts to compile systematic and reliable statistics, we must recognize that not all cases are documented and recorded. In some instances this is because the event goes unreported, or because people are not aware of the available mechanisms for reporting such events. As a result, it is difficult to quantify and qualify the magnitude of the problem in our country.

23. The 2007 Statistical Report on Violence in Guatemala, prepared by the Programme of Public Security and Prevention of Violence of the UNDP Office in Guatemala, identifies two broad reasons for the increase in violence and insecurity: social exclusion, and the failure of law enforcement. These two factors are interrelated, because the benefits of economic growth are not equitably distributed among the different social strata.

24. Given these forms of violence, the Guatemalan State has recognized the need to expand the legal framework in order to strengthen the institutions responsible for public security and the administration of justice.<sup>9</sup>

25. The strategies adopted for preventing this phenomenon have indeed produced some positive results, including the following:

- Approval, via Legislative Decree 22-2008, of the Act against Femicide and Other Forms of Violence against Women. The enforcement of this law will help eliminate impunity for violence against women, and thereby reduce such violence in Guatemala.
- The Governance Programme has made significant progress in public security, especially in combating crime and strengthening security institutions, as well as in interagency coordination.
- Implementation of the Policy for Security and the Rule of Law.<sup>10</sup> The Ministry of Finance (MINFIN), by means of Government Order 80-2008, authorized a budgetary adjustment to strengthen the budget of the Public Prosecutor's Office by Q30 million, in addition to Q50 million from a World Bank loan. Another move was to provide financial support to the judiciary, in addition to its constitutional allocation, and to conduct a joint analysis of the use of those resources (expanding coverage to municipalities and training for judges and officials).

26. With respect to statistical records on female homicides, each agency or institution has developed its own recording methods. Consequently, it has been recognized that a coordination mechanism is needed to establish standard parameters for such records.

<sup>8</sup> Unequal relations of power because of social and cultural structures.

<sup>9</sup> Decree 18-2008, Framework Act of the National Security System.

<sup>10</sup> Report on the First 100 Days of Government, Office of the President of Guatemala, 2008.

27. Because of this diversity in the way records are kept, each institution shows variations in its figures. For example:

- The computerized case tracking system of the Public Prosecutor's Office records cases submitted by prosecutors at the time they are assigned, distinguishing those in which the murder was intentional. It shows that between 2006 and 2008 there were a total of 18,436 murder cases, of which 81.8% of the victims were males and 13.1% female (Annex Chart 1).
- The increase in cases of violence in the period January to September 2008, compared to 2007 and 2006, was approximately 8 cases per month. The months of June, July and August are the most violent, and most events occurred between 11 AM and 8 PM. Most victims are between the ages of 15 and 35 years, and they are most commonly occupied as housewives, domestic servants, and students (Annex Charts 2, 3, 4, 5 and 6).
- Of the murders reported to the Public Prosecutor's Office in 2006, 2007, and up to September 2008, 47% had an identified suspect and 53% did not. Married women represented 28% of the victims, unmarried women 68%, and common-law female partners 4%; most of the victims were of Guatemalan nationality. 12% of cases were dismissed (Annex Charts 7 and 8; Tables 1 and 2).
- The departments in which the greatest number of cases occurred are Guatemala (1,040 cases, or 43% of the total), followed by Escuintla (210 cases, 8.7%) and Santa Rosa (103 cases, 4.3%). (Annex Tables 1, 2 and 3).
- The National Civil Police<sup>11</sup> recorded 410 crimes between the months of January and October 2008. From the tables it will be seen that, in the Department of Guatemala, of the female victims of violence between January and October 2008, 101 were housewives, 48 were students, and 28 were vendors. A total of 358 persons were arrested and charged with murder (Annexes Tables 4, 5 and 6).
- Cause of death. In the Department of Guatemala, between January and October 2008, the greatest number of female victims were killed by firearms, followed by knives and beatings (Annex, Table 7).

28. The judiciary keeps records of the cases of violence against women (assassination, murder, parricide) in which the courts issued a conviction or an acquittal between 2006 and 2008, as shown below.

Table 1  
**Judgments issued by the courts**  
**Violence against women**

| <i>Year</i> | <i>Conviction</i> | <i>Acquittal</i> |
|-------------|-------------------|------------------|
| 2006        | 35                | 35               |
| 2007        | 47                | 41               |
| 2008        | 8                 | 6                |

*Source:* Centro de Análisis y Documentación Judicial.  
Informe Estadístico Organismo Judicial, June 2008.

<sup>11</sup> Article 112, Code of Criminal Procedure.



29. From the above table it will be seen that not all cases reported to the police and investigated by the Public Prosecutor's Office result in a court conviction. There are many reasons for this, including faulty investigation, failure to complete the investigation, or the lack of an identifiable suspect, making it impossible to proceed to trial, as well as gender prejudices in judicial processes.

Table 2  
**Cases registered –Violence against women**

| <i>Year</i>     | <i>No. Cases</i> |
|-----------------|------------------|
| 2006            | 443              |
| 2007            | 472              |
| 2008 (Jan-July) | 80               |

*Source:* Centro de Análisis y Documentación Judicial.  
Informe Estadístico Organismo Judicial, June 2008.

30. In January 2008, the judicial branch, through the National Centre for Analysis and Documentation (CENADOJ), introduced two new statistical reporting forms, the Record of Sentence and the Standard Domestic Violence Reporting Form, providing socioeconomic variables on the victims of crimes and the persons prosecuted. These new forms will contribute to resolving this problem and to obtaining better control and statistical data.

31. With this system, it will be possible to search for the parties to judicial proceedings in all courts, through the record of safety measures requested and granted, thereby preventing the responsible person from asking another jurisdiction to issue these measures already granted, in accordance with the law.

32. As an example of incorporation of the gender violence variable, the judicial branch reports statistics on domestic violence cases heard by the justices of the peace, the lower criminal courts, the circuit courts, and the family courts of first instance. In 2008 there were a total of 28,619 cases: the victims were women in 25,538 cases, girls in 1,293 cases, men in 2,922 cases, and boys in 1,275 cases. The aggressor was a relative in 5,043 cases, a partner in 18,933 cases, and a former partner in 4,132 cases.

33. Judicial statistics to 3 November 2008 report 10 cases of femicide, 635 cases of violence, including 627 cases of violence against women and eight cases of violence against girls, and 35 cases of economic violence, for a grand total of 680 cases recorded.

34. A study of the institutional response of the judiciary to complaints filed by female survivors of domestic violence (critical route and recording of cases) was conducted in the departments of Guatemala, Quetzaltenango, Suchitepequez, Zacapa and Alta Verapaz. It recorded 458 cases scheduled, of which 437 have been studied.

35. As well, the Computerization and Telecommunications Centre of the Judiciary is implementing the Court Management System in all bodies of the judiciary, covering family and criminal matters. The Centre has been updating the system to cover information on violence against women, and it has been training court staff to enter the information on this topic.

36. The National Statistics Institute keeps a record of reports from institutions that, by law, must document cases of domestic violence and violence against women. Although they do not represent the totality of complaints, they provide a classification of crimes according to the Penal Code. According to those records for 2007, a total of 11,393 cases of violence against *ladina* or mestizo women were reported; by contrast, there were 1,354 cases of violence against men, 4,879 cases of violence against Mayan women and 547 against Mayan men (Annexes, Table 8). The institutions reporting the most cases are the peace and family courts, with 9,212 cases, the National Civil Police with 7,189 cases, and the Public Prosecutor's Office, with 1,373 cases. (Table 9).

37. The most commonly reported form of aggression is physical-psychological violence, followed by psychological violence, and finally by physical-psychological-economic violence, which afflicts mainly married women (Annexes, Tables 10 and 11).

- The National Institute of Forensic Sciences (INACIF), in its records of causes of death, reports firearms and knives as the instruments most frequently used against women. (Annex, Table 12).

38. At the present time, some statistical systems in use do not include the qualification of female murders as femicides because, according to the principle of legality, it was not possible in the past to consider complaints or accusations unless they related to acts or omissions classified as crimes or offences by a previous law. However, with entry into force of the Act against Femicide and other Forms of Violence against Women, the records can now be reprogrammed and adjusted to incorporate this element. However, this will require studies to produce a proper registry, so that official records will be consistent with national reality.

39. To assist in this respect, the Presidential Secretariat for Women and CONAPREVI are coordinating efforts with government institutions responsible for keeping records on violence, such as the National Civil Police, the Public Prosecutor's Office, the Institute of Public Criminal Defence, the Judiciary and the National Statistics Institute, to incorporate different variables for gender analysis into the investigation agenda, so as to visualize the situation and condition of Guatemalan women.

40. In order to take a comprehensive approach to the problem of violence against women, CONAPREVI has established the Commission on Investigation, Analysis and Statistics, which is now wrapping up work on 13 departmental diagnostics on the social response at the local level to the problem of violence against women in the departments of Izabal, Jalapa, Chiquimula, Baja Verapaz, San Marcos, Quetzaltenango, Huehuetenango, Totonicapán, Quiché, Chimaltenango, Sacatepéquez, Suchitepéquez and El Peten, as well as two studies on the processing and recording of complaints of domestic violence in the departments of Escuintla and Guatemala.

5. *Please provide updated information on the Framework Law on Violence against Women (Ley Marco de Violencia Contra las Mujeres) mentioned in paragraph 74 of the report, as well as on its content. Please also provide detailed information on the content of the Law on Femicide (Ley del Femicide), referred to in paragraph 73 of the report which, according to paragraph 75, was pending at the*

*time of the report's submission. Please provide information how the compliance with these laws has been monitored since their entry into force.*

#### **41. Act on Violence against Women**

42. On 9 April 2008, by means of Decree 22-2008, the National Congress issued the Act on Femicide and Other Forms of Violence against Women, in order to guarantee the life, liberty, integrity, dignity, protection and equality of all women before the law and in the law, so that they may live a life free of violence.

43. Decree 22-2008 also contains Bill 3503, which makes the defence of women's rights more comprehensive.<sup>12</sup>

#### **44. Structure of Legislative Decree 22-2008**

##### **45. Chapter I. General Provisions**

The objective of the Act is to guarantee the life, liberty, integrity, dignity, protection and equality of all women before the law and in the law, particularly when, because of their gender, relationships of power or trust in the public and private spheres are used to commit against them discriminatory practices of physical, psychological or economic violence, or to disregard their rights. Its purpose is to promote and implement provisions to eradicate physical, economic, psychological and sexual violence, and any other type of coercion against women, as guaranteed in existing legislation (Article 1).

##### **46. Chapter II. Definitions**

For enforcement purposes, the Act defines the various manifestations of violence against women: economic, physical, psychological, emotional and sexual. Misogyny, private and public spheres, access to information, comprehensive assistance to female victims of violence. (Article 3).

##### **47. Chapter III. Preventive measures**

This chapter obliges the State to ensure institutional coordination for promoting and monitoring awareness campaigns and to provide discussion forums to develop policies to prevent violence against women, through the senior body responsible for policies to prevent and eradicate violence against women. (Article 4).

##### **48. Chapter IV. Offences and penalties**

- This section establishes the following criminal offences. Femicide is defined as any act, in the context of unequal power relations between men and women, that results in the death of a woman because of her condition as a woman. The perpetrator shall be punished with imprisonment of 25 to 50 years, with no reduction of penalty. (Articles 5-6).
- Violence against women: "Any person who, in the public or private sphere, exercises physical, sexual or psychological violence. The person responsible for physical or sexual violence shall be punished by imprisonment of 5 to 12 years; acts of psychological violence, with imprisonment of 5 to 8 years, without prejudice to deeds that constitute other crimes stipulated in ordinary laws" (Article 7).

<sup>12</sup> See Annex 1, Decree 22-2008 of the Congress of the Republic of Guatemala.

- Economic violence: "Any person who, in the public or private sphere, restricts the ownership, enjoyment or use of goods and property and/or labour rights, or compels signature of documents restricting those rights, the destruction, concealing of documents for the exercise of their rights. As well, the economic subjection of the woman by failing to cover the needs of the children and exercising psychological, physical or sexual violence to control the family's income. The person responsible shall be punished by imprisonment of 5 to 8 years." (Article 8).
- Cultural or religious customs or relations may not be invoked as justification for these offences, and the perpetrator will be punished even when there is no family relationship. (Article 9). As aggravating circumstances, the judge must take into account the personal circumstances of the aggressor and of the victim, the relations of power between them, the context of the deed, and the damage produced, as well as the means and mechanisms used to perpetrate the deed and the damage (Article 10).

#### **49. Chapter V. Reparations**

- This chapter provides for compensation to the victim, including her successors, and makes the State responsible for any act or omission of public officials in violation of the law (articles 11 and 12).

#### **50. Chapter VI. Obligations of the State**

- The State must guarantee women's access to information and to integral assistance as inalienable rights (Article 13).
- The State must strengthen the institutions responsible for criminal investigation, it must create specialized jurisdictional bodies, and it must implement centres of integral support for female survivors of violence, under the coordination of CONAPREVI. State officials must also be trained to provide free legal assistance to the victim. The INE must establish an information system on violence against women. Creation of specialized prosecutors, strengthening of INACIF, creation of specialized bodies, strengthening of CONAPREVI and PLANОВI, IDPP, protection services for parties to legal proceedings (articles 14 to 21).
- Chapter VII. Final and transitional provisions of articles 22 to 28. Amends Article 2 of Congressional Decree 70-96, containing the Act on the Protection of Parties to Judicial Proceedings and Persons Linked to the Administration of Criminal Justice.

Various provisions in the Penal Code, Code of Criminal Procedure, the Judiciary Act, the Act on the Dignity and Integral Advancement of Women, the Social Development Act, the Civil Code, the Code of Civil Procedure, and the Commercial Code shall apply in a manner subsidiary to this law.

51. The Act also regulates advisory, coaching and monitoring services provided by CONAPREVI to integral support centres for female survivors of violence, and governs public policies for eradicating violence against women (Article 18, Decree 22-2008).

52. It also obliges the Supreme Court of Justice to create specialized courts that will be available to victims of violence 24 hours a day.

**53. Measures adopted for its implementation**

- On 23 July 2008, the Supreme Court of Justice issued ruling 23-2008 defining the powers of the lower courts to hear cases covered by the Act on Femicide and other forms of violence against women throughout the Republic: a) justices of the peace; b) courts of first instance in criminal matters, drug trafficking, and crimes against the environment; c) the judgment tribunals in criminal matters, drug trafficking and crimes against the environment; d) the chambers of the Court of Appeals in criminal matters, drug trafficking and crimes against the environment; e) the family courts; f) the Courts of Appeals in civil and family matters; g) the Criminal and Civil Chambers of the Supreme Court of Justice.
- As well, judges themselves have jurisdiction *ratione materiae* to hear applications for safety or precautionary measures, taking into account the risk that the woman will be exposed to acts that constitute offences (see attached order of the Supreme Court of Justice).
- The Judiciary, in coordination with the Public Prosecutor's Office, has implemented a pilot project consisting of a "management model" for primary assistance in cases of violence against women, domestic violence, and sexual crimes in the metropolitan area. This project is intended to streamline procedures for granting measures of protection to women and their children.
- Currently, protective measures can be requested from justices of the peace, circuit court judges, family court judges, and the Office of Integral Care for Victims, which is part of the Public Prosecutor's Office. During 2007, there were 44,676 cases of domestic violence registered, and protective measures were granted in 34,651 of those cases (77%); of the 803 criminal cases, 25 were taken up by the courts, and 4,707 cases were classified as misdemeanours, representing 10.54% (see annexes).
- The Judiciary's Unit for the Alternative Settlement of Disputes issued a resolution, upon instruction from the Supreme Court of Justice, requiring that cases of violence reported at the mediation centres should not be put to conciliation but referred to the courts for consideration and prosecution.

54. CONAPREVI (National Coordinating Office for the Prevention of Domestic Violence and Violence against Women) has pursued the following actions:

- Forums on challenges in enforcing the Femicide Act in the departments of Guatemala and Quetzaltenango, with the participation of justice officials.
- Information and training workshops, coordinated with the Programme of Support for Reform of the Justice Sector in Guatemala, in the departments of Quetzaltenango, Quichè, Chiquimula and Suchitepequez.
- Publication of 6,000 copies of the Act, for distribution to various institutions and organizations.
- Signature of a letter of understanding in June 2008, to add content to the care protocols for cases of sexual and physical violence through the health

system, so that this problem can be addressed in a manner consistent with the reality facing the survivors of such violence.

- Signature of the 2007 Tripartite Agreement on the programme of free legal assistance to victims of violence and in family matters, between the Institute of Public Criminal Defence, the Office of the Defender of Indigenous Women, and CONAPREVI.
- The "Non-Violence Network" (*Red de la No Violencia contra la Mujer*) has provided follow-up, in coordination with the Ministry of the Interior, for implementing the National Plan for the Eradication of Violence against Women (PLANOVI) in the area of investigation, prevention, and reduction of femicides
- The State of Guatemala has begun to create integral care centres for female survivors of violence (CAIMUS). In the current year, such centres have been created in the departments of Escuintla, Alta Verapaz and Baja Verapaz. The Ministry of the Interior has included funds for their operation in its draft 2009 budget, which is now awaiting approval by Congress.
- In October 2008, the Congressional Committee on Women held a meeting to discuss progress in application of Decree 22-2008, with participation by the Judiciary, the Public Prosecutor's Office, the Ministry of the Interior, and women's organizations, indicating the possibility of establishing a Secretariat within Congress for monitoring application of that Decree.

6. *Please indicate the results of the measures taken to prevent violence against women and femicide described in paragraphs 175 - 177 of the report, as well as on the implementation of paragraph 24 of the concluding observations of the Committee.*

#### **55. Strategies for addressing violence against women**

56. Investigation. In 2008, CONAPREVI initiated 13 diagnostics on the local response to domestic violence and violence against women in the departments of San Marcos, Quetzaltenago, El Quiché, Huhuetenango, Totonicapán, Suchitepequez, El Peten, Baja Verapaz, Jalapa, Chiquimula, Sacatepequez, Izabal and Chimaltenango. Information from those studies will be used to shape the strategic interventions.

57. Recognizing the importance of implementing municipal development agendas, which have a component dealing with violence against women, CONAPREVI, in coordination with CODEFEM, the Association for the Defence of Women's Rights in Guatemala, is conducting three diagnostics of juridical bodies that provide medical, psychological and legal assistance in cases of violence, in the municipalities of Jocotán and Olota in Chiquimula and Gualán in Zacapa.

58. As the body responsible for promoting and implementing policies to prevent and eradicate violence against women, CONAPREVI has the legal mandate to inform and train government officials, women's organizations, and society in general about the objectives of the follow-up mechanism for the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (the Convention of Belém do Pará), as well as indicators for monitoring the

recommendations of the Expert Committee of MESECVI, the mechanism for follow-up on implementation of the Convention.

59. Dissemination and information. As part of its efforts to raise awareness in society as a whole and among government officials and employees, justice workers and members of Congress, ONAM, as a member of the Non-Violence Network, plays a public role in special programmes to publicize the law: it has prepared press releases and has held training sessions on the topic in the 17 departments.

60. The Judiciary has prepared dissemination materials (posters, brochures etc.) on women's human rights and violence against women. It has revised the training curriculum to include the issue of violence against women in the training of candidates for the bench.

61. The Supreme Court of Justice, in coordination with the Presidential Commission against Discrimination and Racism and the executive branch, has sponsored discussions on how to prevent and eradicate gender and ethnic discrimination.

62. In a similar vein, CONAPREVI, the Ministry of Public Health and Social Welfare, the Guatemalan Association of Women Physicians, the United Nations Population Fund and the Guatemalan Association of Gynaecologists and Obstetricians signed a letter of understanding in which each party assumes a series of responsibilities for addressing sexual violence as a phenomenon that involves and demands commitments from many institutions and sectors for detecting and dealing with cases effectively.

63. The Secretariat of Social Welfare, through the Domestic Violence Prevention Programme (PROPEVI) in coordination with CONAPREVI, expanded its attention to domestic violence in 2008, using a methodology (termed "Walking in your shoes") based on prevention and assistance, providing comprehensive care, social, legal and psychological guidance, and hosting awareness and training workshops on domestic violence. It also conducted a media campaign to publicize a special 24-hour telephone hotline for reporting domestic violence.

64. The Ministry of Health and Social Welfare, working with CONAPREVI, has developed information mechanisms through the National Mental Health Programme, contributing thereby to implementing the Protocol for Assisting Victims of Sexual Violence, in coordination with the national programmes on reproductive health and STD/HIV/AIDS of the Regulatory Department for Individual Care Programmes, in order to improve the physical, mental and legal care given to victims of sexual violence.

65. This process was launched in the emergency wards of hospitals in the departments of El Petén, Chiquimula, Izabal, Zacapa and Chimaltenango, and was targeted at multidisciplinary personnel, beginning with awareness raising using the "Walking in your shoes" methodology.

66. Results: a) the health units selected have been equipped with the Care Protocol and its medications kit for cases of sexual abuse; b) partnerships have been forged with local institutions that provide assistance to victims of sexual violence, and with self-help groups. An agreement was also signed between the Ministry of Public Health and Social Assistance, CONAPREVI, and international agencies to review and update the protocol for assisting victims of sexual violence.

67. Assistance measures. The Ministry of Public Health and Social Welfare, through its Mental Health Programme, is providing psychological and social assistance to female victims of armed conflict and post-war trauma in the departments of Baja Verapaz and El Petén. To date, such services have been provided to 42,200 people through the social assistance units, psychology unit, legal unit, shelter unit, pedagogy unit, and the family helpline.

68. Institutional strengthening. CONAPREVI has established coordination mechanisms in the respective institutions for including the issue of eradicating violence against women in the Equal Opportunities Plan 2008-2023, for effective care.

69. A declaration was recently adopted on zero tolerance of violence against women, and an interagency agreement for strengthening CONAPREVI, implementation of the National Plan for the Prevention and Eradication of Domestic Violence and Violence against Women (PLANOVI 2004/2012) and enforcement of the Femicide Act.

70. That declaration was signed by representatives of the public sector, the President of the Republic, the President of the Congress, the President of the Judiciary, the Prosecutor General and the Attorney General, the Director of the Institute of Public Criminal Defence, the Director of the National Institute of Forensic Sciences, the Human Rights Procurator, the Manager of the National Statistics Institute, the Presidential Secretariat for Women, the Office of the Defender of Indigenous Women, the Secretariat of Social Welfare, the Wife of the President of the Republic (Witness of Honour) and the President-Elect of the 2009 Congress (Witness of Honour), and by the Non-Violence Network on behalf of civil society.

71. In its institutional strengthening efforts, CONAPREVI has pursued coordination through the signature of individual institutional agreements with:

- a. Programme for the Prevention of Domestic Violence (Pittsburgh), 2007.
- b. The Judiciary.
- c. The Public Prosecutor's Office.
- d. The Office of the Human Rights Procurator.
- e. The Institute of Public Criminal Defence.
- f. The Non-Violence Network.
- g. The National Statistics Institute.

72. These agreements include provisions that will strengthen the ability of institutions and organizations to provide high-quality and sensitive attention to female survivors of family violence and violence against women and their children, as part of the commitment to implementing the PLANOVI 2004-2014.

73. The Public Prosecutor's Office has prepared a model of integral care for victims of sexual crimes and violence against women, the adjustment and inclusion of variables in the statistics systems, and the publication of documents on femicide for awareness raising and training of the institution's staff.

74. With respect to mechanisms of intra- and inter-agency coordination, the Secretariat of Social Welfare signed an agreement of interagency support with the municipality of Mixco for opening a Shelter for Victims of Domestic Violence.



75. The Presidential Secretariat for Women (SEPREM) signed an agreement with the International Commission against Impunity in Guatemala (CICIG), the First Lady's Social Work Secretariat (SOSEP) and the Office of the Defender of Indigenous Women (DEMI) to address the problem of violence against women.

76. The Judiciary signed an interagency cooperation agreement with CONAPREVI to provide training to court personnel and to apply the Standard Reporting Form.

77. Under the CONAPREVI-IDPP-DEMI tripartite agreement, the judiciary has prepared: a) the protocol for assisting victims of domestic violence and violence against women, b) referral networks; because of their importance in assisting female survivors of violence involved in court proceedings, workshops were held for staff of the Public Prosecutor's Office and the Judiciary who work directly with people who report instances of domestic violence and violence against women, in order to standardize assistance criteria and protect the life of victims and their children.

*7. Please describe the process of establishment of the inter-institutional committee, composed of members of the three branches of Government and entrusted with the monitoring of the strategy designed by the Commission on Femicide as indicated in paragraph 178.*

78. To date, meetings have been held to explore and analyze the issue, coordinated by the Presidential Secretariat for Women, in order to determine the most effective mechanism for establishing this interagency committee. We shall report to CEDAW in due course on the progress made.

79. We should also mention that, pursuant to Congressional Decree 22-2008 of 9 April 2008, the Act on Femicide and Other Forms of Violence against Women was issued, allowing for a more comprehensive defence of women's rights.<sup>13</sup> This opens a new path for addressing the problem of violence, under the leadership of CONAPREVI.

*8. Please provide information on data and conclusions of any relevant study undertaken by the State party with regard to violence against women, specifically women with disabilities and women in detention.*

## **80. Studies and research**

81. A number of studies and investigations have been coordinated with academic bodies and private human rights research organizations such as the Guatemala Institute of Comparative Studies in Criminal Sciences (ICCPG), through the Criminal Justice and Gender Programme. Noteworthy are the following:

- "Impunity figures on police crimes against women", a research study on police abuse against women, which is compiling cases of violations of women's human rights in police custody, and in particular torture and sexual violence. This research has been submitted to the various authorities of the justice system, in particular the Ministry of the Interior, and has been made available to the media and to women's organizations. As a result of this research, the issue is now squarely on the public agenda as one of the most serious forms of violence against women, and an agreement has been established and training has begun for public defenders, to prevent abuse of this type.

<sup>13</sup> See Annex 1, Decree 22-2008 of the Congress of the Republic of Guatemala.

- An agreement was signed with the Office of the Human Rights Procurator (PDH) to establish mechanisms for prevention and documentation of such cases in the departmental detachments.
- The report on Preventive Imprisonment resulted in approval by the Public Prosecutor's Office of a general instruction on the use of coercion during criminal proceedings, and training has been provided to 42 lower court judges throughout the country, with a view to instilling a new management culture that will apply gender theory in court decisions, and rational use of preventive imprisonment.
- The coordinator of the ICCPG Criminal Justice and Gender Programme reported that 94% of women detained in PNC police stations suffer abuse at the hands of security agents. That finding was based on interviews with 154 women held in preventive detention at the Santa Teresa facility, where 90% of the women found themselves in this situation.
- According to that report, 84% of the 154 women interviewed claimed that they were arrested without a court warrant, and that during their transfer from the police station to the detention centre they were the object of obscene comments and sexual propositions. The ICCPG Criminal Justice and Gender Programme is determined to bring an integral focus to this issue, addressing deprivation of liberty at three specific times: a) at the moment of arrest, b) pre-trial detention, and c) serving of prison sentences.
- The Office of the Defender of Indigenous Women is pursuing its study of "needs and problems of indigenous women serving prison sentences" (publication pending). The study is intended to provide information on which to base proposals for supporting the prison system and to permit action to help improve the situation of indigenous women imprisoned in the Women's Orientation Centre (COF), as well as to define policies with an intercultural and gender approach that promote equity and respect for those women.
- The Judiciary has published a research study entitled, "Institutional response of the Judiciary to complaints lodged by women survivors of domestic violence (critical route and recording of cases)". The study was conducted in five departments of the country where there were the greatest number of complaints in comparison with the one that has the lowest percentage of violence. The results of the research show that some courts are insensitive to the need for timely and appropriate assistance, and that most of them are still dominated by a patriarchal culture that continues to hold women guilty of instigating such violence.
- The Ministry of the Interior reports that the prison population stands at 8,059 individuals, of whom 96% are men and 4% are women. Pursuant to the Penitentiary System Act, a mental health diagnosis of female prisoners was conducted in October 2008 in order to analyze the causes that lead women to commit crimes and to examine intervention by the penitentiary system and the treatment of prisoners with disabilities. The study found that the crimes for which women were most frequently sentenced to prison were murder (80%), kidnapping or abduction for commercial trafficking (10%) and unlawful harbouring and trafficking (5%).

**82. Legal Assistance Programme**

Pursuant to the interagency agreement signed between CONAPREVI and the Institute of Public Criminal Defence (IDPP), under the Domestic Violence Act and the Femicide Act, the Institute has accepted responsibility for providing free legal assistance to female victims of violence or their relatives, so as to guarantee effective exercise of their rights. The assistance is available 24 hours a day, every day of the year, and throughout the country.

**83. Psychological treatment for prisoners**

The Psychology Department of the Penitentiary System has designed an intervention based on in-depth knowledge, acquired over the last two years, of the psychological characteristics, needs and requirements of female prisoners.

84. Based on the formal legal requirements (Decree 33-2006) as well as security considerations, the programme aims to promote re-education and social integration. In many cases this effort is connected with a key factor: reducing the likelihood of recidivism.

**85. Methodology for treating prisoners**

Individual psychotherapy. This is used to address the various psychopathological disorders of female prisoners.

86. Group psychotherapy and psychosocial coaching. A continuous presence is required during joint preparation of the initial action plan and in future revisions, and in monitoring daily progress, correcting errors, noting achievements, and encouraging change. It is essential to maintain a safe and orderly environment in the prison, with an organized system that has clear, predictable standards of behaviour that will minimize tension and reduce the chance for incidents.

87. When it comes to assisting older women and women with physical or mental disabilities, efforts are targeted at improving their quality of life and enhancing their physical and personal autonomy.

88. With respect to the issue of persons with disabilities, data from the 2000-2002 National Population Census of the National Statistics Institute (INE) place the national population at 12,358,334, of whom around 1 million, 75% of them women, suffer from disabilities.

89. The majority of persons with disabilities have been excluded from social services, and it must be recognized that access to health, education, employment and transport services, among others, has been limited, further impeding their civic and political participation.

90. In November of this year, Congress approved the International Convention on the Rights of Persons with Disabilities, by means of Legislative Decree 59-2008. With implementation of that Convention, persons affected by any type of disability will be able to make much more effective exercise of their rights.

*9. Please provide detailed information on the pending legal reform providing a new, broadened definition of rape as indicated in paragraphs 85 and 227 of the State report.*

91. As noted earlier in this report, in July 2008 the Congressional Committee on Women announced its legislative agenda for the development of Guatemalan

women: a) reforms to Decree Law 106, the Civil Code; b) Decree 27-2000, the General Act on Combating the Human Immunodeficiency Virus and the Acquired Immune Deficiency Syndrome and the Defence of Human Rights in the Context of HIV/AIDS; c) reforms to the Elections and Political Parties Act; d) Chapter 4 of the Labour Code and e) reforms to the Penal Code.

92. The proposed reforms to the Penal Code, now under study in Congress, would amend the definition of rape, adding to it any form of anal, oral or vaginal penetration by a man or woman.

*10. In its concluding observations to the sixth report, the Committee urged the State party to criminalize domestic violence. According to paragraphs 85 and 227 of the State party's report, criminalization of domestic violence is pending. Please indicate which steps have been taken towards criminalization of domestic violence.*

93. As the Committee has indicated, the initiatives before Congress relating to domestic violence are still pending approval. However, it is important to note that, with approval of the Act on Femicide and Other Forms of Violence against Women, five types of violence have now been criminalized: violence against women, economic violence, physical violence, psychological and emotional violence, and sexual violence. That Act currently constitutes the available mechanism of protection.

94. It defines violence against women as any act of violence based on the sex of the victim that causes or may cause physical, sexual or psychological injury or suffering for the woman, as well as the threat of such acts, and deprivation of liberty or arbitrary coercion, in both the public and private spheres.

95. Violence against women is deemed to embrace the following acts, but is not limited to them: physical, sexual and psychological violence in the family, including mistreatment, sexual abuse of girls in the home, violence related to dowry, rape by the husband, female genital mutilation, and other traditional practices that are harmful to women, acts of violence perpetrated by other members of the family, and violence related to exploitation; and physical, sexual and psychological violence perpetrated within the community in general, including rape, sexual abuse and harassment, and sexual intimidation in the workplace, in educational institutions and in other places, as well as trafficking in women and forced prostitution.<sup>14</sup>

**96. Trafficking and exploitation of prostitution (trafficking in persons)**

*11. Please provide detailed information about the results of the legislative reforms and measures taken to combat and prevent trafficking, particularly with respect to women and girls.*

97. In February of this year, a workshop seminar was held with members of the Inter-Institutional Group against Trafficking in Persons (CIT), coordinated by the Ministry of Foreign Relations, to examine progress, challenges and obstacles encountered in implementing the National Strategic Plan 2007-2017.

98. The workshops identified the following information needs for achieving the objectives of the plan: a) to determine the degree to which the National Plan for a Policy to Combat Trafficking in Persons has been integrated into the annual plans of

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<sup>14</sup> General Assembly Declaration on the Elimination of Violence against Women and Act on Enhancing and Advancing the Status of Women, Decree 7-1999.

the member institutions of the CIT; b) to determine the degree of compliance with the actions programmed within the National Strategic Plan 2007-2017, and c) to determine those factors that might facilitate or constrain implementation of the National Plan.

99. The following themes were addressed: a) institutional strengthening; b) prevention; c) comprehensive assistance; d) protection and application of justice. The workshop conclusions highlighted the need to delve more deeply into the effects of human trafficking, the need to monitor the outcomes of the measures taken by CIT members, the acquisition of human and financial resources, and the preparation of statistical data.

100. As a result of the foregoing, Government Order 184-2008 was issued on 21 July 2008 approving the Public Policy against Trafficking in Persons and for the Integral Protection of Victims, and its National Plan for Strategic Action 2007-2017.

101. With the approval of the Public Policy and its National Strategic Plan for combating human trafficking, the State of Guatemala has committed itself to moving forward in meeting the needs and interests of trafficking victims and to make its best efforts, in an inclusive manner, to achieve the broadest possible collaboration among national and international institutions.

102. A further result is the training of government officials involved in this area for giving effect to the guiding principles of the policy, which are the respect and guarantee of human rights, the higher interest of the child, discrimination, and immediate protection and comprehensive assistance.

103. Currently, SEPREM is coordinating the Committee for the Strategic Plan dealing with the application of justice, and the policy for combating human trafficking, in which legal assistance is provided.

104. The General Directorate of the National Civil Police is pursuing the following activities in relation to prompt intervention to prevent human trafficking, through the Anti-trafficking Section of the Criminal Investigation Division: a) searches upon receipt of a complaint; b) searches for re-occurrences in the operating zones; c) surveillance in reported areas; d) case monitoring; e) case investigation; f) application for search warrants.

105. Given the magnitude of the problem, however, the State is aware that it must reinforce this section with additional human and material resources in order to make interventions effective (Annex Table 13).

106. As indicated in the Periodic Report, the problem of illegal adoptions, sometimes related to the trafficking and sale of children, is being addressed through a joint effort between government and civil society, with the adoption, via Legislative Decree 77-2007, of the National and International Adoptions Act, which creates the National Adoptions Council.

107. This National Adoptions Council (CNA) is intended to put an end to irregular adoptions. It has the following functions, among others: to ensure the protection of children and adolescents during the adoption process; to encourage national adoption, with priority to children who have been institutionalized; to assign each child undergoing adoption to a suitable family, in light of the child's higher interest; to ensure that candidates for international adoption are suitable in accordance with

Guatemalan legislation; and to obtain the consent of the biological parents, based on appropriate legal advice.

108. In the short time that the CNA has been operating (May to September 2008), it has already approved 17 adoptions, and has blocked others that were tainted by fraudulent elements or procedures.

109. Networks for Combating Trafficking and Exploitation. The judiciary has responded to the increase in cases of commercial sexual exploitation of children by encouraging the establishment of local networks in regions where children are particularly vulnerable, comprising representatives of public and private organizations.

110. These networks are intended to coordinate efforts to eradicate this phenomenon, through measures of prevention, assistance and protection for victims, to ensure that they receive the necessary information and that they are given immediate and comprehensive assistance for reintegration into their family and into society.

111. Such networks have been established in Puerto Barrios, Chiquimula, Petén, Sacatepéquez, Chimaltenango, Escuintla and Villa Nueva. Each network has conducted a diagnosis of sexual exploitation in its respective department, and this has served as the basis for planning actions. All these networks are self-sustaining, and they are pursuing their action plan in light of the sexual exploitation situation in each region.

112. Each network is headed by a governing board, which is responsible for coordinating efforts at eradication. Ten representatives of each network attended a national seminar on sexual trafficking and exploitation, designed to reinforce the work of these networks and to establish standard benchmarks for addressing the issue. The seminar included presentations by international experts in the issue. The results were positive, and all the representatives committed themselves to continue working on the issue in their communities.

113. The Migrants Unit of the Social Welfare Secretariat has opened the *Casa Nuestras Raíces* ("Our Roots" Centre) in the Department of Quetzaltenango. To date it has provided assistance to 726 migrant juveniles, 561 of whom were males (77.3%) and 165 females (22.7%). A psychologist has been hired. Workshops have been conducted on HIV/AIDS. Two boys and a girl were treated as special cases submitted by the Vice Minister of Foreign Affairs. The unit has an operating budget of Q2.1 million.

114. The Antigua Declaration, signed following the ninth meeting of magistrates of the senior justice organs of Ibero-American on 7 November 2008, calls upon member States to develop mechanisms of collaboration that will facilitate the extradition of offenders and the repatriation of victims of trafficking in order to guarantee prompt and full justice, from a gender perspective, and to prevent revictimization.

*12. Paragraph 281 of the State party's report refers to a comprehensive bill for the protection of victims of trafficking which is being drafted by the Inter-Institutional Commission. Please provide information on its content and the timeframe envisaged for its adoption.*

**115. Draft law against trafficking**

116. Guatemalan legislation on trafficking in persons and the various types of human exploitation is being updated through preparation of a draft law against sexual violence, exploitation and trafficking in persons. That law provides for a system of comprehensive assistance and support for the victims of trafficking and related crimes.

117. The draft was presented to Congress on 19 August 2008, with the declared intention of preventing, suppressing, punishing and eradicating trafficking in persons; providing care and protection for its victims; providing compensation for related damages, with full respect for human rights; and criminalizing sexual violence and any form of exploitation.

118. The draft law is known as Bill 3881-2008, and is currently being examined by the Committee on Legislation and Constitutional Issues. The law is intended to give effect to the standards of the Palermo Protocol, with a view to prevention, suppression and punishment through mechanisms and tools that will facilitate enforcement.

119. The draft law develops the system for assisting and protecting the victims of sexual trafficking, violence and exploitation. It creates the Trafficking in Persons Directorate, amends the Penal Code with respect to trafficking in persons and related crimes, adding the crimes of child abuse and sexual violence, sexual exploitation and labour exploitation, child pornography, and focuses on the protection of victims and reparations for damages.

120. The bill was prepared by the Juvenile Chamber of the Judiciary, the Public Prosecutor's Office, the Attorney General's Office, the Social Welfare Secretariat, the Human Rights Procurator, ECPAT, UNICEF and Casa Alianza Guatemala.

*13. Please provide information on any actions already taken, or envisaged, to remove the ambiguities in the legislation regarding prostitution, including child prostitution, as mentioned in paragraph 84 of the report.*

**121. Measures adopted**

122. The State recognizes the urgency of addressing the sexual exploitation of children for commercial purposes, and a coordinating group, sponsored by the Social Welfare Secretariat, the lead agency for policies relating to juveniles, has been meeting regularly since January 2008 to prepare a work plan for reactivating the measures called for in the National Plan against the Commercial Sexual Exploitation of Children and Adolescents.

123. That body will be working to revive and reactivate the proposed legislative reforms needed to remove the ambiguities in the existing legislation.

124. In an effort to move forward with legislative reforms, the Social Welfare Secretariat has signed a letter of understanding with the Association for the Elimination of Child Prostitution, Pornography, Sexual Tourism and Trafficking in Guatemala (ECPAT), to reinforce the multidisciplinary team of the Sexual Exploitation Unit for analyzing the existing legal ambiguities.

## 125. Stereotypes and education

14. Please describe any follow-up from the media-monitoring project which resulted in the study mentioned in paragraphs 266 and 267 of the State party's report concerning violence against women, domestic violence, sexuality, maternal mortality, abortion, HIV and discrimination.

126. The annual report of the Women and Media Observatory, of which SEPREM was a member, was publicized at press conferences in the various departments of the country, and subsequently at three presentations in Guatemala City with the various members of the Advisory Council.<sup>15</sup> The official presentation was made in August 2007.

127. Unfortunately, a lack of funds has made it impossible to continue this monitoring. However, the *Centro Civitas* Association is trying to provide up-dated information through announcements on the women's page and in the media.

15. Please provide statistical information concerning the percentage of girls who complete secondary education and higher education, including information about rural and indigenous girls.

128. The records show total secondary school enrolment of 516,150 students, of whom 391,881 are in urban areas (representing 69.8%), and 169,269 are rural (representing 30.16%), for a difference of 39.6%: this demonstrates that a lower proportion of adolescents in rural areas are studying at the secondary level.

129. When it comes to higher education, the general enrolment rate is low, particularly in rural areas. From the following tables it can be seen that the male population has a higher dropout rate than the female population (Annex Table 14).

Table 3  
Secondary School Population

| National total | Enrolment<br>561,150 | Repetition<br>16,164 | Promotion<br>285,928 | Not promoted<br>244,104 | Promotion rate<br>53.95% | Repetition rate<br>2.98% | Dropout rate<br>5.55% |
|----------------|----------------------|----------------------|----------------------|-------------------------|--------------------------|--------------------------|-----------------------|
| Primary        | 234,508              | 8,156                | 109,996              | 110,186                 | 49.96%                   | 3.55%                    | 6.11%                 |
| Secondary      | 174,061              | 4,693                | 89,899               | 77,562                  | 53.68%                   | 2.81%                    | 3.79%                 |
| Tertiary       | 152,581              | 3,315                | 86,033               | 56,356                  | 60.42%                   | 2.26%                    | 6.68%                 |
| <b>Urban</b>   | <b>391,881</b>       | 12,752               | 180,646              | 180,045                 | 50.08%                   | 3.26%                    | 7.96%                 |
| Primary        | 162,812              | 6,389                | 86,933               | 79,179                  | 46.56%                   | 3.92%                    | 8.99%                 |
| Secondary      | 119,131              | 3,698                | 56,279               | 56,287                  | 50.00%                   | 3.11%                    | 5.51%                 |
| Tertiary       | 109,938              | 2,665                | 55,374               | 44,579                  | 55.40%                   | 2.44%                    | 9.08%                 |
| <b>Rural</b>   | <b>169,269</b>       | 3,412                | 106,282              | 64,059                  | 62.17%                   | 2.25%                    | .004%                 |
| Primary        | 71,269               | 1,757                | 41,003               | 31,007                  | 56.24%                   | 2.65%                    | -.44%                 |
| Secondary      | 54,930               | 995                  | 33,620               | 21,275                  | 61.24%                   | 2.07%                    | -.06%                 |
| Tertiary       | 42,643               | 650                  | 30,659               | 11,777                  | 72.25%                   | 1.75%                    | 0.49%                 |

Source: Ministry of Education (2007 Report).

<sup>15</sup> The Advisory Council consisted of State agencies, civil society, the women's movement, and the media.



Table 4  
Male and Female Enrolment in Normal Schools, Preliminary Data 2007

| <i>Normal schools</i> | <i>Enrolment</i> |          | <i>Repetition</i> |          | <i>Promotion</i> |          | <i>Not promoted</i> |          | <i>Promotion Dropout Rate</i> |            |
|-----------------------|------------------|----------|-------------------|----------|------------------|----------|---------------------|----------|-------------------------------|------------|
|                       | <i>M</i>         | <i>F</i> | <i>M</i>          | <i>F</i> | <i>M</i>         | <i>F</i> | <i>F</i>            | <i>M</i> | <i>M %</i>                    | <i>F %</i> |
| National total        | 35,328           | 59,577   | 599               | 681      | 22,216           | 42,398   | 11,616              | 15,133   | 4.23                          | 3.43       |
| Urban                 | 31,316           | 54,499   | 572               | 649      | 19,410           | 38,375   | 10,738              | 14,103   | 3.74                          | 3.05       |
| Rural                 | 4,010            | 5,078    | 27                | 32       | 2,806            | 3,663    | 878                 | 1,030    | 8.13                          | 7.58       |
| Total official        | 8,463            | 14,939   | 316               | 267      | 4,978            | 10,027   | 3,263               | 4,538    | 2.62                          | 2.50       |
| Urban                 | 7,160            | 13,054   | 304               | 263      | 4,067            | 8,608    | 2,976               | 4,538    | 1.63                          | 1.82       |
| Rural                 | 1,303            | 1,885    | 12                | 4        | 911              | 1,419    | 287                 | 329      | 8.06                          | 7.27       |
| Total private         | 23,210           | 39,986   | 235               | 350      | 14,826           | 29,136   | 7,241               | 9,292    | 4.92                          | 3.90       |
| Urban                 | 21,318           | 37,690   | 223               | 338      | 13,560           | 27,536   | 6,841               | 8,787    | 4.54                          | 3.63       |
| Rural                 | 1,892            | 2,296    | 12                | 12       | 1,316            | 1,600    | 400                 | 505      | 9.30                          | 8.32       |
| Total municipal       | 610              | 531      | 0                 | 3        | 364              | 357      | 204                 | 138      | 6.89                          | 6.78       |
| Urban                 | 400              | 356      | 0                 | 2        | 224              | 230      | 139                 | 95       | 9.25                          | 8.71       |
| Rural                 | 210              | 175      | 0                 | 1        | 140              | 127      | 65                  | 43       | 2.38                          | 2.86       |
| Total cooperative     | 3,045            | 4,121    | 48                | 61       | 2,048            | 2,878    | 908                 | 1,165    | 2.92                          | 1.89       |
| Urban                 | 2,440            | 3,399    | 45                | 46       | 2,361            | 782      | 782                 | 1,012    | 2.01                          | 0.76       |
| Rural                 | 605              | 722      | 3                 | 15       | 517              | 126      | 126                 | 153      | 6.61                          | 7.20       |

Source: Ministry of Education.

Table 5  
Ministry of Education: Investment in Basic Secondary Education, 2007

| <i>Basic secondary</i>  | <i>Males</i>       | <i>Females</i>    | <i>Total</i>     |
|-------------------------|--------------------|-------------------|------------------|
| Initial registration    | 91,328             | 79,684            | 171,012          |
| Percent of enrolment    | 53.40%             | 46.60%            | 100%             |
| Investment in Programme | Q. 344, 867,783.16 | Q. 300,898,349.18 | Q.645,766.132.34 |

Source: National Education Information System, DIPLAN 2007, Ministry of Education.

Table 6  
Ministry of Education: Investment in "Diversified" Secondary Education, 2007

| <i>Diversified secondary</i> | <i>Males</i>     | <i>Females</i>    | <i>Total</i>     |
|------------------------------|------------------|-------------------|------------------|
| Initial registration         | 23,955           | 29,356            | 53,311           |
| Percent of enrolment         | 44.93%           | 55.07%            | 100%             |
| Investment in programmes     | Q.156,545,143.91 | Q. 191,840,502.80 | Q.348,385,646.71 |

Source: National Education Information System, DIPLAN 2007, Ministry of Education.

130. The above table shows the indicator for the percentage of women completing the basic and diversified levels of secondary education.

131. In 2007, the completion rate for the basic and diversified cycles was higher in rural than in urban areas, demonstrating that resource targeting has produced results.

To give effect to the right to education, with timely access for all inhabitants, pursuant to Article 74 of the national Constitution, the Ministry of Education issued Government Order 226-2008 making entry, registration and attendance at official education centres free of any payment, compulsory or voluntary.

132. The Ministry of Education reports that, while full equity has not been achieved, the difference in general terms is minimal, with respect to both investment and coverage, reflecting an improvement in service to women vis-à-vis men.

### **133. Political and public life**

*16. Please provide information on the current status of the legislative proposal 2027 to introduce amendments to the Elections and Political Parties Act (Ley Electoral y de Partidos Políticos) establishing a quota system as mentioned in paragraph 252 of the State party's report.*

134. The proposed reforms to the Elections and Political Parties Act are still pending before Congress.

135. Recently, however, the Congress and the Supreme Electoral Tribunal established a Joint Committee, comprising seven deputies from the Special Congressional Committee on Electoral Issues and six magistrates of the Tribunal, assisted by technical staff and advisers from both bodies, to examine reforms to the Elections and Political Parties Act for subsequent consideration by the full Congress.

136. The Joint Committee will take as inputs the results of the 2007 general elections, and the impact that the 2004 and 2006 reforms had on those results. It will also conduct a comparative analysis of the legislation and related laws. The Supreme Electoral Tribunal is considering contributions and opinions from civil society and from political parties not represented in Congress, in order to produce consensus-based reform proposals, including proposals from women's organizations relating to participation quotas.

137. The following bills to reform the Elections and Political Parties Act are now under consideration: 3746/08, 3747/08 and 3817/08, reforming Article 21; 3826/08 and 3885/08 amending articles 21, 203, 204, 205 and 206, respectively.

138. Through Bill 3884, the Municipal Affairs Committee of Congress is supporting the initiative to amend Article 23 of the Act on Enhancing and Advancing the Status of Women (Decree 7-1999), to require the State to reserve 30% of positions in the public administration, development councils, and municipal affairs committees, among others, for women. This proposal is now awaiting the opinion of the Committee on Women.

*17. Please indicate whether any of the actions recommended by the Congressional Committee on Women (Comision de la Mujer) in paragraph 335 of the report have been undertaken or envisaged, such as increasing the participation of women in the political and public life, reforming legislation which discriminates against women; ratifying conventions related to gender and conducting awareness campaigns.*

139. With respect to the recommendations from the Congressional Committee on Women, actions are being pursued at the national, regional and community levels:

**140. Actions taken to promote women's participation in public life**

141. On 14 October 2008 Congress gave plenary consideration to Bill 3935, reforming Congressional Decree 12-2002, the Municipal Code, with the objective of securing equal participation for women in decision-making at the local level, in order to achieve equality and development, by adding Article 95 bis, creating the Municipal Women's Office. This proposal is currently under examination by the congressional committees on women and on municipal affairs.

142. On 21 October 2008, Congress gave plenary consideration to Bill 3939, reforming several articles of Congressional Decree 12-2002, the Municipal Code, and adding Article 96 bis, which creates the Municipal Women's Offices. Those offices are to attend to the needs of the municipality and to foster community leadership and economic, social and political participation for women. This proposal is currently under examination by the Municipal Affairs Committee.

143. The Congressional Committee on Women is examining the Elections and Political Parties Act, in coordination with women's organizations and the Forum of Women of Political Parties, with a view to including participation quotas for women, by amending articles 21 and 212.

144. Pursuant to the Agreement on Peace, Political Participation and Municipal Development Policy, the Presidential Secretariat for Women arranged accreditation for 20 women in the Departmental Development Councils during 2008.

145. The Equal Opportunities Plan is being prepared in a joint and participatory effort among State institutions and women's organizations, assisted by the policy commission, the advisory board, and the technical committee. It has produced 11 topical issues for further pursuit.

146. The SEPREM has been meeting with representatives of women's organizations in the National System of Development Councils, which has reviewed and validated the 2007-2011 Plan of Action for strengthening the participation and coordination of women's organizations and their ability to influence public policies.

**147. Promoting the signature or ratification of international conventions**

- On 3 September 2008, by means of Decree 54-08, Congress approved the charter of the Council of Central American Ministers for Women (COMMCA), to examine and make recommendations on political, economic, social and cultural matters of common interest for the advancement of women in the region.
- At their ninth meeting, on "Gender Justice", held in Antigua, Guatemala, Magistrates of the Senior Justice Organs of Ibero-America signed the Declaration of Antigua, in which they committed themselves to giving effect to women's right to justice and to a life free of violence and discrimination, and to incorporating the gender perspective into their institutional activities.
- At the Fourth Meeting of the Committee of Experts for the Follow-Up Mechanism to the Convention on the Prevention, Punishment and Eradication of Violence against Women, held in Washington DC on 14 and 15 August 2008, the Declaration on Femicide was approved, recognizing

the serious and growing problem of femicide in Latin America and the Caribbean.

148. That declaration recommends to States parties: a) that the extenuating circumstance "crime of passion" not to be used to diminish responsibility of the perpetrators of femicide; b) that they enact laws or strengthen existing legislation on women's empowerment, their rights and freedoms; c) that they include risks to life and personal safety as well as other manifestations of violence against women in their public security policies; d) that they guarantee access to justice by women; and e) that they develop case statistics to enable them to assess the magnitude of the problem.

#### **149. Education in civics and policymaking**

150. The Ministry of Culture and Sports, through the Directorate for Cultural Development and the Sub-Directorate for Cultural Diversity, has implemented a regional training project for women of civil society, dealing with participation in policymaking from a gender and ethnic focus. Sessions were held on 29 April and 28 May 2008 in Mixco (Department of Guatemala) and in the city of Coban (capital of the Department of Alta Verapaz). Those events were attended by 80 women from the K'iche', Poqomam, Q'eqchi', Achi, Poqomchi, Kaqchikel and mestizo or ladina linguistic communities.

151. A forum was sponsored on the contribution of women of African descent to the diversity of activities under the Garifuna project. The training was conducted on 30 and 31 July 2008 in the municipality of Livingston, Izabal, with a total of 200 women and 50 men participating. This activity was facilitated by the technical team from the Sub-Directorate, and involved a discussion among four female panellists from the Garifuna linguistic community.

152. On 24 September 2008, a training session on "the importance of organization: types of organization and procedures for registering civil organizations" was held in the village of Santa Cruz Chinautla, in the municipality of Chinautla. This session provided training for 22 women from 22 cantons of the municipality, members of the "Female Artisans' Association of Santa Cruz Chinautla", an informal group with no legal status. Following this training, the women launched a process to legalize their organization.

153. The Sub-Directorate for Citizen Participation of the Directorate for Cultural Development held a second training session on 3 October 2008 for the "Female Artisans' Association of Santa Cruz Chinautla." It dealt with the preparation of statutes and bylaws, and was attended by 25 women from 22 cantons of Chinautla. This training served to consolidate the organization and begin the process of legalization.

154. The Sub-Directorate of Institutional Linkages of the Directorate of Cultural Development hosted a forum, jointly with the SEPREM, on "Women, Ethnicity and Gender in Guatemalan Society" on 12 March 2008, which attracted an audience that was 75% female, in connection with International Women's Day, 8 March.

155. On 31 July 2008, the Sub-Directorate for Citizen Participation of the Directorate for Cultural Development facilitated the holding of a workshop and a participatory democracy event within the legal framework of the Urban and Rural Development Councils Act, Decree 11-2002. The event involved an assembly and

the election of a departmental representative of indigenous peoples to the Departmental Development Council (CODEDE) of the Department of Sacatepéquez: 95% of participants were women, and 5% were men and boys.

156. Staff from the Sub-Directorate of Citizen Participation of the Directorate of Cultural Development held a motivation session on women's participation on 4 October 2008 in the Department of Escuintla, involving 20 women. In that same month, it held three training sessions on the advancement of indigenous women, in the municipalities of San Juan Sacatepéquez, San Pedro Sacatepéquez and San Raymundo, with a focus on setting up and running cultural industries.

157. The Ministry of Culture and Sports has been working during 2008 to strengthen a local organization in the city of Coban Alta Verapaz, through technical support for the legal constitution of the Association for the Integral Community Development of Indigenous Peoples (ASODICPI), involving 27 women interested in sponsoring integral development projects in their community.

158. In the area of citizen participation, the Ministry of Environment and Natural Resources is facilitating equitable participation by women and men in environmental decision-making, in environmental management, and in reaping the benefits of the sustainable use of natural resources. It is also encouraging women to participate in environmental information, warning and monitoring systems. To date, it has trained 1,460 men and 856 women. (See Annex Table 15).

159. The Presidential Secretariat for Executive Coordination (SCEP), with support from the European Union Programme for Democratic Municipalities, conducted two awareness sessions on the importance of citizen participation, and arranged for 1,576 women to be registered on the voters' list for the 2007 elections.

160. The SCEP and the TINAMIT project provided technical assistance to the women's movement, supporting the exercise of full citizenship. Training was provided to 5,027 women in 12 departments, on ways to make women's influence felt in the development councils.

161. The SCEP is also developing the Urban Poverty Programme (CPU), which provides training with a gender focus to empower women and men in exercising their human rights (Annex Table 16).

## **162. Employment**

*18. Please provide information concerning the status of the Act against Sexual Harassment (Ley Contra el Acoso Sexual y Hostigamiento) and the Act regulating Domestic Workers (Ley Reguladora de la Trabajadora de Casa Particular), which according to paragraph 409 of the State party's report are pending before the Congress.*

## **163. Status of legislative initiatives**

164. As noted in previous sections, Bill 3467, the Act Regulating Women Domestic Workers, is still pending consideration and approval by Congress.

165. The Sexual Harassment Act is also pending congressional consideration and approval. The Congressional Committee on Women, the National Office for Women's Affairs and the Presidential Secretariat for Women are now working with women's organizations to reactivate these bills.

**166. Measures adopted**

167. The National Office for Women's Affairs (ONAM), the Female Workers Department of the Ministry of Labour and Social Security, the Conrad De La Cruz Association, *Médecins sans Frontiers*, the UASP (the Labour Union Action Unit), Doctors of the World, and SEPREM have held 10 working meetings to examine, review and consolidate legislative initiatives dealing with domestic workers. They have succeeded in unifying these initiatives and launching a new lobbying effort to create awareness of gender equity among members of Congress and interested associations, in order to win their political support and secure approval of the bill, which will protect women engaged in this activity.

*19. Please provide the conclusions from the study on domestic employment, "Estudio sobre el Trabajo Doméstico Remunerado" which according to paragraph 108 of the State party's report, should have been concluded in April 2008.*

168. This study is underway but has not been concluded. As the Committee is aware, however, its objective is to provide information on paid domestic work, its relationship to unpaid domestic work, and the living conditions of women in Central America, by country, in order to identify legislative changes and priority policies in this area. It will also identify and prioritize recommendations relating to laws and policies for overcoming the problems detected, in particular policies relating to areas prioritized by COMMCA: working hours, incomes, social security, and organization.

169. The SEPREM has been promoting a reform to the Labour Code, specifically its articles dealing with domestic work, by holding working meetings with the Support Centre for Women Domestic Workers (CENTRACAP), the Association for the Rights of Domestic Workers, Single Mothers and Rural Women (ASOCASA), the Labour Union Action Unit (UASP) and the National Office for Women's Affairs (ONAM). As a result of these meetings, a network has been established to provide legislative support to domestic work. It is currently working to refine a proposal prepared by SEPREM to reform the Labour Code, and plans to present it to Congress in January 2009.

*20. Please provide information concerning the results of the efforts taken in order to improve the working conditions of women in the maquiladora industries, where their human rights are frequently violated, particularly in relation to safety and health, including through lack of proper hygienic facilities.*

170. Measures adopted to improve working conditions

171. As a result of efforts to improve working conditions and overcome inequalities in labour relations, the Strategic Institutional Plan on Gender 2008-2012 (PEIG) was validated in July 2008. Its objective is to recognize and enforce women's labour rights in the workplace and in the organizations in which they participate, by adopting rules that foster gender equity and equal opportunities, with due regard to the ethnic and cultural diversity of Guatemalan society.

172. Implementing this plan will require a strategy for coordinating mechanisms, procedures and institutional processes in the administrative and substantive areas of the Ministry, through mainstreaming of the gender focus, especially in planning, budgeting, human resources, labour supervision, employment promotion, and regionalization. The intent is to come up with an effective and efficient way of

implementing the plan, involving tripartite participation by the parties to the labour relationship (employers' organizations, labour unions and government organizations), using monitoring and evaluation mechanisms to verify compliance.

**173. The strategy contains the following lines of action:**

- Development of awareness and training programmes in gender equity, targeted at officials and personnel of the Ministry of Labour and Social Security, labour unions, employers' organizations, female workers and their organizations.
- Communication and publicity, using the various social communications media, to promote the labour rights of women, in particular those relating to social welfare, health and occupational safety, as well as creating awareness of the private sector's shared responsibility.
- Normative and functional development, for the proper enforcement of international standards, institutional human resource, health and occupational safety policies, the recording and processing of statistical data, care manuals and protocols, with a gender focus.
- Interagency coordination, with a view to developing the labour equity theme of the National Policy for the Advancement and Development of Women 2008-2012, strengthening institutional mechanisms for protecting the rights of working women.

174. The Department for the Advancement of Working Women, with technical and financial support from the *Cumple y Gana* ("Comply and Win") project, conducted a study in 2007 of the situation of female workers in the maquila clothing sector. It was entitled: "All we want is to be treated as human beings. Discrimination against female workers by reasons of gender, with an emphasis on the textile and/or maquila enterprises in Guatemala."

175. This study describes the situation of female workers in this industry, demonstrating the prevalence of violations of women's working rights, with an emphasis on indigenous women, sexual harassment, economic violence, discrimination because of family responsibilities, and the social function of maternity.

176. The Department for the Advancement of Working Women has been publicizing this study. Between February and October 2008 it held a total of 24 workshops on the human rights of female workers, targeted at working women, women's organizations, and public servants. Those workshops were also designed to help create a society that is more just, equitable and inclusive from the gender perspective.

177. To prevent violations of working women's human rights in the maquila/clothing industry, the Department for the Advancement of Working Women is striving to reactivate and institutionalize the multisector body for the prevention of maquila disputes in the first half of 2008. That body comprises the Ministry of Economy, the Ministry of Foreign Relations, the Guatemalan Social Security Institute, the Tax Administration, and the Ministry of Labour and Social Security.

178. The Minister's Office is planning to schedule discussions in the Tripartite Committee on Labour Affairs in November 2008, in preparation for approval of ILO

Convention 155 concerning Occupational Safety and Health and the Working Environment.

179. In this same line of action, the Ministry of Labour and Social Security, through the General Labour Inspectorate and the specialized unit, conducted supervisory visits to labour centres to inspect their occupational health and safety measures (Annex Table 17). In addition, bipartite hygiene and safety committees were established, 11 of them in the maquila sector.

180. The Ministry of Labour and Social Security, through the National Council on Occupational Health, Hygiene and Safety (CONASSO) created by Ministerial Order 314-2000, continues to provide training on occupational health and safety issues in industry.

### **181. Health**

*21. Please indicate the results and the follow-up of the study on mortality in women of childbearing age that was completed in December 2007, as mentioned in paragraph 452 of the State party's report, especially related to indigenous and rural women.*

182. Our consultations revealed that there are as yet no follow-up results for the study in question. We will therefore be reporting to the Committee on the results and lines of follow-up in subsequent reports.

183. It should be noted, however, that one of the government's four principal programmes is the Solidarity Programme, containing the Social Development Policy, in which the principal health strategy is to reduce infant and maternal mortality rates and thereby increase the life expectancy of men and women. It calls for the following strategic actions:

1. To guarantee high-quality prenatal and postnatal care and to ensure proper nutrition, especially for children under five years.
2. To expand the coverage of programmes to train health workers in maternal-child care in rural areas especially, and in low-income urban areas.
3. To encourage community participation in associations that will prepare and implement health programmes.
4. To conduct research in order to diagnose and systematize the epidemiological situation of women in different social and cultural sectors and groups, especially in rural areas.

*22. Please provide information on the availability of reproductive and sexual health programmes and family planning services for women and girls, as well as access to affordable contraceptives. Please also explain what outreach programmes have been put in place to specifically address the needs of rural and indigenous women.*

### **184. Availability of contraceptive methods**

185. The Ministry of Health and Social Assistance is pursuing various measures to make contraceptive methods available to the entire population without discrimination. Consequently, different methods are now available in the entire network of services, such as the health centres and hospitals.



186. According to statistics from the Family Planning Programme of the Ministry of Health, the method most widely used by women is the injectable contraceptive, followed by the condom and the pill.

Table 5

**Most widely used contraceptive methods, by type 2007**

|       | <i>Injectable</i> | <i>Lactational<br/>amenorrhoea</i> | <i>Standard<br/>days<br/>method<br/>(SDM)</i> | <i>IUD</i> | <i>Pill</i> | <i>condom</i> | <i>Voluntary<br/>surgical<br/>contraception<br/>(VSC)</i> | <i>Natural<br/>methods</i> | <i>All users</i> |
|-------|-------------------|------------------------------------|---|------------|-------------|---------------|---|----------------------------|------------------|
| SIGSA | 1,069,235         | 88,977                             | 2,652   | 8,940      | 181,719     | 222,387       | 9,142   | 1,356                      | 1,584,408        |

Source: Ministry of Health, Family Planning Programme.

**187. Family planning services**

188. Strategies have been pursued under the programme to enhance the technical capacity of health care providers and to ensure balanced counselling and the systematic availability of all methods, based on the study of medical barriers.

189. The Jadelle implant was introduced in Peten (*ladina* population), and the strategy is being considered for the Department of Solola. As well, a special Commission has been established to act as the State regulatory entity to ensure that contraceptives are available in time and in the desired quality (see annexes 7-14).

**190. Sexual and reproductive health programmes**

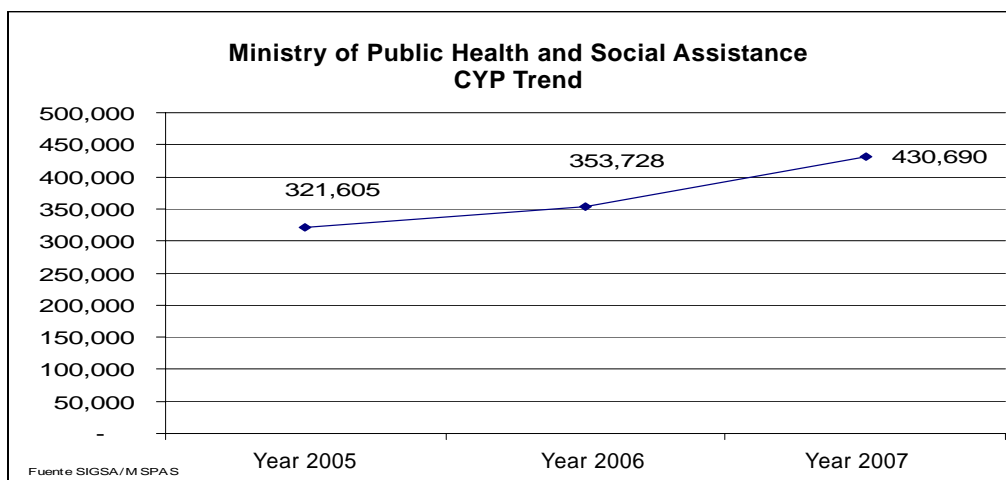
191. The Health Ministry's National Reproductive Health Programme has made great progress, such as in reducing shortages of family planning supplies and strengthening post-partem family planning counselling services, and this has helped to raise the number of new users and increase the "couple years of protection" (CYP) indicator.

192. Recent studies have also contributed to a better understanding of the reasons why people, whether indigenous or non-indigenous, do not use family planning methods

193. The Ministry of Public Health and Social Assistance offers the following methods of family planning: a) voluntary surgical sterilization for men and women, quarterly injections; b) IUDs; c) oral contraceptives; d) condoms; and e) the recently introduced hormonal implants. It also offers counselling services in the use of natural methods. Over the last five years, roughly 72% of female users of family planning methods in Health Ministry services have used quarterly injections, and 26% have used oral contraceptives.

Figure 1  
**Couple Years of Protection (CYP)**

This is a standard indicator of the coverage of protection provided by contraceptive methods.



194. The National Reproductive Health Programme (PNSR) was established by Decree 87-2005, the Family Planning Act, to ensure the availability of family planning methods. It forecasts domestic demand for contraceptive methods, on the basis of historic consumption records, and twice a year it submits projected purchasing requirements to the United Nations Population Fund (UNFPA). The Financial Administration Branch handles the corresponding disbursements.

195. Family planning methods are also offered nationwide at the different levels of care in the health centres, health posts, hospitals and NGOs, where women, men and children from urban and rural areas, mestizo and indigenous alike, receive high-quality, culturally appropriate care and attention.

196. The modern contraceptive methods in use now include: IUD, male condom, female ESC, male VSE, combined oral contraceptives (pill), quarterly injections of medroxyprogesterone acetate, and the Jadelle subdermal implant. (Annex Figures 9 to 17).

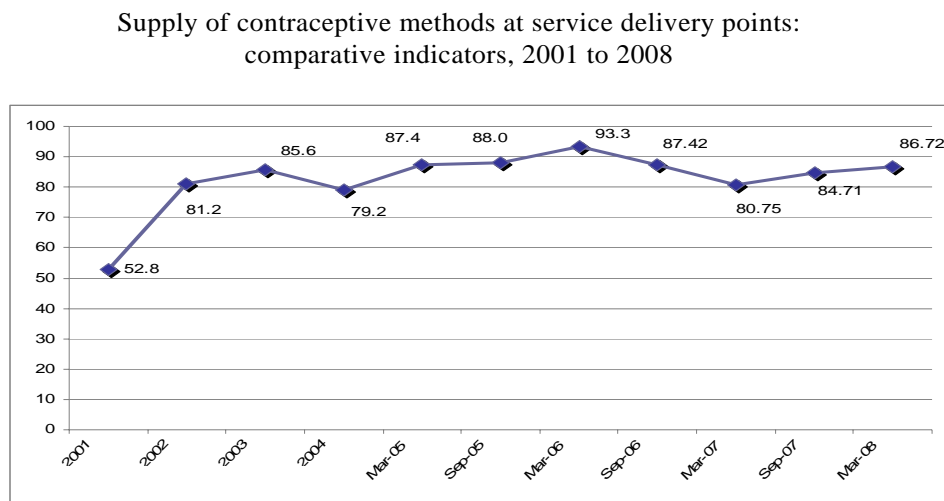
197. Among the natural methods in use are lactational amenorrhoea and SDM.

#### **Contraceptive and Medication Logistics Information System**

198. This system, operated by the Health Ministry, makes it possible to maintain an adequate supply for providing users with proper care and attention nationwide.

199. The PNSR is working in coordination with the Health Management Information System SIGSA/MSPAS, the Hospital Coordination Office and the Logistics Unit to standardize the hospital module. The SIGSA Health Areas module is planned for incorporation in a subsequent phase.

Figure 12



200. The National Reproductive Health Programme has met the national target (85%) for an adequate supply of contraceptive methods.

### 201. Situation report

202. The Contraceptives Component was incorporated into the PNSR situation report, using monthly indicators of supply for each service in the 29 Health Area Directorates (DAS) as input to decisions for achieving the proposed supply targets at the local level.

203. In terms of promotion and prevention, the Responsible Paternity and Maternity Networks are targeting their actions at the adolescent population, in order to prevent the causes and consequences of irresponsible sexual and reproductive conduct, as well as cases of early pregnancy, abortion, commercial sexual exploitation, pornography, incest, sexual abuse and others. All of this is done within the family and social context (including men and women of all age groups) in order to address cultural, economic and other factors.

204. Marriage and family relations

23. Paragraph 617 of the State party's report indicates that "Guatemala's legislation in civil matters and matters of legal capacity enshrines the legal equality of women and men as established in the Constitution, Article 4." Paragraph 621 mentions that the State party "has positive domestic law on equality in marriage and family relations". In light of these principles, please explain the concept of head of household and how it relates to the above mentioned legislation as well as to Article 2 of the Convention.

205. Historically, the head of the household has been deemed the person responsible for the economic sustenance of the family and for taking decisions within the family. The head of the household is perceived as the person who provides financial support for economic dependents, and this was seen as a male characteristic. Current statistics show that there are more female heads of household. Women head two

types of households: those in which they exercise their responsibility alone, and those where the male partner is temporarily absent.

206. The legal framework governing the Guatemalan State enshrines equality between men and women, in accordance with Article 2 (a) of the Convention. This equality of rights and opportunities is further developed in ordinary laws, which penalize discrimination in the labour, civil and other spheres, consistent with Article 2 (b) of the Convention.

*24. With reference to paragraph 624 of the State party's report, minimum age for marriage is 14 years for girls and 16 years for boys. Please indicate if any measures have been taken to increase the minimum age for marriage for girls, in accordance with the Convention on the Rights of the Child. Please provide information on measures to prevent and eliminate the practice of early marriage.*

207. The State of Guatemala has established, as a general rule, that the capacity to contract marriage is acquired upon reaching the age of majority, i.e. 18 years. The fact that it authorizes early marriage is an exception that dates back to a time when this was consistent with prevailing cultural and social situations and practices. To the extent that those situations and practices persist, the State, in the context of its commitments with respect to the rights of the child, must take steps to prevent and eliminate them.

208. The Congressional Committee on Women is currently preparing a bill to reform Article 81 of the Civil Code dealing with the capacity to enter into marriage: it proposes 16 years of age as the minimum for females and males.

*25. According to paragraph 625, the Presidential Secretariat for Women (SEPREM) made an analysis of the civil law governing family relations and marriages and drew up a proposal to amend the Civil Code and the Courts Act. Please provide information on any steps undertaken by SEPREM in order to revitalize the process.*

209. The Presidential Secretariat for Women (SEPREM) intends, as part of its 2008-2012 strategy, to examine national legislation with a view to identifying discriminatory rules, and will sponsor the necessary legal reforms, in coordination with public institutions and civil society organizations.

210. In this connection, it submitted to the Congressional Committee on Women a proposed reform to the Civil Code and the Family Courts Act in June of this year.

211. On 25 August 2008, Congress approved Decree 39-2008, reforming Article 200 of the Civil Code with respect to responsible paternity: "Proof against the presumption of the preceding Article: the only admissible evidence shall be the DNA paternity test, or evidence that it was physically impossible for the husband to have access to his spouse in the first 120 days of the 300 days preceding the birth, because of absence, illness, impotence or any other circumstance."

212. Article 222 is also amended, adding section 5, which reads as follows: "When the result of the DNA test provides a scientific determination of filiation, with the presumed father, mother and child. If the presumed father refuses to submit to the test, when ordered to do so by the competent judge, that refusal shall be taken as proof of paternity, in the absence of evidence to the contrary."

213. Members of Congress have also proposed reforms to the Civil Code to bring it into line with the principles and rights of equality, private property and legal security necessary to protect movable and immovable property belonging to the couple and necessary for the future economic and social protection of the family, especially its children. This proposal was submitted to the full Congress and has been passed to the committees on legislation and constitutional points and on juveniles and the family for their consideration.

214. Bill 3865, which was considered by the full Congress on 13 August 2008, would repeal Article 89.3 of the Civil Code on the waiting time for entering into matrimony. It would reform articles 99, 154 and 222 of the Civil Code relating to the civil ceremony, freedom of separation, and presumption of paternity, and would repeal Article 229 of the Penal Code dealing with failure to observe the waiting periods for entering into marriage, offences against the family legal order, and against civil status.

### **215. Indigenous and rural women**

*26. Please provide detailed information, including statistics, concerning the results of the actions taken to improve the conditions of indigenous women described in Box 3 of the State party's report.*

216. The Coordinated Agenda for Maya, Garifuna and Xinka Women was officially submitted by the Vice President of the Republic in December 2007. Although this document was prepared by civil society (indigenous women's organizations), it has served as the basis for building an ethnic perspective into the updating of the National Policy for the Advancement and Integral Development of Women 2008-2023 (PNPDIM) and preparation of the Equal Opportunities Plan, now under way, with active participation by indigenous women.

217. The Office of the Defender of Indigenous Women (DEMI) disseminated the Coordinated Agenda for Indigenous Women during 2008, and the National Forum of Women (FNM) has been tasked with strategic planning at the regional and local levels, with support from the Programme to Combat Exclusion.

218. At this time we cannot provide further information on the statistical results from implementing the nine thematic areas of the agenda.

219. Nevertheless, work is now underway with the National Statistics Institute to incorporate gender and ethnic variables into future censuses and studies, which will make it possible to identify the situation of indigenous women.

220. The State has already adopted measures in response to the thematic areas of education and cultural identity, comprehensive health, political participation, racism and violence, and spirituality. (See Annex Tables 17 and 21).

*27. With reference to paragraph 182 of the State party's report, please provide statistics on the percentage of indigenous women who have access to justice in their own language or a language they understand.*

221. The Judiciary, the Public Prosecutor's Office, the Institute of Public Criminal Defence and the Ministry of the Interior, the component bodies of the justice system, currently have no ethnic classifier for statistics that would identify and assess indigenous women's access to justice in their own language. Some progress

has been made in fielding bilingual support personnel, but these efforts still fall short of demand.

222. The National Institute of Public Criminal Defence reports that there are currently 15 public defenders' offices for indigenous people, coordinated by the Indigenous Defence Programme, consisting of an indigenous defence lawyer, an interpreter, and an indigenous assistant, thereby guaranteeing culturally appropriate service. As will be seen from Table 8, between 2001 and 2008, 6% of those served were indigenous women (Annex Tables 18 and 19).

223. In addition, 8,894 cases have been handled since implementation of the pilot program for free legal assistance to victims of family violence, as indicated above (Annex Table 20).

Table 8

**New cases handled by the Institute of Public Criminal Defence  
Indigenous Defence Programme  
November 2001-August 2008**

| <i>Ethnic defence programme offices</i> | 2001      | 2002       | 2003       | 2004         | 2005       | 2006       | 2007       | 2008<br>( <sup>(*)</sup> ) | Total        |
|---|-----------|------------|------------|--------------|------------|------------|------------|----------------------------|--------------|
| Alta Verapaz (1)                        | 15        | 141        | 120        | 124          | 143        | 101        | 168        | 12                         | 924          |
| Quetzaltenango (1)                      | 6         | 45         | 117        | 113          | 89         | 90         | 123        | 95                         | 678          |
| Santa Cruz, Quiche (1)                  | 10        | 83         | 118        | 101          | 109        | 78         | 96         | 75                         | 670          |
| Sololá (2)                              |           | 31         | 99         | 93           | 44         | 69         | 71         | 61                         | 468          |
| Totonicapán (2)                         |           | 44         | 73         | 79           | 77         | 42         | 70         | 61                         | 446          |
| Santa Eulalia,<br>Huhuetenango (2)      |           | 87         | 156        | 175          | 146        | 146        | 136        | 93                         | 939          |
| Baja Verapaz (3)                        |           |            | 19         | 120          | 81         | 91         | 80         | 57                         | 448          |
| Chimaltenango (3)                       |           |            | 67         | 107          | 110        | 79         | 67         | 52                         | 482          |
| Suchitepequez (3)                       |           |            | 20         | 77           | 48         | 47         | 55         | 39                         | 286          |
| San Benito, Peten, Santa<br>Elena (3)   |           |            | 6          | 45           | 132        | 42         | 0          | 3                          | 228          |
| Izabal (4)                              |           |            |            |              |            | 2          | 2          | 6                          | 10           |
| Nebaj, Quiche (5)                       |           |            |            |              |            | 0          | 13         | 8                          | 21           |
| Chiquimula (6)                          |           |            |            |              |            |            | 11         | 17                         | 28           |
| Ixchiguan, San Marcos (6)               |           |            |            |              |            |            | 12         | 41                         | 53           |
| Ixcán, Quiche (7)                       |           |            |            |              |            |            |            | 6                          | 6            |
| <b>Total cases handled.</b>             | <b>31</b> | <b>431</b> | <b>795</b> | <b>1,034</b> | <b>979</b> | <b>787</b> | <b>904</b> | <b>726</b>                 | <b>5,687</b> |

(<sup>(\*)</sup>) Of the 5,687 cases handled, 341 were women, constituting 6% of the overall total.

(<sup>(..)</sup>) The data refer to the period January to August 2008.

- (1) These offices began to operate in November 2001
- (2) These offices began to operate in July 2002
- (3) These offices began to operate in August 2003
- (4) These offices began to operate in October 2004
- (5) These offices began to operate in November 2006
- (6) These offices began to operate in May 2007
- (7) These offices began to operate in March 2008

224. The Dispute Settlement Unit of the Judiciary reports, for the period January to October 2008, the distribution of the population served in their own language and the education level of users.

Table 9  
**Education level**

| <i>Primary</i> | <i>Basic</i> | <i>Diversified</i> | <i>University</i> | <i>None</i> | <i>Literate</i> | <i>N/S</i> | <i>Total</i> |
|----------------|--------------|--------------------|-------------------|-------------|-----------------|------------|--------------|
| 9 285          | 2 371        | 3 545              | 1 847             | 5 916       | 114             | 427        | 23 505       |

N/S: not specified, no response.

Table 10  
**Mother tongue**

| <i>k'iche</i> | <i>Man</i> | <i>Qeqchi</i> | <i>Español</i> | <i>Tzutuujil</i> | <i>Qanjobal</i> | <i>ixil</i> | <i>Kaqchiquel</i> | <i>Poqomchi</i> | <i>Other</i> | <i>Total</i> |
|---------------|------------|---------------|----------------|------------------|-----------------|-------------|-------------------|-----------------|--------------|--------------|
| 2 459         | 852        | 1 466         | 14 990         | 517              | 1 184           | 456         | 773               | 597             | 211          | 23 505       |

225. With World Bank financing, the Unit for Modernization of the Judiciary held 18 training workshops in cultural sensitivity, targeted at justice workers and community leaders in the departments of Sololá and Totonicapán, to create better understanding between judges and the traditional authorities of the indigenous communities. A total of 113 justice workers and 283 local authorities have received this training.

226. With respect to publicity and dissemination, the Judiciary paid for the production of 5,000 educational brochures, 1,000 posters, and 5,000 folders and CDs with recorded messages in six Mayan languages.

227. The Judiciary also reports that 858 of its 7,365 employees can speak a Mayan language.

Table  
**Judiciary Personnel 2008**

| <i>Personnel</i>                    | <i>Women</i> | <i>Men</i> | <i>Total</i> |
|-------------------------------------|--------------|------------|--------------|
| Auxiliary staff                     | 1,376        | 1,692      | 3,068        |
| Auxiliary staff/Mayan language      | 125          | 333        | 458          |
| Administrative staff                | 890          | 1784       | 2674         |
| Administrative staff/Mayan language | 60           | 227        | 287          |
| Magistrates/Judges                  | 253          | 512        | 765          |
| Magistrates/Judges/Mayan language   | 13           | 100        | 113          |
|                                     |              |            | 7,365        |

Source: Response of the Guatemalan Judiciary on progress under the CEDAW, 2008.

28. *With reference to paragraph 618 of the State party's report, please indicate if any concrete actions have been taken in order to ensure that all rural women are registered with the authorities and obtain an identity document in order to get access, inter alia, to education, work and health services.*

228. Recognizing the need for legislation to regulate personal documentation and coverage at the national level, Congress issued Decree 90-2005, the National

Registry of Persons Act, creating the National Registry of Persons (RENAP) as the body responsible for organizing and maintaining a single registry of individual identification, with records on civil status, civil capacity and other data from birth to death.<sup>16</sup>

229. This independent public legal entity has a legal mandate to maintain offices in all municipalities of the Republic, and to assign an identity code upon registration of birth.

230. The legal provisions are public, and registration procedures have been simplified through the use of standard forms and an automated system for recording identity and issuing the single identity document.

231. There are now 330 municipal offices in operation, in addition to mobile units that facilitate registration. Since the registry was initiated, 24,109 female births and 25,027 male births have been recorded nationwide (Annex Table 22).

232. At the present time, other offices are being opened, the regulations to the Act are being prepared, and the Civil Registry records are being computerized.

### **233. Action to address under-registration**

234. The RENAP has signed agreements for international and national cooperation to strengthen its capacities in several areas:

- Cooperation agreement with UNICEF to address the under-registration of children.
- Cooperation agreement with the Q'eqch'í women's organization to help indigenous Q'eqch'í women reduce their levels of under-registration.
- Letter of understanding with the Guatemalan Federation of Radio Schools for joint projects to instil a popular culture of registration.
- Cooperation agreement with the Inter-American Development Bank for strengthening the RENAP.
- Agreement with the Organization of American States to design strategies for strengthening RENAP and reducing under-registration.
- Preparation of a mass campaign to create a culture of registration, with ethnic and gender relevance.
- Agreements signed with the INE and Ministry of Public Health and Social Assistance for ensuring the compatibility of records.<sup>17</sup>
- In August of this year, SEPREM agreed with representatives of the Governing Board of the National Registry of Persons on the need to negotiate a Technical Cooperation Agreement.
- SEPREM has designed proposed reforms to the registry documents kept by RENAP, including updating of vital statistics to record delivery of the ID document.

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<sup>16</sup> Articles 1, 2, 4, 5, 6 (f), 7 and 8 of Decree 90-2005, National Registry of Persons Act.

<sup>17</sup> Source: [www.renap.gob.gt](http://www.renap.gob.gt).



**235. Final considerations**

236. It has been demonstrated that the inequalities in Guatemalan society are not a natural phenomenon, but the result of a vision and understanding of the way things are and the way they should be, and a reflection of the culturally structured relationship between men and women. For this reason, gender theory as an analytical tool is a new paradigm that will allow us to observe differences and inequalities of opportunity between men and women, and then to break down the gender-based hierarchy and thereby achieve better living conditions.

237. Although there has been some progress towards formal equality, we have yet to achieve real and full equality. The State of Guatemala therefore commits itself to pursuing real equality, in light of its responsibility to Guatemalan society and to the international community, pursuant to the international treaties it has ratified.

238. This will be achieved progressively, as standards and treaties are implemented and their application through inclusive and non-discriminatory public policies, programmes and projects is verified.

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