

PARAGUAY

CAT Optional Protocol Article 4

(a) Reports of the Subcommittee on Prevention

OPCAT, CAT/C/40/2 (2008)

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III. VISITS BY THE SUBCOMMITTEE

A. Establishing the programme of visits

14. During its first year, the Subcommittee carried out two visits as part of its initial phase of preventive work. The initial programme of visits was *sui generis*, as the Subcommittee was obliged under the Optional Protocol to make an initial choice by drawing of lots for States to be visited. Maldives, Mauritius and Sweden were the countries drawn by lots. Subsequently, the Subcommittee decided on the States to be visited by a reasoned process, with reference to the principles indicated in article 2 of the Optional Protocol. The factors that may be taken into consideration in the choice of countries to be visited by the Subcommittee include date of ratification/development of national preventive mechanisms, geographic distribution, size and complexity of the State, regional preventive monitoring and urgent issues reported.

15. In 2007, the Subcommittee began to develop its approach to the strategic planning of its visit programme in relation to the existing 34 States parties. The Subcommittee took the view that, after the initial period of its development, the visits programme in the medium term should be based on the idea of eight visits per 12-month period. This annual rate of visits is based on the conclusion that, to visit States parties effectively in order to prevent ill-treatment, the Subcommittee would have to visit each State party at least once every four or five years on average. In the Subcommittee's view, less frequent visits could jeopardize the effective monitoring of how national preventive mechanisms fulfilled their role and the protection afforded to persons deprived of liberty. With 34 States parties, this means that the Subcommittee must visit, on average, eight States every year.

16. In the initial phase of visits, the Subcommittee developed its approach, working methods and benchmarks, and established ways to work in good cooperation and confidentiality with States parties with whom it began to build an ongoing dialogue. It also began to develop good working relations with national preventive mechanisms or with institutions which might become them. At this stage, the secretariat necessary to support a full programme of visits was not in place. The Subcommittee consequently carried out visits at less than maximum capacity during the period covered by the present report.

17. For the longer term, the point at which ratifications or accessions will reach a total of 50 remains an unknown variable in the strategic planning of visits. Following that event, the Subcommittee will become a 25-member body,¹⁶ with a concomitant requirement for an increase

in budgetary resources. The Subcommittee anticipates a period of adjustment at that stage, before it is able to use its increased capacity to the full.

B. Visits carried out in 2007 and early 2008

18. The Subcommittee visited Mauritius from 8 October to 18 October 2007 and the Maldives from 10 to 17 December 2007; it visited Sweden from 10 to 15 March 2008.¹⁷ During these visits, the delegations focused on the development process of the national preventive mechanism and the situation with regard to protection against ill-treatment, particularly of people deprived of their liberty in police facilities, prisons and in facilities for children.

19. At the end of 2007, the Subcommittee announced its forthcoming programme of regular visits in 2008, to Benin, Mexico, Paraguay and Sweden.¹⁸ The Subcommittee also made plans for a number of preliminary visits to initiate the process of dialogue with States parties.

20. The initial visit to a State party is an opportunity to deliver important messages about the Subcommittee and its core concerns to the State party and to other relevant interlocutors. The Subcommittee stressed the confidential nature of its work, in accordance with the Optional Protocol. On its first three visits, it met with many officials in order to establish cooperative relations with the States parties and to explain fully its mandate and preventive approach. The Subcommittee also met with members of developing national preventive mechanisms and with members of civil society.

21. The first two visits involved a larger number of Subcommittee members than would normally be the case, in order that all members could take part in at least one visit in 2007. This was part of the Subcommittee's strategy to develop a consistent approach on visits despite the changing composition of delegations on visits. The visit to Sweden was of shorter duration. The Subcommittee adopted a more targeted approach, taking into account the preventive visiting already undertaken in Sweden and based on consultation and cooperation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.¹⁹

22. At the end of each visit, the delegation presented its preliminary observations to the authorities in confidence. The Subcommittee wishes to thank the authorities of Mauritius, the Maldives and Sweden for the spirit in which its delegations' initial observations were received and the constructive discussion about ways forward. At the end of the visit, the Subcommittee asked the authorities for feedback on the steps taken or being planned to address the issues raised in the preliminary observations. In addition, after each visit, the Subcommittee wrote to the authorities requesting updated information on any steps taken since the visit, on certain issues which could be or were due to be addressed in the weeks following it. The Subcommittee indicated that the immediate replies communicated by the authorities would be reflected in the visit report.

23. The drafting of the first visit report was begun in 2007. The process of its completion is

taking longer than desired, owing to the staffing situation in the secretariat of the Subcommittee (see section V below). The authorities will be asked to respond in writing to the visit report; the Subcommittee hopes that, in due course, the authorities will request that the visit report and their response to it be published.²⁰ Until such time, the visit reports remain confidential.

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16/ In accordance with Article 5 (1) of the OPCAT.

17/ For details of the places visited, see annex III.

18/ The three countries chosen by initial drawing of lots - Mauritius, Maldives and Sweden - were announced in June 2007 as countries to be visited in the initial programme of visits. For the programme of regular SPT visits in 2008, see annex IV.

19/ Article 31 of the OPCAT encourages the SPT and bodies established under regional conventions to consult and co-operate with a view to avoiding duplication and promoting effectively the objectives of the OPCAT.

20/ In accordance with Article 16,2 of the OPCAT.

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Annex IV

PROGRAMME OF REGULAR SUBCOMMITTEE VISITS FOR 2008

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Paraguay: 9 days (second half of 2008)

III. VISITING PLACES OF DEPRIVATION OF LIBERTY

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B. Visits carried out from April 2008 through March 2009

20. The SPT carried out visits to Benin in May 2008, to Mexico in August/September 2008 and to Paraguay in March 2009. During these visits, the delegations focused on the development process of the national preventive mechanisms and on the situation as far as protection of people held in various types of places of deprivation of liberty is concerned.¹²

21. In early 2009, the SPT announced its forthcoming programme of work in the field for the year, including visits to Paraguay, Honduras and Cambodia and in-country engagement in Estonia. The SPT also carried out preliminary missions shortly before the planned regular visits to Mexico and Paraguay to initiate the process of dialogue with the authorities. The preliminary meetings proved to be an important part of preparation for the visits, representing an opportunity to fine-tune the programme and enhance facilitation of the work of the delegation. Preliminary missions form an integral part of the work involved in SPT visits.

22. During visits, SPT delegations have engaged in empirical fact-finding and discussions with a wide range of interlocutors, including officials of the ministries concerned with deprivation of liberty and with other government institutions, other State authorities such as judicial or prosecutorial authorities, relevant national human rights institutions, professional bodies and representatives of civil society. If the national preventive mechanisms are already in existence, they are important interlocutors for the SPT. SPT delegations have carried out unannounced visits to places of deprivation of liberty and have had interviews in private with persons deprived of their liberty. They also engaged in discussions with staff working in custodial settings and, in the case of the police, also with those working in the investigation process.

23. Among its principal methods for fact-finding on visits, the SPT uses the triangulation of information gathered independently from a variety of sources, including direct observation, interviews, medical examination and perusal of documentation, in order to arrive at a view of the particular situation under scrutiny as regards the risk of torture or other cruel in human or degrading treatment or punishment and as regards the presence or absence, strength or weakness of safeguards. SPT delegations draw conclusions on the basis of its cross-checked findings made during visits.

24. During the year the SPT noted with satisfaction that some States parties plan to or are in the process of implementing the Istanbul Protocol as a tool to document torture, first of all in the fight against impunity. The SPT has analysed the usefulness of the Istanbul Protocol, not only in the fight against impunity, but also in the prevention of torture and other cruel, inhuman or degrading treatment or punishment, and has identified some challenges. The analysis appears in

annex VII. Considering the validity and usefulness of the Istanbul Protocol as a soft law instrument, the SPT is of the view that States should promote, disseminate and implement the Protocol as a legal instrument to document torture cases of people deprived of their liberty through medical and psychological reports drafted under adequate technical standards. These reports can not only constitute important evidence in torture cases but, most importantly, they can contribute to the prevention of cruel, inhuman and degrading treatment. The Subcommittee on Prevention of Torture notes that it is crucial that doctors and other health professionals be effectively independent from police and penitentiary institutions, both in their structure - human and financial resources - and function - appointment, promotion and remuneration.

25. At the end of each regular SPT visit, the delegation presented its preliminary observations to the authorities orally in a confidential final meeting. The SPT wishes to thank the authorities of Benin, Mexico and Paraguay for the spirit in which the initial observations of its delegations were received and the constructive discussions ensuing about ways forward. After each visit the SPT wrote to the authorities, reiterating key preliminary observations and requesting feedback and updated information on any steps taken or being planned since the visit to address the issues raised during the final meeting, in particular on certain issues which could be or were due to be addressed in the weeks following the visit. The SPT indicated that responses communicated by the authorities would be considered in the drafting of the visit report.

26. The authorities were also reminded, later in the period after the visit, that any responses received by the SPT before adoption of the draft visit report in plenary session would form part of the SPT's deliberations when considering adoption. These communications form an important part of the ongoing preventive dialogue between the State party and the SPT. The SPT is gratified to report that on each of the visits carried out to date, it has received feedback from authorities concerning the preliminary observations and further information prior to the adoption of each visit report. This is an indication that the States parties initially visited have embraced the ongoing process of dialogue and incremental progress on prevention.

27. The authorities are asked to respond in writing to the recommendations and to the requests for further information in the SPT's report on the visit to that State, as transmitted to them in confidence after adoption by the SPT. Thus far all the responses of the authorities concerned have arrived on time - a clear signal of the goodwill of States parties to cooperate with the SPT.

C. Publication of the visit reports of the Subcommittee on Prevention of Torture

28. As of 31 March 2009, the SPT visit reports on Sweden and the Maldives, (two out of the five States parties to have received an SPT visit report) and the authorities' responses are in the public domain.¹³ The SPT hopes that in due course the authorities of every State party visited will request that the visit report and the authorities' response to it be published.¹⁴ Until such time the visit reports remain confidential.

29. Publication of an SPT visit report and the response from the authorities concerned is a sign of the commitment of the State party to the objectives of the OPCAT. It enables civil society to

consider the issues addressed in the report and to work with the authorities on implementation of the recommendations to improve the protection of people deprived of their liberty. The SPT warmly welcomes the decision to publish taken by the authorities of Sweden and the Maldives. The SPT hopes that other States parties will follow this excellent example.

D. Issues arising from the visits

30. The OPCAT provides that SPT members may be accompanied on visits by experts of demonstrated professional experience and knowledge to be selected from a roster prepared on the basis of proposals made by the States parties, the OHCHR and the United Nations Centre for International Crime Prevention.¹⁵ To date 22 States parties have provided names and details of experts for the roster. In 2008 the United Nations set up a panel to select names to be placed on the roster in addition to the experts proposed by States parties. External experts can contribute to the work of the SPT by providing a diversity of perspectives and professional expertise to complement those of SPT members. The SPT hopes that experts from all regions of the world will be included in the roster. The SPT still awaits the roster of experts and, in its absence, continues to select experts from the list of names proposed by States parties and from among experts widely recognized as having the required relevant expertise. During the period covered by the present report, the SPT was accompanied on one visit by only one expert, owing to budgetary constraints.

31. The SPT has concerns about the possibility of reprisals after its visits. People deprived of their liberty with whom the SPT delegation has spoken may be threatened if they do not reveal the content of these contacts or punished for having spoken with the delegation. In addition, the SPT has been made aware that some people deprived of their liberty may have been warned in advance not to say anything to the SPT delegation. It should be self-evident that conduct of this kind on the part of any official or person acting for the State would be a breach of the obligation to cooperate with the SPT as provided in the OPCAT. Moreover, article 15 of the OPCAT lays a positive obligation upon the State to take action to ensure that there are no reprisals as a consequence of an SPT visit.

32. The SPT expects the authorities of each State visited to verify whether reprisals for cooperating with the SPT have occurred and to take urgent action to protect all persons concerned.

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12/ For details of the places visited, see annex III.

13/ See <http://www.ohchr.org/english/bodies/cat/opcat/index.htm>.

14/ In accordance with article 16, paragraph 2 of OPCAT.

15/ Article 13, paragraph 3.

Annex III

VISITS CARRIED OUT IN 2008-2009

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3. First periodic visit to Paraguay: 10-16 March 2009

Places of deprivation of liberty visited by the delegation:

Police facilities

Jefatura de Policía Metropolitana (Asunción):

Comisaría 3°

Comisaría 5°

Comisaría 9°

Comisaría 12°

Comisaría 20°

Comisaría de Mujeres

Jefatura de Policía Central:

Comisaría 1° de San Lorenzo

Comisaría 9° de Limpio

Jefatura de Policía Amambay:

Comisaría 3° de Barrio Obrero, Pedro Juan Caballero

Jefatura de Policía San Pedro:

Comisaría 8° de San Estanislao

Agrupación Especializada de la Policía Nacional

Prisons

Penitenciaría Nacional de Tacumbú

Penitenciaría Regional de Pedro Juan Caballero

Psychiatric facilities

Hospital Neuropsiquiátrico

Annex IV

PROGRAMME OF THE WORK OF THE SUBCOMMITTEE ON PREVENTION OF TORTURE IN THE FIELD FOR 2009

Visit to Paraguay:

(first half of 2009)

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III. Visiting places of deprivation of liberty

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B. Visits carried out during the reporting period

25. The Subcommittee visited Paraguay, Honduras and Cambodia during the period covered by the report – Paraguay in March, Honduras in September and Cambodia in December. During these visits, the delegations focused on the development process for national preventive mechanisms, on the situation in terms of identifying risks of torture, and on protection for persons held in places of deprivation of liberty of various kinds.¹¹

26. During visits, Subcommittee delegations have engaged in empirical fact-finding and discussions with a wide range of interlocutors, including officials of the ministries concerned with deprivation of liberty and with other government institutions, other State authorities such as judicial or prosecutorial authorities, relevant national human rights institutions, professional bodies and representatives of civil society. Where national preventive mechanisms are already in existence, they are important interlocutors for the Subcommittee. Confidential face-to-face interviews with persons deprived of their liberty are the chief means of verifying information and establishing the risk of torture. Delegations also engaged in discussions with staff working in custodial settings and, in the case of the police, also with those working in the investigation process. Interviews were also held with staff of juvenile centres, psychiatric hospitals and military units.

27. At the end of each regular visit, the Subcommittee delegation presented its preliminary comments to the authorities orally in a confidential wrap-up meeting. The Subcommittee wishes to thank the authorities of Cambodia, Honduras and Paraguay for the spirit in which delegations' initial comments were received and the constructive discussions about ways forward. After each visit the Subcommittee wrote to the authorities, reiterating key preliminary comments and requesting feedback and updated information on any steps taken or being planned since the visit to address the issues raised during the wrap-up meeting, and in particular on specific issues that could have been or were due to be addressed in the weeks following the visit. The Subcommittee indicated that responses communicated by the authorities would be considered in the drafting of the visit report.

28. The authorities were also reminded, later in the period following the visit, that any responses received by the Subcommittee before adoption of the draft visit report in plenary session would form part of the Subcommittee's deliberations when considering adoption. These communications form

¹¹ For details of the places visited, see annex III.

an important part of the ongoing preventive dialogue between the State party and the Subcommittee. The Subcommittee is gratified to report that, for each of the visits carried out to date, it has received feedback from the authorities concerning the preliminary comments, as well as further information, before the adoption of the corresponding report. This is an indication that the first States parties to be visited have embraced the ongoing process of dialogue and incremental progress on prevention.

29. The authorities are asked to respond in writing to the recommendations and to the requests for further information in the Subcommittee's report on the visit to that State, as transmitted to them in confidence after adoption by the Subcommittee. Thus far the competent authorities of two of the countries visited have responded promptly – a clear signal of their willingness to cooperate with the Subcommittee.

C. Publication of the visit reports of the Subcommittee on Prevention of Torture

30. At the time of writing, of the seven visit reports issued to date, only those on Honduras, the Maldives and Sweden, along with the authorities' responses in the case of Sweden, were in the public domain. The Subcommittee hopes that in due course the authorities of every State party visited will request that the visit report and the authorities' response to it should be published. Until such time the visit reports remain confidential.

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Annex III

Visits carried out in 2009

I. First periodic visit to Paraguay: 10-16 March 2009

Places of deprivation of liberty visited by the delegation

Police facilities

(a) Metropolitan police district (Asunción):

Police station No. 3

Police station No. 5

Police station No. 9

Police station No. 12

Police station No. 20

Special police unit for women

(b) Central Department police district:

- Police station No. 1, San Lorenzo
 Police station No. 9, Limpio
 (c) Amambay Department police district:
 Police station No. 3, Barrio Obrero, Pedro Juan Caballero
- (d) San Pedro Department police district:
 Police station No. 8, San Estanislao
- (e) Special branch of the National Police, Asunción

Prisons

Tacumbú National Prison, Asunción
 Pedro Juan Caballero Regional Prison

Other institutions

Asunción Neuropsychiatric hospital

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Annex VII

Information on country visit reports and follow-up as of 26 February 2010

Country visited	Dates of the visit	Report sent	Report status	Response received	Response status
Mauritius	8–18 October 2007	Yes	Confidential	Yes	Confidential
Maldives	10–17 December 2007	Yes	Public	No	-
Sweden	10–14 March 2008	Yes	Public	Yes	Public
Benin	17–26 May 2008	Yes	Confidential	No	-
Mexico	27 August–12 September 2008	Yes	Confidential	No	-
Paraguay	10–16 March 2009	Yes	Confidential	No	-
Honduras	13–22 September 2009	Yes	Public	No	-
Cambodia	2–11 December 2009	No	-	-	-

CAT/OP/PRY/1 (2010) Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay

Preliminary remarks

1. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) was established following the entry into force in June 2006 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The SPT began its work in February 2007.
2. The aim of the OPCAT is “to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty”, in order to prevent torture and any form of cruel, inhuman or degrading treatment or punishment.¹ This report uses the generic term “ill-treatment” to refer to any form of cruel, inhuman or degrading treatment or punishment. The term should be understood in its widest sense, to include inter alia detention in inadequate physical conditions. The SPT’s work has two main aspects, namely visiting places of deprivation of liberty and advising States parties on the development and functioning of bodies designated to carry out regular visits - the national preventive mechanisms (NPMs). The SPT focus is empirical: its main task is to identify in situ the situations and factors that pose a risk of torture or ill-treatment and to determine the practical measures needed to prevent such violations.
3. Article 11, paragraph (c), of the OPCAT provides that, for the prevention of torture in general, the SPT shall cooperate with the relevant United Nations organs and mechanisms as well as with the regional and national institutions or organizations working towards the strengthening of the protection of all persons against ill-treatment. During its visit to Paraguay, the SPT took account of all the available information, both from United Nations sources - in particular the report of the United Nations Special Rapporteur on Torture² - and from other national and regional monitoring bodies.
4. In ratifying the OPCAT, States parties undertake to allow visits by the SPT to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as “places of detention”).³

¹ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1.

² Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mission to Paraguay, A/HRC/7/3/Add.3.

³ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 4, para. 1, and 12.

States parties also undertake to grant the SPT unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention, the number of such places and their location, as well as to all information concerning the treatment of those persons and their conditions of detention.⁴ They are moreover obliged to allow the SPT to have private interviews, without witnesses, with persons deprived of their liberty.⁵ In this context, the SPT is at liberty to choose the places it wants to visit and the persons it wishes to interview.⁶

5. This report on the SPT's first visit to Paraguay sets out its findings and observations on the situation of persons deprived of their liberty, together with recommendations for improving that situation so as to protect those exposed to any form of ill-treatment. The work of the SPT is guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity, in accordance with article 2, paragraph 3, of the OPCAT. The report forms part of the ongoing dialogue between the Subcommittee and the Paraguayan authorities aimed at preventing torture and other ill-treatment. The report will remain confidential in nature, the decision on its publication resting with the Paraguayan authorities.⁷

6. The preventive work of the State with regard to torture and ill-treatment is necessary in every case, regardless of the occurrence of such abuses in practice. This work should be broad and inclusive in scope, so as to cover all forms of abuse against persons deprived of their liberty. It is justified by the particularly vulnerable situation of persons in State custody, which poses an inherent risk of excesses and abuses of authority prejudicial to the integrity and dignity of the detainee. Monitoring mechanisms and in particular training and sensitization of the State officials in direct contact with persons deprived of their freedom are one of the main tools for the prevention of torture and ill-treatment.

7. Visits by the SPT are intended in this way to examine the prison system and other public agencies with detention authority, with the aim of identifying gaps in the protection of the persons concerned and of determining, where appropriate, the safeguards needed to strengthen the system. The SPT adopts a comprehensive preventive approach. By examining examples of good and bad practice, it seeks to have a positive impact on safeguarding the life, the physical and mental integrity and the humane and dignified treatment of persons held in State custody and to eliminate or reduce to the minimum the possibilities of abuse.

⁴ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14, para. 1 (a) and (b).

⁵ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14, para. 1 (d).

⁶ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14, para. 1 (e).

⁷ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 16, para. 2.

8. The prevention of torture and other cruel, inhuman or degrading treatment hinges on respect for other fundamental human rights of persons deprived of their liberty, regardless of the form of custody in which they are held. The Subcommittee's visits to States parties to the Optional Protocol focus on identifying factors that may contribute to, or avert, situations that could lead to ill-treatment. Beyond simply verifying whether torture and ill-treatment has occurred, the SPT's ultimate goal is to anticipate such acts and prevent their occurrence in the future by persuading States to improve their system for the prevention of torture and ill-treatment.

Introduction

9. In accordance with articles 1 and 11 of the Optional Protocol, the SPT made its first periodic visit to Paraguay from Tuesday, 10 March to Monday, 16 March 2009.

10. On this visit, the SPT focused its attention on the state of development of the national preventive mechanism and the situation of persons deprived of their liberty in National Police facilities, prisons and the neuropsychiatric hospital in Asunción.

11. The SPT delegation consisted of the following members: Mario Luis Coriolano, Hans Draminsky Petersen, Miguel Sarre Iguínez and Wilder Tayler Souto (head of delegation).

12. The SPT members were assisted by Patrice Gillibert (Secretary of the SPT), Anna Batalla, Hernán Vales and Jean-Louis Dominguez, all members of the Office of the United Nations High Commissioner for Human Rights, and two interpreters.

13. In the course of its visit, the SPT examined the treatment of persons deprived of their liberty in the Tacumbú State Prison (Asunción) and in the Pedro Juan Caballero Regional Prison. It also visited 10 police stations in Asunción, San Lorenzo (Central Department), Limpio (Central Department), San Estanislao (San Pedro Department) and Pedro Juan Caballero (Amambay Department), the special unit of the National Police (Asunción) and the neuropsychiatric hospital (Asunción).

14. Besides visiting places of detention, the SPT met with various authorities, including the President of the Republic and the Minister of the Interior, ministerial, parliamentary and judicial representatives, and members of civil society.

15. At the conclusion of its visit, the SPT presented its confidential preliminary conclusions to the Paraguayan authorities.

16. Through this report, drawn up in accordance with article 16 of the Optional Protocol, the SPT conveys to Paraguay the observations and recommendations resulting from its visit as they relate to the treatment of persons deprived of their liberty, with a view to improving the protection of those persons against torture and ill-treatment. The report of the visit represents an

important element in the dialogue between the SPT and the Paraguayan authorities concerning the prevention of torture and ill-treatment. In keeping with article 16, paragraph 2, of the Optional Protocol, this report is confidential unless the Paraguayan authorities request or decide upon its publication.

I. Facilitation of the visit and cooperation

17. The SPT expresses its gratitude to the Paraguayan authorities for their consistent cooperation in providing the documentation and information necessary for the preparation of the visit and in facilitating the visit itself. Access to places of detention was always rapid and unimpeded and the authorities in the places visited showed themselves ready to cooperate with the SPT. The Subcommittee also wishes to place on record that it enjoyed unrestricted access to persons deprived of their liberty whom it wished to interview in private, as well as to the reports and registers it requested.

18. The SPT is grateful for the frankness and openness shown by the government focal point and by all the authorities it had the opportunity to meet. The dialogue with the authorities in question was easy and productive. The SPT is particularly appreciative of the interview that two of its members had with the President of the Republic at the start of its visit to Paraguay, which demonstrated Paraguay's commitment at the highest level to the prevention of torture and ill-treatment.

19. The SPT wishes to thank the representatives of non-governmental organizations with whom it met for the full and valuable information they provided, which made a significant contribution to ensuring that the visit achieved its purposes. It likewise expresses its gratitude for the testimonies and cooperation of those persons interviewed who asked not to be identified.

20. The SPT is deeply grateful for the logistic support provided by the United Nations Development Programme (UNDP) in Paraguay, which proved essential for the proper conduct of the visit.

II. Safeguards against torture and ill-treatment

21. The SPT examined both the legal and institutional framework relating to the treatment of persons deprived of their liberty in Paraguay and the material and practical conditions of their detention, with the aim of identifying the factors and situations that can constitute safeguards for persons deprived of freedom, as well as those liable to give rise to or increase the risk of torture and ill-treatment.

A. Legal context

1. The Constitution of Paraguay: prohibition of torture and constitutional safeguards

22. Paraguay's 1992 Constitution is the supreme law of the Republic. Under its article 137,

international treaties, conventions and agreements that have been approved and ratified come immediately after the Constitution in order of precedence and make up the national legal system, followed in descending order by national laws and other legal provisions of lesser rank.

23. The Constitution sets forth a wide range of fundamental human rights. Article 5 prohibits torture and cruel, inhuman or degrading treatment or punishment and establishes the imprescriptibility of torture, as well as genocide, forced disappearance, kidnapping and politically motivated homicide.

24. The Constitution also embodies various articles aimed at the prevention of torture and ill-treatment during arrest and detention, namely article 12 (detention and arrest); article 17 (procedural rights); article 18 (restrictions on questioning); article 19 (preventive imprisonment); article 20 (the objective of sentences); and article 21 (the imprisonment of people). Furthermore, article 133 (habeas corpus) guarantees review of restriction of freedom by a court of first instance, inter alia in cases of physical, psychological or moral abuse against the detainee. Habeas corpus proceedings must be brief, summary, free of charge, and may be initiated by judges ex officio. Similarly, article 134 provides individuals with the right to file a petition for *amparo* before a competent judge if they consider themselves seriously affected by a manifestly illegal act or omission by an official or other individual, or consider that their constitutional rights are in imminent danger, or if, due to the urgency of the question, they are unable to seek remedy through regular legal channels.

25. Despite the wealth of rights recognized and safeguards established under Paraguay's Constitution, the SPT observes that the repeated and grave violations recorded in this report reflect not merely particular circumstances or the negligence of a few public officials but clear shortcomings of legislation and in the protection afforded by the courts and other institutions, including the Ombudsman's Office. The situation is thus seen to be one in which rights lack sufficient guarantees.

2. Definition of torture in Paraguayan legislation

26. *Definition of torture in the Criminal Code.* Article 309 of the Criminal Code provides that: "Anyone who, with the intention of destroying or seriously damaging the personality of the victim or a third party and who, acting as a public official or with the consent of a public official, carries out an unlawful act against (...) physical integrity (...) or subjects the victim to severe mental suffering shall be punishable by imprisonment for a term of not less than five years." According to this definition, an act only constitutes torture if the perpetrator intends to destroy or seriously damage the personality of the victim, which is very difficult to prove. As already observed by the Committee against Torture,⁸ the Special Rapporteur on Torture⁹ and the Inter-American Court of Human Rights,¹⁰ this definition of torture is extremely restrictive and does not conform to international

⁸ Final Observations on the third periodic report of Paraguay to the Committee against Torture, A/55/44, para. 150 (b).

⁹ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Paraguay, A/HRC/7/3/Add.3, para. 17.

¹⁰ Inter-American Court of Human Rights. Case of *Goiburú et al. v. Paraguay*. Merits, Reparations and Costs. Judgement of 22 September 2006. Series No. 153, para. 92.

standards in the matter.

27. The SPT was able to verify the practical difficulties posed by this legal shortcoming in interviews with lawyers and human rights defenders, who assured the SPT that “to file a charge of torture is to ensure the impunity of the offender”. Thus the defenders of victims of acts that would be covered by the international definition of torture are obliged to report them as other criminal offences, such as “inflicting bodily injury in the exercise of public duties” under article 307 of the Criminal Code, or to resort to administrative procedures, given the difficulty of invoking the simultaneous offence of torture with reference to article 309. This entails the imposition of lighter sentences (ranging from a fine to five years’ detention for the offence of inflicting physical injury while performing a public function) and, in any case, prevents the victims from benefiting from the imprescriptibility for which the Criminal Code provides in the case of the offence of torture.

28. **The SPT notes that the discrepancy between the definition of torture contained in the Paraguayan Criminal Code and that contained in article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter the “Convention against Torture”) creates a loophole for impunity.¹¹ The SPT regrets that the recent revision of the Criminal Code has not modified the definition of the offence of torture and recommends the early adoption of the legislative measures necessary to align Paraguayan legislation with international treaties on torture, especially article 1 of the Convention against Torture.**

29. *Absence of a criminal offence of torture in the Military Criminal Code.* The SPT ascertained that, despite the recommendations made by the Special Rapporteur on Torture, the Military Criminal Code (Act No. 843 of 1980) still contains no offence of torture. **The SPT recommends correcting this lacuna by including in the Code a criminal offence in conformity with article 1 of the Convention against Torture and by establishing penalties commensurate with the seriousness of the offence.**

B. Institutional context

30. There is an abundance of State and civil society institutions addressing human rights in Paraguay. However, the SPT noted that their combined efforts have not had the desired effect of preventing torture and ill-treatment. This situation, coupled with the serious shortcomings found by the SPT in terms of commonplace, systemic practice, means that there are significant problems in ensuring prevention.

31. *Inter-institutional commissions.* There are three inter-institutional commissions in Paraguay, set up to visit places where persons deprived of their liberty are, or may be, found: they are the inter-

¹¹ General comment No. 2 of the Committee against Torture, CAT/C/GC/2, para. 9.

institutional commissions responsible respectively for visiting prisons, visiting and monitoring juvenile detention centres and visiting military barracks. These commissions are inter-institutional in the sense that they are composed of representatives of State entities, international bodies and civil society. They represent informal, ad hoc institutions, lacking a sound legal basis and independent funding, which limits their action. Furthermore, these commissions do not visit persons detained in police stations or psychiatric hospitals.

32. Despite the aforementioned restrictions, the SPT considers that the commissions concerned play a valuable role, occasionally fulfilling oversight functions that belong properly to the public authorities, and accordingly recommends that the State should grant them the necessary financial and logistic support to carry out regular visits to places housing persons deprived of their liberty. The SPT further recommends that the functions, experience and knowledge acquired by these commissions should be taken into account by the National Preventive Mechanism (NPM), once it has been established.

33. *Office of the Ombudsman.* The SPT is concerned about the number of critical comments it has received on the way in which the Ombudsman's Office carries out its duties in respect of detention centres. It is also concerned at the repeated allegations concerning the Office's failure to deal with the complaints submitted to it. As an independent and autonomous body, the Office of the Ombudsman is called upon to play a very active role in preventing torture and ill-treatment, particularly in respect of persons deprived of their liberty. Consequently, **the SPT recommends that the Office of the Ombudsman:**

- (a) Carry out periodic visits and develop techniques for thorough inspections - with the emphasis on personal contact with detainees and direct viewing of places of detention - so as to ascertain the living conditions and treatment of those deprived of their liberty;**
- (b) Deal promptly and effectively with the complaints its receives concerning human rights violations;**
- (c) Maintain a database to compile systematic information about the type of complaints received, the results of investigations undertaken, and the recommendations made;**
- (d) Fulfil its legal terms of reference by reporting the human rights violations it discovers to the Public Prosecutor's Office.**

34. *National Police.* According to the information provided by the authorities, there is no established system for supervising the National Police nor any regulatory standards regarding conditions of detention or treatment of persons deprived of their liberty in the country's over 1,200 police stations. This is consistent with the statements of police personnel interviewed by the SPT in its visits to police stations, who said that they had to date received no such

supervisory visit. The SPD was informed that the National Police's Department of Public Order and Security must have authority in the matter. However, neither the Department nor any other branch of this institution exercises supervisory functions with regard to the conditions of detention or the treatment of persons deprived of their liberty in police stations.

35. The SPT recommends that the Department of Public Order and Security or some similar office, whether existing or to be established, should regularly supervise the conditions of detention of persons deprived of their liberty in police stations, and should submit reports with recommendations for the continual improvement of those conditions. It should likewise ensure proper follow-up of those recommendations.

36. The SPT also wishes to receive information from the State party on the number of complaints of torture or ill-treatment received by the National Police against its members in the last five years, as well as the present status of those reports, including the disciplinary measures taken.

37. *Judiciary.* The judiciary can provide effective oversight of the legality of detention and of the situation of persons deprived of their liberty through its function of constitutional interpretation and its competence with respect to appeal, habeas corpus and judicial review proceedings, as well as through supervisory visits and interventions by sentence enforcement judges.¹² According to the information gathered by the SPT, the annual visits that the Supreme Court Judges make to the penal establishments in the areas within its remit are essentially formal in nature and are announced in advance. In the two prisons it visited, the SPT received numerous concordant allegations to the effect that officials of the judiciary did not have direct contact with the detainee population in situ, and did not personally check prison conditions. The SPT points out that article 259, subparagraph 8, of the Paraguayan Constitution provides that one of the duties and powers of the Supreme Court of Justice is to "supervise detention centres and prisons". The SPT further notes that a Prison Supervision Unit established under Supreme Court Agreement No. 30 of 1996 is supposed to discharge this constitutional mandate on behalf of the Court. However, on the grounds of shortages of human and financial resources, the unit concerned does not seem able to carry out its functions fully.

38. The SPT recommends that the Prison Supervision Unit be granted the necessary human and financial resources to carry out the functions assigned to it under Agreement No. 30, in particular its responsibilities for inspecting detention centres and prisons and collecting statistical data. Concerning supervisory visits, the SPT recommends that, to be more effective, they should not be announced in advance and should place the emphasis on direct contacts with persons deprived of their liberty, who should not be pre-selected by prison staff, and that the visits should be followed up by recommendations.

39. The SPT also wishes to receive copies of the last three quarterly reports that the Prison Supervision Unit is required to submit to the Supreme Court under article 2 of Agreement No. 30.

¹² Article 103 of the Prison Regime Act No. 210/70 provides that “the Judiciary will verify periodically if the prison regime conforms to the standards laid down in the present law and to the regulations issued in consequence”.

40. The SPT considers that Agreement No. 30 represents a positive step towards fulfilling the judiciary’s responsibilities with regard to prison matters. Nevertheless, the enforcement of criminal penalties could be better regulated through legislative measures. In this connection, note is taken of the establishment in 2004 of the National Commission on Reform of the Penal and Prison Systems.

41. The National Commission produced a Preliminary Draft of a Penal Enforcement Code, which contains important contributions to humanizing prison life, such as strengthening the role of the judge responsible for monitoring sentence enforcement (*juez de la ejecución de la condena*), the possibility of appeal against disciplinary measures imposed by the prison administration, and the requirement to establish a judges’ office within prisons and detention centres. Despite the advantages that its adoption would represent, this Penal Enforcement Code does not give the judges concerned the necessary powers to act upon their findings relating to situations involving the constitutional rights of persons deprived of their liberty.

42. The Supreme Court is a final instance in the interpretation of the Paraguayan Constitution with respect to fundamental rights.¹³ Judges responsible for the monitoring and enforcement of sentence as well as lawyers interviewed by the SPT expressed concern at the absence of guidelines by the Supreme Court concerning fundamental questions of due process, including the legal bases for police detention, the circumstances surrounding extrajudicial confession by the accused, the duration of police detention and access to counsel during initial detention.

43. The SPT wishes to receive a copy of the directives of the Supreme Court concerning the rights to due process of persons deprived of their liberty.

44. Provision is made for habeas corpus in “cases of physical, psychological, or moral abuse against individuals who have been legally deprived of their freedom”.¹⁴ Several lawyers declared such a recourse to be ineffective given the lack of any independent investigation by the judicial authorities and excessive delays in its processing. A case in point brought to the SPT’s attention concerns a habeas corpus filed by two prisoners before the Criminal Chamber of the Supreme Court. According to this habeas corpus, the prisoners had suffered threats against their life and physical integrity while in prison, having been the victims of violent attacks, including physical and psychological torture by other inmates.

45. The minister concerned ordered “a report on the conditions of imprisonment and the state of health of prisoners according to the relevant medical records”. On receipt of the report, the Criminal Chamber delivered its judgement, based solely on the report of the authorities, dismissing the habeas corpus petition. The Chamber argued that, according to the report

submitted by the prison doctor, the prisoners showed no signs of physical assault, and the conditions of detention were good. While

¹³ Paraguayan Constitution, art. 132.

¹⁴ Ibid., art. 133 (3).

the Criminal Chamber urged the authorities to adopt measures to ensure the safety of the appellants, the judgement was not made public until three months after it had been pronounced, which is contrary to the protective intention of habeas corpus.

46. The SPT received information from the Paraguayan authorities according to which 5 per cent of prison inmates had already served their sentence. During its visit to the Tacumbú Prison, the Subcommittee heard testimonies from prisoners claiming that they had served their time. It was informed of the existence in the past of a computer system that provided information to prisoners on the status of their cases. Apparently, as a result of technical problems, this system was not currently functioning.

47. The SPT recommends that:

- (a) Steps should be taken to review habeas corpus and *amparo* legislation, and to examine the problems posed in practice by these legal instruments so as to ensure that they are effective in meeting the needs of persons deprived of their liberty;**
- (b) The current status of proceedings with respect to all prisoners claiming to have served their sentences should be verified as a matter of priority with a view to ensuring that, where their claims are confirmed, they may be released immediately;**
- (c) The information system on the status of cases pending should be made operational in all prisons in the country and should be made available for regular consultation by prisoners;**
- (d) Consideration should be given to ways of simplifying the law and judicial procedure so as to make it possible for the sentence enforcement system to be based exclusively on the conduct of prisoners. This would not only help reduce prison overcrowding but would also provide legal safeguards and reduce opportunities for arbitrariness and corruption.**

48. In the course of meetings with the authorities, the latter made frequent reference to the extreme slowness with which the judiciary dealt with pending cases. The SPT was able to confirm these allegations in practice, having regard to the high proportion of prisoners (approximately 80 per cent) who find themselves held on trial - sometimes over a period of several years - without having been convicted, and in company with convicted persons. In this regard, the SPT wishes to stress that it is the right of a person detained on a criminal charge to be tried within a reasonable time or to be released pending trial.¹⁵ The SPT notes in particular that article 136 of the Paraguayan Code of Criminal Procedure fixes the maximum duration of judicial procedures at three years. The SPT is conscious of the problems of lack of resources and excessive workload affecting the judiciary. However, where such delays are caused by a lack of resources, to the extent possible supplementary budgetary resources should be allocated for the

administration of justice.¹⁶ **The SPT recommends**

¹⁵ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in resolution 43/173 of 9 December 1988, principle 38.

¹⁶ General comment No. 32 article 14: *Right to equality before courts and tribunals and to a fair trial*, CCPR/C/GC/32, para. 27.

that the judiciary should be granted additional budgetary resources for allocation to the criminal courts so that they may effectively discharge their task of administering justice.

49. **The SPT likewise recommends that a nationwide census of the prison population should be undertaken to determine the number of detainees who have been held on trial for over three years, in violation of the legal maximum period.**

50. *Legal assistance.* The SPT believes that free, professional legal assistance is a mechanism that contributes to the prevention of torture and ill-treatment through the exercise of due process and the rights of the defence.¹⁷ In adversarial criminal proceedings it is essential to ensure effective equality of arms between the public defender and the prosecution. The SPT was informed of the budgetary and staffing constraints weighing upon the Office of the Public Defender. For example, the SPT was told by Office officials that some public defenders have to deal with an average of 300 cases; and in the case of the public defender in Ciudad del Este the number of cases has reached 1,500. The SPT considers that such an excessive caseload is incompatible with the effective defence of persons deprived of their liberty. This view was confirmed in numerous interviews with persons deprived of their liberty and with police and prison authorities and representatives of civil society.

51. Most of the prison inmates interviewed said that they were unaware of the status of their cases, and that they had not spoken with their public defenders for months or years. All those interviewed said that their public defenders never entered the prison blocks to check on the conditions of detention.

52. The SPT considers that the right to counsel from the very outset of detention is a fundamental safeguard for the prevention of torture and ill-treatment. The SPT emphasizes that the Office of the Public Defender should be functionally independent and financially autonomous. **In view of the current situation of the Office of the Public Defender, the SPT calls upon the State to provide information on how it plans, within a framework of institutional independence and autonomy, to increase the human and financial resources of the Office to enable it to guarantee free, effective and comprehensive legal assistance for all persons deprived of their liberty who require it, as from the moment of their detention. In this connection, the SPT requests a copy of the draft law on the public defenders system, together with information on the state of progress on this draft.**

53. *Public Prosecutor's Office.* The Code of Criminal Procedure provides that the Public

Prosecutor's Office is responsible for handling the investigation of all punishable acts and instigating public criminal proceedings in respect of crimes such as torture.¹⁸ The SPT received information

¹⁷ Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, principle 6.

¹⁸ Code of Criminal Procedure of Paraguay, arts. 14, 15, 18, and 52.

from the Human Rights Department of the Public Prosecutor's Office concerning cases involving the investigation of human rights offences received by the Office at the national level between 2000 and 2008. According to this information, 230 - or 16 per cent - of the 1,464 registered cases involved procedures relating to the crime of torture. The Prosecutor's Office did not supply information on the status of those procedures nor on the judgement reached in the majority (60 per cent) of the cases involving torture. Most of the cases on which information on their status was made available turned out to have been placed on file or dismissed. Only 1 out of the 230 cases had resulted in a conviction.

54. The SPT welcomes the fact that Human Rights Department is compiling statistical data on cases involving human rights violations. However, it is concerned at the large number of cases in which the stage in the procedure reached is not known. It is also concerned that only 1 of the 230 reported instances of torture have resulted in a conviction.

55. The Public Prosecutor's Office also has an important role to play in the prevention of torture and ill-treatment. It has powers of supervision under article 24 of (Organization) Act 1562/2000, which provides that prosecuting officers attending police stations should check the physical condition of the accused and conditions in the place of detention. Finally, article 15 of the same Act stipulates that the Public Prosecutor's Office should collaborate with the sentence enforcement judge in his task of monitoring compliance with the law by the prisons system and consistency with the constitutional aims of the punishment and the rights of the prisoner. **The SPT requests information on the way in which the Public Prosecutor's Office in practice discharges its supervisory functions with regard to both police stations and prisons. In particular, it wishes to have information on the frequency with which visits to these premises take place, whether there are any internal guidelines on how these visits are to be carried out, whether reports of the observations made during the visits are produced and, as appropriate, to whom such reports are submitted, and the number of complaints made by the Public Prosecutor's Office as a consequence of these visits.**

III. National Preventive Mechanism (Mecanismo nacional de prevención - MNP)

56. The SPT expresses its satisfaction at the process that led to the adoption of the draft legislation setting up the National Preventive Mechanism (MNP). This process has been described as a model for the open, transparent and inclusive participation of a wide range of

stakeholders. The SPT is also satisfied with the current content of the MNP bill, which meets the minimum requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), including financial independence of the MNP.

57. At the same time, the SPT is concerned that this bill has been awaiting approval by the Legislative Commission of the Senate since January 2009. At a meeting with members of the SPT, the President of the Legislative Commission undertook to give new and rapid impetus to the legislative process, indicating that the first steps in this direction would be taken in the first half of April. However, the SPT has to date received no information in this regard.

58. The establishment of an MNP is an international obligation assumed by Paraguay in keeping with article 17 of the OPCAT. **The SPT recommends that the State party, and in the first instance the Legislature, give the necessary priority to the passage of this bill so that the current text, or a similar draft meeting the requirements of the OPCAT, may become law at the earliest possible date. The SPT likewise recommends, as the Special Rapporteur on Torture has done previously, the early designation of an independent national mechanism with the necessary resources to ensure effective and continuous supervision of the conditions governing the deprivation of liberty.**

IV. Situation of persons deprived of their liberty

A. National Police stations

59. The SPT consulted the register of detainees in the 10 police stations it visited and conducted interviews with the commissioners and officers assigned to those stations, as well as with the persons detained there.

1. Initial period of detention

60. In accordance with the Constitution (art. 12.5) and the Code of Criminal Procedure (art. 240), the detainee has the right to be brought before a competent judge within 24 hours of his arrest so that the judge may rule, within the same period, whether preventive detention is justified, whether to apply alternative measures or whether to order the release of the accused for lack of evidence. The Code of Criminal Procedure (art. 239) also obliges the National Police to bring the detention to the notice of the Public Prosecutor's Office and a judge within 6 hours of the arrest. These legal time limits represent important safeguards against torture and ill-treatment.

61. The National Constitution stipulates that: "No one will be detained or arrested without a written order issued by a competent authority, except for those caught in flagrante delicto in relation to a crime punishable with a prison sentence" At the same time, article 239 of the Code of Criminal Procedure authorizes the police to detain a person without legal warrant if there is sufficient evidence that the person has been involved in a punishable offence for which pretrial detention is prescribed. This provision appears to go well beyond what is stipulated in

the Constitution other than in cases of flagrante delicto.

62. The prerequisites for preventive detention are specified in article 242 of the same code. A combined reading of both precepts makes it clear that where there is evidence that a person has been involved in the commission of an offence, the police can justify detention with reference to “the existence of a risk of escape or obstruction on the part of a person suspected of a specific act under investigation”. It should be noted that, despite the fact that it is not a case of flagrante delicto, there is no ex ante judicial supervision of this detention, so that the police can decide on their own initiative whether a person is to be deprived of liberty.

63. Once a person has been detained in this way, the police have six hours to inform the Public Prosecutor’s Office and the judge responsible for procedural safeguards. During this time, the person is detained without effective judicial supervision, which - together with the lack of internal mechanisms to verify the legality of the police action - places the individual concerned in a vulnerable situation with regard to ill-treatment.

64. Preventive detention also lessens a suspect’s possibilities of defence, particularly when the person is poor and cannot rely on a defence counsel or support to obtain evidence in his favour. In this way, it not only places the detained persons at risk of ill-treatment - as frequently observed by the SPT - but also serves to increase the number of persons imprisoned without being convicted.

65. While article 282 of the Code of Criminal Procedure provides that “investigations by the Public Prosecutor’s Office, the National Police and the Criminal Investigation Police shall always be carried out under judicial supervision”, this supervision is usually exercised *a posteriori* so that it does not usually prevent pretrial imprisonment.

66. Despite these express provisions in Paraguayan law and to judge from the testimonies received by the SPT, the National Police rarely comply with the legal requirement of informing the judge and the Public Prosecutor’s Office within a time limit of six hours of a suspect’s detention. This situation was occasionally confirmed by the police themselves, who could provide no plausible justification for this failure to comply with legislative provisions. Moreover, the SPT was able to verify, through interviews and scrutiny of police station registers, that the length of time spent by those detained in police stations in most cases significantly exceeds the maximum legal period of six hours.

67. The failure to comply with these procedural safeguards clearly places the detainees in a vulnerable situation, given that the period immediately following the deprivation of liberty is when the risk of torture and ill-treatment is greatest. In fact, the SPT received numerous and repeated allegations from detainees who claimed to have been subject to torture and/or ill-treatment during their arrest, their transfer to the police station and/or the early stages of their detention. The SPT repeats that informing the Public Prosecutor’s Office and the judge of the detention without delay, and placing detainees under the responsibility of a judicial authority within 24 hours of their arrest, are key safeguards against torture and ill-treatment. **The SPT**

accordingly recommends that the National Police ensure strict compliance with the legal time limits laid down for informing the Public Prosecutor's Office and the judge of any arrest and for placing the person concerned at the disposal of the judicial authorities, which must be attested in writing.

68. **The SPT further recommends that the necessary measures be taken to revise the criminal procedure legislation so as to eliminate situations of extreme vulnerability in the hours immediately following arrest.**

2. Registering of detention as a safeguard against torture and ill-treatment

69. On the basis of the information derived from the corresponding registers and from interviews with police personnel, the SPT concludes that the detention register system as it exists at present is inadequate and does not allow for proper monitoring of the arrivals and departures of detainees nor of compliance with procedural safeguards.

70. All the police stations visited had an "events log", in the form of a notebook with numbered pages in which the officer on duty records the different shifts, the location of patrols and the arrival and departure of staff and detainees, without distinction of the kind of information recorded. The content and level of detail of the annotations concerning the arrival and departure of detainees varies with the police station and even with the officer in charge, in most cases giving brief personal details of detainees and the hour and reason for their detention. In some instances, the arrest order is also included. While the notebooks are identical in all police stations, they were on two occasions found to have missing pages, spaces left blank or erasures.

71. None of the police stations visited has a register of complaints or a record of visits by the family, lawyers or monitoring bodies. None, with the exception of the Asunción Women's Police Station, possesses a register of personal effects or an infirmary register. According to the information gained from interviews with the police and detainees, the latter are not given a medical examination on entry to the police station.

72. In 5 of the 10 police stations visited, the SPT met with detainees whose entry had not been registered. This was a cause of great concern to the SPT.

73. The SPT considers that proper recording of the deprivation of liberty is one of the fundamental safeguards against torture and ill-treatment and a prerequisite for the effective exercise of the rights of due process, including the right to challenge the lawfulness of deprivation of liberty (habeas corpus) and the prompt appearance of a detained person before a judge.

74. **In light of the foregoing, the SPT recommends:**

(a) Establishing a compulsory system for registering persons held in detention, in the form of a bound and paginated register, separate from the duty register, which should include the reasons for the deprivation of liberty, the exact time when the detention began,

how long it lasted, who was responsible for its authorization and the identity of the law enforcement officials concerned, together with precise information on the place of detention and the hour at which the detainee first appeared before a judicial or other authority;

(b) Recording cases in which detainees are subject to a medical examination, the identity of the doctor concerned and the results of the examination;¹⁹

(c) Registering complaints received, visits by family, lawyers and monitoring bodies and the personal effects of persons detained;

(d) Training police personnel to use the register in an appropriate and consistent manner;

¹⁹ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988), principle 26.

(e) Ensuring close supervision of the register system by senior officers to ensure the systematic recording of all relevant information on the deprivation of liberty.

3. Information on the rights of detainees

75. For persons deprived of their liberty to exercise their rights effectively, they must first be informed of and understand those rights. If people are ignorant of their rights, their ability to exercise them effectively is seriously diminished. Providing persons deprived of their liberty with information on their rights represents a fundamental element in the prevention of torture and ill-treatment. In accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,²⁰ any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively with information on and an explanation of his rights and how to avail himself of such rights.

76. The SPT interviewed detainees who had not been informed about their rights. On the other hand, it was pleased to note that the police stations visited in Asunción had posters in Guaraní with information on the rights of detained persons. However, these posters were not available in Spanish, nor in the police stations visited outside Asunción.

77. The SPT recognizes this as a positive initiative and recommends that the State party produce posters, booklets and other outreach materials, in both official languages, with information on the rights of persons deprived of their liberty, expressed in clear and simple language. The posters should be placed in all places where persons deprived of their liberty are held, so as to be visible to them. The SPT likewise recommends that the police should be trained to inform detainees systematically of their rights in a language they can understand and that they should assist them in the exercise of those rights from the very start of their detention. This information should be assembled in a form, which should be handed to all persons detained and signed by them.

4. Risk of confession serving as a basis for conviction

78. Paraguay's Code of Criminal Procedure prohibits the police from taking a statement from the suspect in the course of an investigation (art. 90) and makes it obligatory to inform the Public Prosecutor's Office and the judge (art. 296) within six hours of the initial arrest.

79. The SPT received repeated and concordant allegations from persons deprived of their liberty concerning the use of forms of torture and ill-treatment by police officers, particularly during the

²⁰ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988), principle 12.

initial stages of detention in police stations, in order to obtain confessions and other information regarding the supposed commission of offences. According to various testimonies, these confessions obtained through torture and ill-treatment are used as evidence to justify pretrial imprisonment, which - as already noted - is inimical to the right of defence and conducive to unfair convictions.

80. One of the minors interviewed claimed to have been subjected to the "dry submarine" treatment (i.e. suffocation by means of a plastic bag) three times on the night of his detention at the hands of a number of policemen, who threw a glass of cold water in his face on each of the three occasions on which he passed out. He also described having his hair pulled, being kned in the stomach and chest, receiving blows to the windpipe, punches and kicks to all parts of his body, slaps on the ears and neck, all with the aim of making him confess to a murder he claims not to have committed, having already confessed to the theft of a motorcycle. This minor added that the statement he signed was in Spanish, which was a language he did not know since he was of Brazilian nationality. He also declared that he was facing a trial for murder on the basis of the statement in question.

81. Another minor interviewed alleged that he had been subjected to the "dry submarine" treatment and that he had been punched in the head and received blows all over his body to make him reveal the whereabouts of a stolen object as well as to confess to other offences that he claimed not to have committed.

82. **The SPT urges the State party to introduce due process safeguards so that detainees in police custody are not subject to any kind of pressure to make them confess to the commission of a crime or to obtain evidence unlawfully. In particular, the State party should ensure that no person under interrogation shall be subject to violence, threats or methods of interrogation that impair his decision-making capacity or his judgement.**²¹

83. **Any statement signed by detained persons should be in a language they know and**

understand.

84. The SPT considers that making it possible for a conviction to be based on a suspect's confession alone opens the way to potential abuses of process, including the use of torture and ill-treatment to obtain confessions. To guard against such abuses, the SPT recommends that the State party guarantee the application in practice of article 90 of the Code of Criminal Procedure, so that statements taken by the police during detention - in violation of the aforesaid provision - are not taken into account by judges in deciding on interim measures and do not serve to incriminate or convict a suspect. In accordance with article 15 of the Convention against Torture, a State party shall ensure that any statement which is established

²¹ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988, principle 21.

to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

5. Right to inform a third party of detention

85. The right of persons deprived of their liberty to inform a person of their choice (family, friend or other) of their detention represents a basic guarantee against torture and ill-treatment.²² In Paraguay, this right has constitutional status (article 12.2 of the Constitution) and seems to be generally observed in practice.

86. The police interviewed by the SPT all stated that persons deprived of their liberty were provided with a telephone to make a local call on their arrival at the police station. In some cases, the police said they had allowed persons deprived of their liberty to use their own cellphones to notify their families of their arrest. These statements were not contradicted by the detainees interviewed, who generally acknowledged that their families had been notified of their arrest. Some of the persons interviewed had been arrested at home or in the presence of someone known to them who later informed their family.

87. Given that, as the SPT was told, the police stations did not have a budget to feed the persons deprived of their freedom, who therefore depended on their families to supply them with food or money to obtain it, the right to inform a third party of detention assumes particular importance, both from the standpoint of due process and from that of meeting basic needs. In this connection, the SPT welcomed the fact that visiting hours in police stations are generally flexible, thereby enabling persons deprived of their liberty to be supplied with food by their families.

6. Right to legal aid as a safeguard against torture and ill-treatment

88. Access to a lawyer by persons in police custody is a key safeguard against torture and ill-treatment.²³ The presence of a lawyer can dissuade officers who in other circumstances could try to obtain information from detainees by means of coercion and threat. Detainees have the right to the assistance of a lawyer, and the competent authority should inform them of this right soon after their arrest and should ensure that they have adequate means to exercise it. The detainee has the right to consult with a lawyer in private from the start of his detention, and where he has been the victim of torture and/or ill-treatment this access to defence will facilitate access to complaint and prevention mechanisms.²⁴

²² General comment No. 2 of the Committee against Torture, CAT/C/GC/2, para. 13.

²³ General comment No. 2 of the Committee against Torture, CAT/C/GC/2, para. 13.

²⁴ Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, principle 7.

89. According to concordant testimonies received from persons interviewed by the SPT, public defenders do not visit people detained in police stations. Similarly, most detainees claimed not to have been able to speak with their counsel even during the hearings with representatives of the Public Prosecutor's Office or in appearances before the judge. The SPT found that the situation is different when a person deprived of liberty is defended by a private lawyer. The SPT wishes to repeat that it considers it fundamental in order to avoid situations that may give rise to torture and ill-treatment that the State party should guarantee the right for a lawyer or public defender to be present from the earliest stages of detention.

90. The SPT repeats its recommendation to the State party concerning an increase in the financial and human resources of the Office of the Public Defender, within a framework of independence and functional autonomy. The SPT further recommends that, once its independence and autonomy are ensured, the Public Prosecutor's Office should sign agreements with universities, bar associations and civil society organizations nationwide in order to increase its operational capacity.²⁵

7. Right of access to a doctor as a safeguard against torture and ill-treatment

91. Medical examination and proper recording of the injuries incurred by persons deprived of their liberty are an important safeguard in preventing torture and ill-treatment and in combating impunity.²⁶ If someone deprived of his liberty were to be mistreated by the police, it would be understandable for him to be afraid to inform anyone of what had happened while in police custody. If someone were to decide to file a complaint of torture or ill-treatment, it would be advantageous for him to have recourse to a doctor since, in general, consultations with doctors are private and if the person had suffered an injury the doctor would be better placed to examine him and attest to its existence in the corresponding report. From a preventive standpoint, the fact

that a doctor examines detainees in police premises periodically in private could dissuade officials from resorting to torture and ill-treatment. In this regard, medical examinations should be private and confidential, without the presence of the police, except where strictly necessary.

92. The SPT noted that the practice of carrying out medical examinations of detainees was lacking in all the police stations visited. In one such station, a detainee, who showed signs of recent blows and wounds, claimed to have been brutally beaten by the police during his arrest and in the initial stages of detention. He also said that, when he was taken to hospital to have his wounds treated some hours later, the police - who were present during the medical examination - forced him to say that the wounds were the result of a fall. Police personnel consulted separately stated that the detainee's

²⁵ Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, principle 3.

²⁶ General comment No. 2 of the Committee against Torture, CAT/C/GC/2, para. 13.

wounds had been caused by a family brawl. This case highlights the need for a confidential and private medical examination at the start of detention, which if it had existed would have been helpful in establishing the reason and responsibility for the wounds.

93. The SPT notes the need to respect the right of persons deprived of freedom to be examined by a doctor and recommends to the State party that it legally prescribe this right.²⁷

94. The SPT recommends to the authorities that all those persons detained be given a systematic medical examination as soon as possible following their entry to the police station, and that the doctor attest to the state of health of the person concerned in a register established for that purpose. This medical examination should be free of charge.

95. The SPT also recommends that medical examinations are carried out in keeping with the principle of medical confidentiality: no person apart from medical personnel should be present during the examination. In exceptional cases, for example when the doctor considers that the person detained on medical or psychiatric grounds constitutes a danger to medical staff, special safety measures can be envisaged, such as stationing a police officer a short distance away. In such cases, the doctor should record in writing the reasons for this decision and the identity of the police officer present. These cases apart, police officers should remain out of hearing and sight of the place where the medical examination is taking place.

96. The SPT likewise recommends that the medical examination of each detainee should include and place on record: (a) the person's medical history; (b) the existence of any discomfort or symptoms, a description by the person examined of how any injuries were

sustained, and the identity of the person held to be responsible; (c) the result of the physical examination, including a description of any injuries and an indication as to whether the whole body was examined; and (d) the doctor's conclusion as to whether the three above elements are mutually consistent. When the doctor has grounds for supposing the existence of torture and ill-treatment, he should record it in the register established under the following paragraph.

97. The SPT recommends the State party to take steps to establish a national register of allegations of torture and ill-treatment, which should include as a minimum the following information: (a) the identity of the alleged victim (name and surname and/or identity document number); (b) age and sex of the alleged victim; (c) place where the alleged incidents occurred; (d) identity of the alleged authors, including the state institution to which they belong; (e) methods of torture or ill-treatment used; (f) circumstances relating to the torture and ill-treatment; (g) conclusions of the doctor who examined the alleged victim; (h) result of

²⁷ Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979, art. 6.

the medical examination carried out in accordance with the Istanbul Protocol; and (i) information concerning the investigations carried out, including their outcome, the sentencing of those responsible and compensation to the victims. Other actors, such as the Public Prosecutor's Office and monitoring bodies, should also inform the register of cases of suspected torture and ill-treatment of which they are aware. The alleged victim should give his/her consent with respect to the information mentioned in subparagraphs (a) and (b).

98. The SPT recommends that the State party establish a system of independent examinations, under which qualified forensic doctors and psychologists will carry out exhaustive investigations when the doctor who has checked the detainee has grounds for supposing that the person has been subject to torture and ill-treatment.

8. The submission of complaints or appeals as a safeguard against torture and ill-treatment

99. According to the information given to the SPT by detainees at the police stations visited, none of those concerned had made a complaint about ill-treatment or torture during their time in custody, either because they did not know they had the right to do so, or because they were afraid of possible reprisals. Also, none of the police stations visited had a complaints register and, according to statements made by police officers who were interviewed, officers did not inform detainees of their right to make a complaint about the way they were treated.

100. The SPT notes that the right of any detainee to submit a petition or appeal concerning

their treatment, in particular in the case of torture or ill-treatment, to the authorities responsible for the administration of the place of detention, to higher authority and, when necessary, to appropriate watchdog or law enforcement authorities, constitutes a basic safeguard against torture.²⁸

101. The SPT recommends that staff assigned to police stations should systematically provide information to all persons deprived of their liberty about the right to file a petition or appeal concerning their treatment in custody. Every petition or appeal must be promptly dealt with and replied to without undue delay, and it must be ensured that detained persons do not suffer prejudice as a consequence.²⁹

²⁸ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 43/173 of 9 December 1988, principle 33, para. 1.

²⁹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 13; and Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 43/173 of 9 December 1988, principle 33, para. 4.

102. The SPT also recommends that the Paraguayan authorities ensure that the right to file a complaint or appeal with respect to torture and ill-treatment can be exercised in practice and that the principle of confidentiality is duly respected. Police staff must not interfere with the complaints procedure or screen complaints addressed to the competent authorities, and must not have access to the content of the complaints. The SPT recommends that rules should be drawn up for the handling of complaints by police officers, covering the forwarding of complaints to the competent authorities and the duty to provide the necessary materials for drafting a complaint.

9. Working conditions and training of police staff

103. The SPT was repeatedly told by the police officers interviewed that they faced financial difficulties because of their low salaries, and that the State party did not provide them with the necessary tools to carry out their work, which meant that they had to buy their own uniforms, boots, weapons and notebooks, as well as pay for petrol for carrying out patrols.

104. The SPT considers that the financial hardship of police staff is conducive to corruption and therefore recommends that a review of police salaries should be carried out to ensure that they are appropriate. The equipment required for police staff to do their job must be provided by the authorities.

105. The government authorities interviewed by the SPT said that police officers lacked

training, and that some did not even have a basic education. According to a report by the United Nations Special Rapporteur on the question of torture, the lack of training of police officers in techniques of obtaining evidence in criminal investigations meant that they relied heavily on confessions, which encouraged the use of torture and ill-treatment.³⁰ Moreover, the police officers interviewed themselves said that they had received no training whatsoever in the custody of detainees.

106. The SPT recommends that police personnel and officials assigned to police stations and other detention centres should receive suitable training in guarding persons deprived of their liberty, including human rights training, and in the proper use of registers (see paragraph 74 (c) and (d) above).

10. System for supervising the police as a safeguard against torture and ill-treatment

107. According to information received from the police authorities, Paraguay does not have a system for supervising and monitoring the conditions of detention and treatment of persons deprived of their liberty.

³⁰ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Paraguay, A/HRC/7/3/Add.3, para. 61.

108. The SPT considers that a proper system for monitoring and supervising the police constitutes an essential safeguard against ill-treatment. The lack of proper monitoring by senior police officers of the treatment of detainees may encourage ill-treatment on the part of some police officers. **The SPT therefore recommends that the Paraguayan authorities should establish a system for the effective monitoring and supervision of the work of the police by senior police officers.**

109. Even where ill-treatment is not the result of a direct order from senior officers, that does not exempt the latter from criminal responsibility for acts of torture committed or ill-treatment inflicted by their subordinates, if they knew, or should have known, that those acts occurred or probably occurred and did not adopt the reasonable and necessary measures to prevent them. **The responsibility of police officers who commit acts of torture or inflict ill-treatment on detained persons, as well as the responsibility of senior officers who instigate, encourage, consent to or acquiesce in such acts, must be fully investigated both through internal police monitoring mechanisms and through competent prosecutorial and judicial authorities.**³¹

11. Material conditions

110. The SPT noted that, practically without exception, persons deprived of their liberty were held in very poor material conditions. The cells were generally in an appalling state of repair and extremely unhygienic. The sanitary facilities often did not work; sewage was found and a stench pervaded many such premises. In some places, the SPT was told that the detainees used the

police staff toilets. However, when interviewed, the detainees all said that was not the case.

111. Both natural light and ventilation are seriously lacking. There are far from enough mattresses for the detainees, many of whom have to sleep on the floor. The SPT noted that the mattresses given to some detainees were badly worn. At about half the facilities, the water supply was sporadic at best. The SPT recalls that all cells must meet minimum standards of hygiene, having regard to climate, with particular reference to cubic content of air, minimum floor space, lighting and ventilation.³²

(a) Cells

112. Police station No. 3 in Asunción had a single cell, measuring approximately 2 x 8 m, at the far end of which, separated by a wall, was a latrine, which did not appear to be working. Rubbish was strewn on the floor and there was a strong smell of urine and damp. Electricity cables were hanging from the ceiling but there was no electric light. Ventilation was inadequate, with air and natural light

³¹ Committee against Torture, general comment No. 2, para. 26.

³² Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, rule 10.

entering in insufficient amounts through six very small openings. The cell had a leak, and under it was placed the only mattress, which was soaked. At the time of the visit, the cell was empty. The SPT was told by police staff that the cell was sometimes occupied by up to five persons.

113. In police station No. 5 in Asunción, the cell measured approximately 2 x 6 m, with a latrine, separated by a wall, full of rubbish. The cell was very dirty and there was a strong smell of urine. The ventilation was inadequate and the cell was lacking in natural or artificial light. The walls were covered in graffiti. At the time of the visit, a detainee had been occupying the cell for two hours.

114. Police station No. 12 in Asunción had a cell measuring approximately 4 x 6.5 m, which at the time of the visit was occupied by three detainees, who said they had been ordered to clean the cell by a police officer moments after the arrival of the SPT at the police station. The cell smelled strongly of urine, and there was no toilet. The lighting was faulty.

115. The women's police station in Asunción had the best maintained facilities of those visited by the SPT. The cell was large (approximately 9 x 5 m) and was clean, well-aired and had sufficient natural light. There was an adjoining area with three toilets, showers and washbasins, which were clean and well maintained. There were nine beds (although not all had mattresses), one table and chairs. At the time of the visit, there were 2 female detainees in the cell, but police staff told the SPT that the cell usually housed up to 15 women. One of the detainees interviewed

said that they were very well treated and that police staff provided them with food, water, blankets, pillows and soap.

116. Police station No. 20 in Asunción had a cell measuring approximately 2 x 4 m, with a window measuring approximately 40 x 50 cm. The cell was damp and there was a distinct smell of urine. The walls were covered in graffiti, and spider webs and insects were in evidence. At the time of the visit there were no detainees, but police officers said that the cell usually housed three or four detainees. There were no toilets in the cell. Police staff told the SPT that there were three toilets (two with shower attached) that could be used by the detainees.

117. The cell in police station No. 9 in Asunción measured 3.5 x 4.5 m. It smelled distinctly of urine, had excrement stains on the walls and possessed no toilet. At the time of the visit, there were no detainees in the cell. According to police staff, the detainees were allowed to use the police staff toilet if they asked to do so.

118. In police station No. 1 in San Lorenzo, the SPT interviewed seven detainees, who shared a cell measuring approximately 4 x 5 m. The cell was overall very dirty, had graffiti on the walls and was poorly ventilated. At the time of the visit, it was very hot. The cell had a toilet, which was separated by a wall and, according to detainees, was functioning. One of the detainees interviewed said that as many as 20 people had been housed in the cell a few days previously. There were four mattresses on the floor, all of which were badly worn, and the remaining detainees had to sleep on the floor, sitting down. Yet, in a room next door there were four mattresses that were not being used. The SPT spoke with the police inspector in charge and asked him to let the detainees have the mattresses on humanitarian grounds. The inspector, who had kept the SPT waiting for over half an hour, refused the request without offering any reasonable explanation.

119. Police station No. 3 in Pedro Juan Caballero had a cell measuring 1 x 2 m, smelling strongly of urine. At the time of the visit, which took place at around 10 a.m., there was a detainee in the cell who had spent the night there. He said he had slept on the floor as the cell had no mattress. It also had no toilet and the detainee urinated against the wall. The floor of the cell was almost entirely soaked, which made it even more difficult for the detainee to find a place to rest. There was broken glass on the floor of the cell.

120. The cell at police station No. 8 in San Estanislao measured approximately 5 x 7 m, and at the time of the visit housed 11 detainees. According to the accounts heard, the same cell had held up to 25 detainees. The cell had three small recesses, designed to be used as toilets, but only one of them was functioning, and that was in a deplorably unhygienic state. It was very hot in the cell, despite there being two ceiling fans, and the smell from the toilets was nauseating. The mattresses and bedclothes were filthy and were insufficient for the number of detainees held there at the time. The SPT saw cockroaches and a great quantity of rubbish in the cell. The only furniture was a long plank, resting on supports, which served as a table, and tree-trunk sections used as stools. Despite the restricted space available to detainees, the cell served as a storage place for timber, which was piled up at the end of the cell and took up a great deal of space.

121. At police station No. 9 in Limpio, the conditions in the single cell there were slightly better than at the other police stations visited, with regard to ventilation and hygiene. Although the cell was small (1.7 x 3 m), the two detainees interviewed said that both the latrine and the shower were working. There was a mattress on the floor, which the detainees shared. There were no chairs or any other kind of furniture in the cell.

122. Generally speaking, the SPT observed a great difference between the physical state of the police facilities as a whole and conditions in the areas set aside for detainees. Most of the police stations visited are housed in municipal buildings in sound condition and the premises are spacious and acceptably clean. The space reserved for staff is not always very large, but it is decent. On the other hand, the areas set aside for detainees are invariably much smaller, dirty, damp, waterlogged, and in evident disrepair. At the same time, on various occasions (for example, at police station No. 9 in Asunción or No. 8 in San Estanislao) the SPT observed that there were areas that were roomy, well ventilated and free of damp which were unused or underused.

123. Staff at the police stations visited informed the SPT that minors held in detention did not share cells with adults but were held in offices or police station yards. On its visits to police stations, the SPT did not meet with any minors, but some detainees interviewed claimed to have shared a cell with them.

(b) Food

124. At most of the police stations visited, with the exception of the women's police station in Asunción and police station No. 9 in Limpio, the detainees had to obtain their own food, either from their families - as observed by the STP during its visits to certain police stations - or by getting the staff to buy it for them. The SPT heard allegations to the effect that staff very often demanded up to 5,000 guaraníes for this service.

125. At police station No. 8 in San Estanislao, where detainees are housed for up to several months, both the detainees and the authorities in charge confirmed to the SPT that the detainees had to obtain their own food. According to the officer in charge, the police station did not have a budget to feed those held in custody for months on end by court order.

(c) Access to drinking water

126. Concerning access to drinking water, the SPT found that, with the exception of the women's police station in Asunción, none of the cells inspected had taps providing detainees with direct access to drinking water. Obtaining drinking water therefore depended on the officers in charge of the detainees. The STP noted that on some occasions the detainees had been provided with a bottle of water in the cell. On other occasions, the detainees interviewed complained of not receiving enough water to drink.

(d) *Physical exercise*

127. Except in those police stations where brief visits to the toilet were allowed, detainees in police stations could not leave the cells while under detention. The SPT received no information from the police about the opportunities for physical exercise and recreation for detainees. The SPT considers that, to the extent possible, those persons deprived of liberty for over 24 hours should be given the opportunity to take physical exercise. The SPT noted that most of the police stations inspected had suitable facilities for physical exercise, such as gardens or spacious yards.

128. The SPT considers that the dividing line between prisoners' dignity and inhuman conditions is often a matter of a modicum of goodwill and a minimum of financial resources. In light of the foregoing, **the SPT recommends that:**

- (a) **An audit of the police stations holding detainees should be conducted as soon as possible so as to ascertain what improvements can be made to the places of detention at existing facilities, at a modest cost;**
- (b) **The audit should be carried out by a multidisciplinary team drawn from the various sectors involved to date in visiting prisons;**
- (c) **Material conditions in the cells should be improved immediately, especially with regard to minimum floor space, cubic content of air, lighting and ventilation;**
- (d) **Police stations should be given a budget to buy food for detainees, who should receive at least twice a day meals of sufficient nutritional value to maintain their health and strength;**
- (e) **Persons deprived of their liberty should be given at least two litres of drinking water a day, systematically and free of charge;**
- (f) **Persons deprived of their liberty should be given regular access to toilet and shower facilities, and persons having to spend the night in detention should be given beds with mattresses. The cells should be cleaned regularly by police station staff. The sanitary installations should be sufficient to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner;³³**
- (g) **Where possible, persons detained in police stations for more than 24 hours should be given the opportunity of having at least one hour of exercise daily, outside their cells.³⁴**

12. Health

129. None of the police stations visited by the SPT had a staff doctor. The SPT was informed that detainees were transferred to a nearby hospital in the event of health problems (see paragraph 92 above). The detainees interviewed said that access to a doctor was exceptional and only permitted in serious cases. The SPT is concerned that access to medical care for detainees is decided by police staff with no medical training. The SPT recalls that, in line with international human rights standards, detained persons must receive free medical care and treatment whenever necessary.³⁵ **The SPT recommends that, unless police staff have the necessary medical training to diagnose detainees' ailments, they should immediately authorize any request by a detainee to see a doctor.**

13. Prolonged detention at police stations

130. The SPT visited police station No. 8 in San Estanislao, where it noted that it was common practice to hold detainees in custody for periods of up to several months, some of whom had been placed in pretrial detention by court order. Despite this, the police station does not have a budget for the maintenance of detainees, who are fed either by their families or must rely on the goodwill of the police staff responsible for their custody. The SPT is concerned at the lack of staff qualified to guard these detainees for long periods, which means that police are forced to perform what is in fact prison work, for which they are not trained. The SPT was informed by members of civil society that this was also the situation in other police stations.

131. On the basis of the registers it checked and the statements of police staff interviewed, the SPT found that police station No. 8 in San Estanislao regularly held women in custody, sometimes for periods of up to several months, despite not having appropriate infrastructure or any female officers

³³ United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 12.

³⁴ United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 21.1.

³⁵ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 43/173 of 9 December 1988, principles 15 and 19; United Nations Standard Minimum Rules for the Treatment of Prisoners, principle 24.

to guard them. The SPT was informed that the female detainees were held in a room measuring approximately 4 m², which was designed for visits, had no windows, and had only a table and chair for furniture. At the time of the visit, a woman was being held at the police station, but her detention had not been registered. **The SPT recommends to the State party that female detainees should be transferred to police stations that have female officers to guard them and suitable facilities for ensuring they are separated from male detainees. The SPT recommends that the State party should take the necessary steps to increase female police staff at police stations.**

132. The SPT visited the Special Unit of the National Police, which was originally designed as a training centre for anti-riot policing, mounted police work and dog-handling but which in practice was used for guarding inmates, including former police officers. Police officers interviewed by the SPT spoke of the lack of funds or training to carry out prison work, and the unsuitability of the building to guard the prisoners, who had to occupy police dormitories. They said that the Ministry of Justice and Labour, which was responsible for the prison system, allocated no budget at all to the Special Unit for the food and maintenance of the prisoners held there, which meant that the prisoners had to rely on family members for food, or else were dependent on the goodwill and charity of police officers to share their own food with them. Some of the prisoners interviewed who did not receive visits said that police officers had given

them only two biscuits for lunch and two biscuits for dinner and, on occasion, maté tea with two biscuits for breakfast. The prisoners also said that, because of a recent escape, their daily breaks in the fresh air had been stopped and they were only allowed to go into the corridor for one hour a day, remaining locked up in their cells for the remainder of the time.

133. The SPT recommends that the State party should, as a matter of urgency, put an end to the practice of prolonged detention in National Police premises. The SPT recommends that persons being held in preventive detention while awaiting trial should be transferred immediately to prisons where they should be separated from convicted persons. To this end the State party should take the necessary interim measures to house the detainees in conditions compatible with human dignity.

14. Allegations of torture and other ill-treatment

134. The SPT received various testimonies from persons who said that they had been subjected to torture or ill-treatment by National Police officers. Such acts generally took place during arrest or transfer to the police station, or at the station itself, in the initial hours of detention. Sometimes the police officers concerned were not in uniform but wore civilian clothes. According to the people interviewed, the purpose of the torture or ill-treatment was to obtain confessions, inform against other people or provide information on the whereabouts of supposedly stolen goods.

135. The SPT found that there was a certain consistency in the reports by detainees concerning the techniques of torture and ill-treatment used. They repeatedly stated that the techniques commonly employed included suffocation by plastic bags (the “dry submarine” method), sometimes combined with being stripped naked, punches to the windpipe, blows to the ears and nape of the neck, and squeezing of the testicles. One of the detainees interviewed told how two police officers took him to a room in the police station, which he described in detail, where they obliged him to kneel down and placed a white plastic bag over his head in order to suffocate him. The detainee estimated that the suffocation lasted one minute or one and a half minutes, during which time he thought, “that he was going to die”. They also threatened to squeeze his testicles. The persons responsible for these acts were identified by the detainee, although they were not in the police station at the time of the interview.

136. Another detainee interviewed reported having undergone similar acts of torture in another police station where police officers tried to suffocate him using plastic bags. As the detainee managed to burst the first four plastic bags, a thicker bag was eventually used on him. His testicles were also squeezed so hard that he felt a violent pain in his abdomen.

137. All the minors interviewed said that they had suffered torture and ill-treatment during arrest and detention in various police stations throughout the region. They all reported that they had been beaten by the police in the street. According to repeated allegations by the minors concerned, police officers generally patrolled the streets in private cars, dressed in civilian clothes. Some of the minors interviewed had been stripped naked and given the “dry submarine”

treatment in the first hours of police detention.

138. One of the women interviewed said that she had been subjected to ill-treatment by a policeman during police detention. The policeman asked her to perform oral sex on him in exchange for better treatment, struck her in the abdomen and tugged her hair.

139. Various detainees interviewed described how they had been beaten on the soles of their feet (*falaqa*), which in the case of one detainee had been done with billiard cues. Another detainee interviewed told of how the police had wet the floor of his cell and then threatened to electrocute him with an electric cable. The SPT found that there was a cable hanging up in front of the cell door – which did not seem to serve any particular purpose.

140. One interviewee in prolonged detention said that the person who had tortured him was the same one who was guarding his cell at that very moment, which brought back memories of the torture he had suffered. In addition to the deplorable detention conditions described above, the SPT observed examples of other types of ill-treatment by the police. In one of the police stations visited, one detainee who had just arrived was obliged by the police to pick up rubbish with his hands from the station yard before entering his cell. The SPT sees no justification for the police to behave in such a way with a detainee; in the Subcommittee's opinion it constitutes abusive treatment. In another of the police stations visited, the police superintendent considered it acceptable and natural to deal "corrective" blows to detainees. In this connection, the SPT draws attention to the discrepancy with the statement made by the National Police authorities, who maintained that torture and ill-treatment were not tolerated and that there would be no cover-up of the perpetrators, who

would be investigated and would be suspended from duty while the investigation was under way.³⁶

141. None of the detainees interviewed had filed complaints concerning the torture or ill-treatment described, even if some of them could have done so at the hearing in the Public Prosecutor's Office, claiming that they feared reprisals or that the remedies available were ineffective. In this connection, the SPT underlines that steps should be taken to ensure that persons who file a complaint of torture or ill-treatment are protected against possible reprisals.³⁷

142. The SPT considers that some of the practices related by the detainees interviewed, such as the "dry submarine" method and squeezing of testicles, are not simply isolated incidents but represent common and established practice by the National Police during the initial hours of detention. The SPT is extremely concerned at the existence of a pattern in this regard, since the same techniques were described by people interviewed at random in different parts of the country.³⁸

143. From the standpoint of prevention, it is important to recognize that there is a risk of torture or ill-treatment during arrest, investigation and detention by the police. By the same

token, it must be made clear that such acts will not be tolerated under any circumstances and that the perpetrators will be punished, thereby excluding any possibility of impunity.

144. **In view of the foregoing, the SPT recommends that:**

(a) Police officers should receive clear, categorical and periodic instructions on the absolute and mandatory prohibition of any form of torture and ill-treatment and that such prohibition should be included in such general rules or instructions as are issued in regard to the duties and functions of police personnel;³⁹

(b) In accordance with the obligations entered into by the State party under articles 12 and 16 of the Convention against Torture, a prompt and impartial investigation is to be conducted wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed. Such an investigation shall take place even in the absence of a formal complaint;

(c) All police stations and units in the country should have information available and visible to the public on the prohibition of torture and ill-treatment as well as on how and where to file complaints concerning such acts;

³⁶ In accordance with article 51 of the Police Organization Act (No. 222/93), police officers under investigation, subject to a detention order or pretrial detention, or convicted are placed on “leave of absence”.

³⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 13.

³⁸ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Paraguay, A/HRC/7/3/Add.3, paras. 44 and 46.

³⁹ See Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, approved by the General Assembly in its resolution 3452 (XXXX) of 8 December 1975, art. 5.

d) With a view to reducing impunity, police officers who do not wear uniforms when carrying out police duties (in “plain clothes”) are obliged to identify themselves by name, surname and rank at the time of arrest and transfer of persons deprived of their liberty. As a general rule, police officers responsible for enforcing deprivation of liberty or who have persons deprived of their liberty under their custody should be identified in the appropriate registers.

B. Prisons

145. The SPT visited Tacumbú National Prison in Asunción and Pedro Juan Caballero Regional Prison in the Department of Amambay.

146. The SPT was able to conduct a thorough inspection of Pedro Juan Caballero Regional Prison, and managed to get an overall picture of the premises, including the children’s, women’s

and men's quarters. At Tacumbú National Prison, the SPT visited most of the wings, although it was unable to carry out a complete inspection given the size of the facility. At both prisons, the SPT interviewed a large number of inmates and prison staff, including the directors and medical staff. The authorities were always open and cooperative. The SPT has concluded that the existing conditions at Tacumbú National Prison in Asunción and the Pedro Juan Caballero Regional Prison place Paraguay in breach of its international obligations. This assertion is substantiated, inter alia, in the paragraphs that follow.

1. Overcrowding

147. The SPT observed with concern that serious overcrowding was a chronic problem at both the prisons visited.

148. At the time of the Subcommittee's visit, there were 3,008 inmates in Tacumbú National Prison, although the prison has a capacity for 1,200 inmates. As a result, most of the inmates do not have beds and have to sleep on the floor. For example, 268 inmates known and registered as *pasilleros* (corridor people) have not been assigned to any wing and sleep outside in the prison yards and corridors. The SPT interviewed a large number of *pasilleros* and saw the terrible conditions in which this sector of the prison population lives, which, because it is the poorest, is also the most vulnerable.

149. During a constructive meeting between members of the SPT and the director of Tacumbú National Prison at the end of the prison visit, the director informed the SPT of a plan to build a new wing on the site currently known as "*ex sotano*" and to equip the current D wing with additional beds and mattresses. The director also announced a plan to transfer some Tacumbú inmates to Emboscada Prison, which will be operational shortly and have a capacity for 135 prisoners. **The SPT requests the Paraguayan authorities to keep it informed of the development and implementation of these plans and recommends that they be implemented without further delay so that the right**

of every prisoner to a separate bed and individual and sufficient bedding is guaranteed.⁴⁰
The State party must seek a solution to the problem of *pasilleros* immediately.

150. **The SPT recommends that beds and proper mattresses should be made available to all inmates, including prisoners held in solitary confinement.**

151. The SPT noted that in Pedro Juan Caballero Regional Prison, the children's and women's quarters are separated from the adult men's quarters by a fence. According to the inmates interviewed, neither the adult prisoners nor the prison staff enter these areas. However, one person pointed out that although he was a minor, he had been held in an area for adults for one month because he had not had an identity card. Moreover, in both prisons visited, the SPT noticed that convicted prisoners were not separated from those held in pretrial detention, who

account for approximately 80 per cent of the prison population.

152. **The SPT notes that the failure to separate convicted prisoners from prisoners awaiting trial and adults from children is a violation of article 10 of the International Covenant on Civil and Political Rights and recommends that the Paraguayan authorities should ensure that different categories of prisoners are kept in different institutions or different sectors of the same institution.**⁴¹

2. Registration system

153. The SPT checked the registration system in the two prisons visited and held talks with prison staff responsible for keeping and updating the registers.

154. Pedro Juan Caballero Regional Prison keeps an “events log”. It consists of a notebook with numbered pages in which the names of guards are entered and any other relevant information concerning the prison staff and inmates, accompanied by the signature of the prison guards. The SPT noticed blank spaces in the registers. The SPT also had access to the punishment register containing the names of prisoners held in solitary confinement, the type of offence and the signature of the officer in charge; however the length of the punishment was not systematically recorded.

155. Tacumbú National Prison keeps a register of visits by family members and public defenders but not by private lawyers. The SPT also observed the register of disciplinary offences, with its

⁴⁰ Standard Minimum Rules for the Treatment of Prisoners, rule 19.

⁴¹ Convention on the Rights of the Child, art. 37 (c); Standard Minimum Rules for the Treatment of Prisoners, rule 8.

numbered pages and signatures and indications of the penalty imposed (solitary confinement in all cases) and the number of prisoners held in solitary confinement.

156. **The SPT recommends the establishment of a uniform system for registering admissions, in the form of a bound book with numbered pages, in which the identity of the persons held, the reasons for their arrest and the authority which ordered it as well as the date and time of admission and release should be clearly indicated.**⁴² **Prison staff should receive instructions on how to use the registers, so that they do not leave blank spaces between the notes. The SPT also recommends the establishment of a uniform system for registering disciplinary offences, in which the identity of the offender, the penalty imposed, its duration and the officer in charge should be clearly indicated.**

3. Prison management, corruption and system of privileges

157. From the interviews held with many inmates in both prisons, the SPT established that prisoners must pay for any type of benefit.

158. At Tacumbú National Prison, corruption and the system of privileges seem to have reached an alarming level of institutionalization and sophistication. According to statements from inmates, as soon as they are admitted to Tacumbú they undergo a “selection” process before being sent to a wing. Even at the admission stage, prison staff ask newcomers if they would like to be in “a good wing”. If they are willing to pay more than 1 million guaraníes, they are transferred directly to more comfortable quarters. Otherwise they are escorted to the guardroom in post No. 6 where prison staff discuss how much the prisoners are willing to pay to sleep in a wing. Depending on their reply, they are sent to their designated wing at a cost ranging from 50,000 to 500,000 guaraníes.⁴³ Upon arrival in the wing, prison guards hand over the newcomers to the *capataz* (inmate in charge of the ward). The newcomers are obliged to pay the admission fee for the wing in question, which is divided up between the *capataz* and the prison guards. From that moment on there is an urgent need to acquire the money for which they are liable.

159. The SPT visited the VIP wing at Tacumbú National Prison. The material conditions there are considerably better than in the rest of the institution in terms of the space available, functioning of the toilets, plentiful electronic equipment, the presence of many people from outside the centre and the abundant supply of food. Such conditions could not exist without the consent or active involvement of the prison authorities. This proves that privileges are the obverse of the inhuman living conditions found elsewhere in the institution. Prison conditions serve as both threats and incentives to hike the price of space in dormitories where conditions are less grim, as well as in privileged areas.

⁴² Standard Minimum Rules for the Treatment of Prisoners, rule 7.

⁴³ At the time of the adoption of this report, 5,000 guaraníes was equivalent to approximately 0.7 euros.

160. The disparities in the material conditions at Tacumbú National Prison are considered normal by the prison authority itself, as is clear from a report by the Head of Security submitted by the Prison Director to the Supreme Court. The report notes that the Libertad and Lira facilities are regarded as “good” wings, which suggests that the prison authorities take for granted the existence of different types of accommodation.

161. According to repeated and concordant allegations by inmates in the Tacumbú National Prison, there are also weekly fees to be paid to the *capataz* for keeping the wing clean and tidy. If prisoners do not pay the admission fee or various weekly contributions they are expelled from the wing, and become *pasilleros*.

162. The system of corruption and privileges described above has spread to all aspects of daily

prison life, including obtaining beds, mattresses, food, and medicine, visiting the doctor or even access to work. According to statements by various detainees, access to the approximately 100 jobs available is restricted to those who are willing to pay for their job, and for the tools needed to do it.

163. The SPT considers that corruption is both the cause and the consequence of torture and ill-treatment. People enter into the system of corruption and privileges under duress and become corrupt so as not to suffer abuse. If they do not go along with the system, they are subjected to ill-treatment even torture. Corruption also ensures silence, blocks complaints and guarantees impunity. A system of corruption as hermetic and complex as the one observed by the SPT would seem to offer no choice as regards entering it and no way of escape from it. The SPT also considers that the low salaries of the prison guards serve to exacerbate the phenomenon.⁴⁴

164. In this connection, the SPT would like to highlight one positive aspect: the new prison authorities are aware of the problem of corruption, speak openly about it and seem determined to combat it. This in itself is a key first step. Nevertheless, given the extent and depth of the corruption, a high level of political commitment and a determination to carry through meaningful reform will be required as well a thorough renewal of prison staff.

165. **In view of the foregoing, the SPT recommends:**

- (a) The adoption by the highest authorities of a firm and transparent prison policy to combat corruption;**
- (b) The training of prison officers, supervisory staff and prison management, and the payment of adequate wages to prison personnel;**
- (c) The adoption of measures to promote access by civil society and representatives of the media as a means of ensuring external monitoring;**

⁴⁴ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Paraguay, A/HRC/7/3/Add.3, para. 68.

d) Immediate adoption of the following measures:

- (i) Monitoring the assignment of cells and beds to ensure that all inmates have a decent place to sleep without being obliged to pay for it;**
- (ii) Banning the carrying of money by staff within the institution, and overseeing the enforcement of this ban;**
- (iii) Recording in the inmates' personal files the wings to which they are assigned and the reasons for that assignment.**

166. According to repeated and concordant allegations, drugs are widespread in Tacumbú National Prison, particularly cannabis and cocaine and its derivatives (crack). Medical staff estimate that approximately 30 per cent of inmates regularly use these substances. The wide availability of drugs along with the high number of knives in the prison points to the need to step

up security.

167. The SPT recommends that the prison authorities should not only step up security and combat corruption but also make a concerted effort to prevent drugs being brought into the prison, to identify access routes and to establish campaigns to dissuade inmates from using these substances. At the same time, they should introduce detoxification programmes for individuals and family reintegration therapy.

168. According to information obtained by the SPT from medical records, 20 detainees died at Tacumbú National Prison in 2008. Nine of them were the victims of stab wounds, two of them having been in the solitary confinement wing. It is estimated by medical staff that approximately one in four detainees dies from wounds, caused mainly by fights between rival groups of detainees. According to information provided by the prison director, during a search carried out in 2008 approximately 2,000 knives were confiscated.

169. The SPT recommends that the number of prison guards at Tacumbú National Prison should be increased to an appropriate level in order to ensure security and respect for the integrity of all persons deprived of their liberty.

4. Health

170. The SPT found that the prisons visited did not guarantee detainees the right to the highest attainable standard of physical and mental health.

171. The medical examination carried out upon admission to prison is extremely important. In the first place, it helps to prevent torture and ill-treatment in the case of people coming from police stations, by making it possible to establish whether there are any signs of previous ill-treatment and assess when it might have taken place. The examination also provides a good opportunity to assess the state of health and medical needs of prisoners, to carry out voluntary tests and to offer advice on sexually transmitted diseases as well as information on the prevention of such diseases and other infectious diseases or drug addiction.

172. According to government sources, medical examinations upon admission to prison are conducted as a matter of routine, subject to the availability of medical staff. Otherwise, the medical examination takes place as soon as medical staff become available in the institution concerned. Staff at the Tacumbú National Prison clinic informed the SPT that upon arrival at prison three inmates who help out in the clinic take note of the name and other personal details of the prisoner as well as any indicated health problems. Where there is no health problem, the prison doctor sees them the following day. The prisoners interviewed, however, denied that a medical examination is carried out upon arrival at the facility. The SPT is concerned that access to medical care is at the discretion of the inmates who help at the clinic. It considers that all prisoners must be examined by a doctor on or as soon as possible after admission.⁴⁵

173. The SPT recommends that medical practitioners should examine all inmates upon admission to the prison. The examination must be carried out on the basis of a general

questionnaire that, in addition to general health questions, must cover any acts of violence suffered recently. Medical practitioners must also conduct a complete medical examination, including a full body examination. If patients show signs of having suffered acts of violence, medical practitioners must assess whether the account of the acts is consistent with results of the medical examination. When medical practitioners have reasons to believe that torture or ill-treatment have taken place they must include such information in the register prescribed in paragraph 97.

174. As mentioned above, in addition to medical staff, Tacumbú National Prison clinic employs three prisoners who help to distribute prescribed medicines and to organize patients' medical records. The SPT recognizes that entrusting such tasks to prisoners may be useful for their subsequent reintegration into society; however it is concerned that it is detrimental to medical confidentiality. Confidentiality is extremely important for gaining the trust of patients and is closely related to the right to privacy. The current system whereby a prisoner who is not a medical practitioner carries out the initial interview may give rise to a lack of confidence in the clinic and may result in patients providing less accurate information. Furthermore, opportunities may be lost to collect information on current illnesses (e.g. tuberculosis) and exposure to acts of violence prior to arrival at the institution. It may also place inmates in a difficult situation if they need to deny their fellow-inmates medicine owing to shortages. **The SPT recommends that prisoners' medical records should be kept strictly confidential and that only medical staff should have access to them.**

175. After comparing requests for medical equipment against the audited receipts, the SPT noticed that the equipment received did not satisfy the demand. Nevertheless there were enough basic medicines. **The SPT recommends that the supply of medicines should be increased to meet prescription requirements. In the case of a shortage of medicines, doctors should establish an order of priority among patients.**

⁴⁵ Standard Minimum Rules for the Treatment of Prisoners, rule 24.

176. The SPT found the pharmacy at Pedro Juan Caballero Regional Prison to be well stocked. During conversations with prison staff, it became clear that that was not the usual state of affairs and that the medicines had arrived three days before the SPT visit.

177. Staff at both prisons stated that access to a doctor was unlimited and free of charge. This was denied, however, in testimony received from prisoners. At Tacumbú National Prison, inmates talked of having to pay up to 5,000 guaraníes to attend the clinic. At Pedro Juan Caballero Regional Prison, some inmates said that they had been punished with beatings or solitary confinement simply for asking to see a doctor. This is a matter of grave concern to the SPT, considering the large number of inmates with manifest health problems, in particular weight loss, coughs and skin infections. **The SPT underlines that the right of prisoners to see a doctor at any time free of charge must be respected,⁴⁶ and recommends that steps be taken to give effect to that right. Prisoners should be able to seek professional medical**

assistance in confidence and without their requests being obstructed or filtered by guards or other inmates.

178. During conversations with the authorities and medical staff, the SPT established that there is no information on the number of HIV-positive prisoners in Paraguayan prisons or that the information available is clearly incorrect.⁴⁷ At Tacumbú National Prison, HIV/AIDS and tuberculosis were diagnosed at the clinic and treatment is being administered in accordance with national guidelines and under the supervision of specialists. Of the nine people diagnosed as HIV-positive, five were receiving treatment. Tuberculosis is a serious problem in Tacumbú, where the incidence of the disease is considerably higher than among the Paraguayan population. Routine checks to detect tuberculosis are not carried out. At Pedro Juan Caballero Regional Prison, the authorities did not know whether there were any HIV-positive inmates among a population of almost 200. Two detainees have tuberculosis and are receiving treatment. According to the prison director, inmates suffering from tuberculosis are isolated for a period of two weeks after which they are returned to their wings.

179. The SPT recommends that all prisoners should have the opportunity to be X-rayed for tuberculosis using mobile X-ray units and that treatment should commence for inmates who have tested positive. Prisoners sharing a cell with a person infected with tuberculosis should be allowed to undergo a second X-ray and the Mantoux test (for prisoners who have not been vaccinated) three months later. This procedure should be repeated periodically to prevent the outbreak of further cases. As regards HIV/AIDS, the SPT recommends that all prisoners should be provided with a free and voluntary HIV test. The tests should be confidential, be

⁴⁶ Standard Minimum Rules for the Treatment of Prisoners, rule 24; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 24.

⁴⁷ For example, according to information received from the State party in March 2009, there are 10 HIV-positive inmates at Tacumbú National Prison, which has a prison population of more than 3,000. Staff at the Tacumbú clinic said that there were nine HIV-positive inmates.

accompanied by advice and be administered only with the prisoners' informed consent.⁴⁸

180. The SPT has been informed of plans to establish a health promotion system at Tacumbú National Prison under the supervision of prisoners trained for that purpose. **The SPT requests information on any progress made with the establishment of this system and in particular on the control of infectious diseases such as HIV/AIDS and tuberculosis.**

181. The SPT visited the wing for mentally disabled inmates in Tacumbú National Prison, which was found to be acceptably clean. Nevertheless, it noticed that certain beds and the roof of the wing were in need of repair and that no activities whatsoever were organized for patients. In the course of discussions, the prison director referred to the problem posed by the lack of clear legal provisions regarding the treatment of mentally disabled persons in conflict with the law,

which had on several occasions resulted in the transfer of inmates to the neuropsychiatric hospital and then back to Tacumbú. He also said that the facility did not have the skilled specialists and appropriate medication to care for inmates of this kind.

182. The SPT recommends that Paraguay should adopt legislation guaranteeing the rights of mentally disabled patients deprived of their liberty and/or under treatment against their will. The SPT further recommends that mentally disabled persons deprived of their liberty should be transferred as soon as possible to specialized institutions under medical management.⁴⁹ The SPT also recommends that the furniture and roof of the wing for the mentally disabled in Tacumbú National Prison should be repaired and that programmes of activities should be organized for those patients who are able and willing to participate.

5. Material conditions

183. Accommodation, food and hygiene are factors which contribute to the dignity and well-being of persons deprived of their liberty and of prison staff. When substandard material conditions are combined with a high level of overcrowding, both have an adverse effect on living and working conditions in the prison, and give rise to tensions among inmates and between inmates and prison staff. The SPT visited the cells, dormitories, communal areas, kitchen and toilet facilities in the two prisons and found their general state to be deplorable in terms of maintenance and hygiene. Most of the wings did not have natural light or proper ventilation and were extremely overcrowded. The SPT has concluded that the material conditions of the prisons do not comply with national legislation (in particular, the Prisons Act (No. 210/1970)) and relevant international standards.

⁴⁸ See *International Guidelines on HIV/AIDS and Human Rights, 2006 Consolidated Version*, guideline 4, UNAIDS/OHCHR, HR/PUB/06/9 (2006); *WHO guidelines on HIV infection and AIDS in prisons*, UNAIDS/99.47/E (1999).

⁴⁹ Standard Minimum Rules for the Treatment of Prisoners, rule 82.

184. The solitary confinement cells at Tacumbú National Prison were in a particularly bad state. There were three cells that were approximately 2.5 m² by 2.5 m², one of which had up to five prisoners crammed into it. None of the bathrooms were working properly, and two of them leaked incessantly. The prisoners said that there were rats in them. The stench along with poor ventilation and the heat in the cells made it difficult to breathe. The SPT interviewed the 11 prisoners who were being held in the solitary confinement wing on various grounds, including clashes with other prisoners, disobeying the orders of prison staff, attempted escape and possession of knives or drugs. One of the prisoners had been in solitary confinement for almost three months, yet the prison regulations and the Prisons Act (No. 210/1970) establish the maximum period of solitary confinement as 30 days. All the prisoners interviewed confirmed that prison staff demanded payment of a large sum of money as a condition for leaving the

solitary confinement wing. **The medical officer should visit prisoners held in solitary confinement every day,⁵⁰ on the understanding that such visits should be in the interests of the prisoners' health. Furthermore, prisoners held in solitary confinement for more than 12 hours should have access to fresh air for at least 1 hour each day.**

185. **The SPT points out that prolonged solitary confinement may amount to an act of torture and other cruel, inhuman or degrading treatment or punishment⁵¹ and recommends that the State party should severely restrict the use of solitary confinement as punishment for persons deprived of their liberty.⁵² Solitary confinement should not be used in the case of minors or the mentally disabled.⁵³**

186. Following discussion with the SPT, the Director of Tacumbú National Prison decided, on the spot, to return 8 of the 11 prisoners who had been placed in the solitary confinement wing for minor offences to the ordinary prison regime, and to transfer the remaining 3 prisoners to better cells. The Director also provided the SPT with a copy of plans for new solitary confinement cells, whose construction he said would begin shortly. The SPT discovered through information in the public domain that the solitary confinement cells in the Alcatraz wing had been closed down permanently a week after the SPT visit. **The SPT welcomes the closure of this wing and would like to receive confirmation from the State party of the definitive closure of the wing as well as information on the progress of the works and the estimated date of opening of the new solitary confinement cells.**

⁵⁰ Standard Minimum Rules for the Treatment of Prisoners, rule 32.

⁵¹ Human Rights Committee, general comment No. 20, HRI/GEN/1/Rev.9 (Vol. I).

⁵² Basic Principles for the Treatment of Prisoners, adopted and proclaimed by the General Assembly in its resolution 45/111 of 14 December 1990, principle 7.

⁵³ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by the General Assembly in its resolution 45/113 of 14 December 1990, rule 67.

187. At Pedro Juan Caballero Regional Prison, the worst conditions were in wing B1. Apart from being overcrowded, the building had leaks and was infested with insects. In addition, the kitchen where the prisoners' food was prepared was extremely dirty and the cooking utensils were of very poor quality. The SPT had the opportunity to visit the new prison building, which is nearly completed and easily satisfied international minimum standards for the accommodation of prisoners. **The SPT recommends that the completion of this building should be speeded up and that maximum priority should be given to closing down the existing facility.**

188. **In general, the SPT recommends that a plan of action on prisons should be drawn up and disseminated so as to ensure that the basic needs of all persons deprived of their liberty are met. As a matter of priority, this should include an inspection of the material conditions of Paraguayan prison facilities, with a view to establishing and implementing**

cleaning, renovation and refurbishment programmes. In particular, the following should be addressed:

- (a) All persons deprived of their liberty should have a bed and a mattress on which to sleep, with sufficient bedding that is properly maintained and regularly changed so as to ensure that it is kept clean;
- (b) Ventilation, cubic content of air, minimum floor space, lighting and access to natural light in cells and dormitories should be guaranteed;
- (c) Prisons should have adequate sanitary facilities in a proper state of repair, sufficient for personal hygiene, washing of clothes and waste disposal.

(a) *Sanitary facilities*

189. Most of the sanitary facilities visited were out of order. In many of them excrement and urine were accumulating, causing a stench that at times permeated the whole wing. Given the number of inmates in the prisons in question, the SPT considers that the current sanitary facilities are inadequate.

190. The toilet facilities in the D wings (*mixta baja, ex comedor, and cuadrilátero*) in Tacumbú National Prison were found to be the worst of all: the latrines were overflowing and blocked; there was absolutely no ventilation and the water supply was irregular or intermittent. When the SPT visited these facilities at night, they were in darkness and there was no electric light. The toilets do not have doors, which means that prisoners cannot use the facilities in privacy. Owing to the shortage of water, prisoners are not able to keep themselves properly clean either.

191. At the end of the visit, the director assured the SPT that the sanitary facilities in the above-mentioned wings would be repaired within one week. **The SPT would like to receive confirmation from the State party that the facilities in question have in fact been repaired, as promised. The**

SPT urges the State party to increase the current number of sanitary facilities⁵⁴ and to carry out urgent and regular repairs on all damaged toilets and clean up the facilities in general throughout the prison wings.

(b) *Food*

192. At both prisons, the SPT received complaints from inmates about the quality of the food, which was described as “slop”. The SPT visited the kitchens at both prisons and was present as the evening meal was being served. The SPT concluded that both the quality of the food and the

way it was served was unsatisfactory and, at times, humiliating. In the mixed wing in Tacumbú National Prison, the SPT saw how food was served in the toilet, out of dirty pots using converted plastic bottles. Several inmates said that the food was better that day because of the SPT visit. Nearly all the inmates interviewed said that they had lost weight since coming to prison owing to the poor nutritional content of the food. One interviewee said that he had had to eat out of the garbage. At Pedro Juan Caballero Regional Prison, the SPT saw that the food was prepared by one of the inmates in appallingly unhygienic conditions, without the necessary equipment. At both prisons there are outlets run by the inmates, where those who have the means to do so can purchase better quality food.

193. The SPT recommends that the State party should allocate sufficient budgetary resources to provide food for prisoners and ensure, through the necessary monitoring mechanisms, that the food purchased is nutritious, effectively distributed to all inmates and prepared and served in a proper and decent manner. The SPT would like to receive information, broken down by prison, on the annual budget for food allocated to the General Directorate of Prisons. The SPT would also like to receive clarifications on measures adopted to ensure the transparent and efficient use of the budget.

6. Prison staff

194. The SPT noted that there was a shortage of staff in both prisons visited. At Pedro Juan Caballero Regional Prison, there are 8 prison officers per shift to supervise 190 adult prisoners. At Tacumbú National Prison there are 30 prison officers per shift responsible for supervising more than 3,000 prisoners. Of the 30 officers, 24 were on duty at the time of the visit, 6 being on sick leave or on holiday. These figures do not correspond to those provided by official sources, according to which a total of 50 officers are allocated per shift in Tacumbú. This discrepancy is explained, according to statements made by the competent authorities, by the fact that in practice some members of staff are assigned to other duties within the State structure.

⁵⁴ WHO estimates that the ideal proportion is 1 latrine per 20 prisoners; in exceptional cases 1 latrine per 50 prisoners is acceptable. *Water, Sanitation, Hygiene and Habitat in Prisons*, International Committee of the Red Cross, 2005, p. 92.

195. According to information from both the prison authorities and staff interviewed, there is a general lack of initial and in-service training for staff. **The SPT has received information concerning a project organized jointly with the International Committee of the Red Cross to provide 50 prison officers with training in human rights and encourages the State party to extend such projects to all prison officers in active service.**

196. The SPT recommends that the number of prison officers should be increased so as to ensure the overall security of the facilities as well as the safety of staff themselves and that of prisoners against possible acts of violence by other prisoners. The SPT further

recommends that, in line with the minimum international standards, staff should receive adequate salaries and a course of training in their general and specific duties and sit theoretical and practical tests to determine their ability to perform this type of service.⁵⁵

197. The SPT recommends that the State should consider the possibility of establishing a prison service study course as a means of raising professional standards among prison staff.

7. Discipline and punishment

198. In addition to the penalties provided for acts classified as offences under the Criminal Code, persons deprived of their liberty are subject to the penalties laid down by the Prisons Act No. 210/170. These may consist of: (a) a warning; (b) total or partial loss of privileges; (c) confinement in one's own cell and reduction of amenities; (d) solitary confinement for up to 30 days; (e) placement in groups subject to harsher treatment; (f) transfer to another type of establishment. The SPT notes that although the Prisons Act dictates which penalties should be applied, it does not stipulate which conduct constitutes a disciplinary offence, which may give rise to arbitrariness in the application of penalties.

199. During a meeting with the Director of Tacumbú National Prison, the SPT was informed of the existence of punishment regulations, which, however, were not available because the administrative director was not present. According to the Director of Tacumbú National Prison, the punishment most frequently ordered is solitary confinement, which may take place in the guardroom of post No. 6 for minor offences and/or in the solitary confinement wing for serious offences, such as homicide, bodily harm or clashes with prison staff. As required by the Prisons Act, a register with numbered pages carrying signatures was kept of prisoners held in solitary confinement, with an indication of the offence committed.

200. The SPT requests a copy of the punishment regulations as well as more detailed information on the procedure for imposing punishments and the authority responsible for

⁵⁵ Standard Minimum Rules for the Treatment of Prisoners, rules 46 and 47.

ordering them. Without prejudice to the foregoing, the SPT recommends that all prisons should have disciplinary regulations stipulating (a) the forms of conduct constituting a disciplinary offence; (b) the types and duration of the punishments which may be inflicted; (c) the authority competent to impose such punishments.⁵⁶ Any disciplinary measure should be applied in accordance with the regulations, of which all prisoners must have a copy. The SPT recommends that all persons deprived of their liberty should be granted the right to be heard before disciplinary action is taken and to bring such action to higher authorities for review.⁵⁷

8. Work, cultural and educational activities

201. The SPT noted that there were few, if any, opportunities for work, cultural and educational activities in the two prisons visited.

202. At Pedro Juan Caballero Regional Prison, the SPT found that the six female inmates shared a very small space consisting of a sleeping area, toilet and kitchen. Next to that was a semi-open room, with a wire partition, to which the inmates had access between 6 a.m. and 6 p.m. Outside of those hours the room remained closed, the SPT was told, as a security measure following an inmate's escape. The inmates were allowed out into the courtyard for some fresh air only two hours a week, and were confined for the rest of the time to the space described. All the inmates interviewed said that the space had previously been shared by 22 prisoners.

203. The SPT noted that minors detained in the same prison attended two and a half hours of classes a day, had access to fresh air on a daily basis and practised sport once a week.

204. At Tacumbú National Prison, the 100 or so jobs available were given to those inmates (out of a total of over 3,000) who were prepared to pay the required kickback, as described in paragraph 162 of this report. With regard to educational activities, the Tacumbú director informed the SPT that courses for 500 inmates had started at the prison school eight days ago and that it was hoped to increase that figure to 1,500 prisoners in the future.

205. The SPT recommends that the Paraguayan authorities should ensure that all prisoners (male and female) have at least one hour of suitable exercise in the open air daily, in line with

⁵⁶ Standard Minimum Rules for the Treatment of Prisoners, rule 29.

⁵⁷ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 43/173 of 9 December 1988, principle 30.2.

the minimum international standards.⁵⁸ It further recommends that all prisoners should be given access to work, educational and cultural activities, and that a library with a sufficient number of educational and recreational books should be made available.⁵⁹

9. Contact with the outside world

206. Persons deprived of their liberty have the right to receive visits, correspond with their family and friends, and maintain contact with the outside world.⁶⁰ Contact with the outside world

will facilitate their reintegration upon release. In addition, contact with people from outside the prison can provide a safeguard against acts of torture or ill-treatment.

207. In general, the SPT received few complaints from those interviewed concerning the system for prison visits. One of the most frequent complaints was about the lack of privacy during visits by family members. Another complaint was about the lack of visits for prisoners whose families lived in other cities or countries.

208. At Pedro Juan Caballero Regional Prison, there was a public telephone that did not work. Some prisoners said that the telephone had not been repaired despite repeated requests. **The SPT recommends that the prison authorities ensure that each prison has at least two working telephones accessible to persons deprived of their liberty.**

209. At both prisons, the SPT noted that some inmates had televisions or radios for personal use. However, these had not been provided by the prisons themselves and were therefore not available to all inmates.

210. At Tacumbú National Prison, the SPT was told that meetings between inmates and their lawyers took place in private, in offices provided for that purpose.

10. Allegations of torture and ill-treatment

211. The SPT heard repeated and consistent accounts from the inmates in the two prisons visited of torture and ill-treatment by prison staff. The information received leads the SPT to conclude that prison staff routinely inflict ill-treatment on prisoners, including when they are asleep, in order to intimidate or punish them, or sometimes for no apparent reason. Only those detainees housed in the

⁵⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 21.

⁵⁹ United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 40.

⁶⁰ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in its resolution 43/173 of 9 December 1988, principles 15 and 19; United Nations Standard Minimum Rules for the Treatment of Prisoners, principle 92.

sections for women and minors at Pedro Juan Caballero Regional Prison said that they were generally well treated by the prison staff, with the exception of one guard in the minor's section, who occasionally struck the minors with his hand or truncheon by way of punishment, and a female guard in the women's section, who repeatedly insulted the female inmates and threatened them with her truncheon in order to intimidate them, but had so far not carried out her threats.

212. At Tacumbú National Prison, the SPT heard repeated and concordant accounts of beatings by the prison staff, either with their truncheons or their fists. Use of the *teju ruguai*, a kind of

leather whip employed as a disciplinary instrument, is said to be common. One technique reported to the SPT, used to extract confessions of homicide or other serious offences, is to order the suspect to strip naked and lie face-down on the floor; the guards then walk over their bodies in their boots until the culprit owns up. One prisoner interviewed in the Tacumbú solitary confinement wing said that one of the guards had put a rifle in his mouth for having tried to escape, gashing his mouth. Another prisoner said that, as a punishment for urinating against a wall, he had been made to stand on his head and had been beaten on his calves and the soles of his feet.

213. At Juan Caballero Regional Prison, the SPT heard consistent accounts of routine beatings by guards. Prisoners identified one guard in particular, who had been transferred from another prison because of previous incidents of torture, as being the most prone to acts of ill-treatment.

214. The SPT also heard allegations of violations committed by inmates against each other at the Tacumbú National Prison, sometimes in front of the guards or with their consent. One prisoner said he had been raped on three occasions, including one in which he had been made to walk around wearing a short skirt, and was then raped by a group of prisoners. The SPT heard consistent accounts of transvestites detained at Tacumbú being frequently obliged to perform sex scenes in the courtyards in front of other inmates and guards, who paid to watch. It was reported that one transvestite died in 2008 as a result of a guard inserting a club into his anus. The SPT reminds the State party that it is responsible for guaranteeing the safety of the persons under its custody. **The SPT strongly condemns the episodes of sexual violence described, which constitute a form of torture.**

215. **The SPT encourages the State party to maintain and step up measures to prevent torture and other ill-treatment, as part of a comprehensive State policy. This work should be accompanied by extensive public awareness campaigns on the prevention of torture and ill-treatment, and information campaigns on how and where to report cases. It further recommends that the State party should undertake to provide human rights training to prison staff.**

216. **The SPT requests the State party to carry out a prompt and impartial investigation into all allegations of torture and ill-treatment, including sexual violence, in accordance with articles 12 and 13 of the Convention against Torture. In cases where those allegations involve prison staff, the staff members should be suspended from duty for the duration of the trial, and dismissed from the service if they are found guilty.**

11. The submission of complaints or appeals as a safeguard against torture and ill-treatment

217. In general, the detainees tended to be largely unaware of the possibility of submitting a complaint or appeal in the event of torture or ill-treatment. The overall attitude was one of resignation and fear of reprisals if they reported ill-treatment, since in general any contact with the prison director was via the guards, who were precisely the ones against whom a complaint

might be made. Apart from the lack of regular, unrestricted contact between inmates and their public defenders, the absence of mechanisms for public scrutiny make it difficult to report ill-treatment.

218. The SPT considers that the right of detainees and their lawyers to submit petitions or appeals regarding their treatment to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers, constitutes a basic safeguard against torture and ill-treatment. **The SPT recommends that the State party should set up an effective, confidential and independent complaints system in all prisons. Each prison should keep a register of complaints, which should include information on the complainant's identity, the nature of the complaint, the action taken, and the outcome of the complaint.**

C. Neuropsychiatric hospital

219. The SPT visited the neuropsychiatric hospital in Asunción in order to assess the material conditions there. The SPT interviewed the hospital director, who was cooperative and willing to provide information at all times. The hospital was divided into two sections (one for men and one for women) separated by a fence. Men were not allowed into the women's section, and hospital staff were in charge of enforcing that rule. In both sections, patients had access to gardens, which were reasonably well maintained. In 2008, there was no surveillance of the hospital perimeter, and outsiders managed to get into the hospital, where they abused some of the women patients. There is now police surveillance of the hospital perimeter in order to prevent the entry of unauthorized persons. There are plans to install alarms and to hire private guards in order to guarantee perimeter security.

220. In 2007 and 2008 there were incidents of sexual violence between patients, and of inappropriate use of force by hospital staff. According to information given to the SPT, these cases were referred to the Office of the Ombudsman and to an NGO. Since 2008 there have been no reports of sexual violence against patients.

221. The SPT visited all wards, which housed between 10 and 12 patients, and observed that the dormitories were plain, but reasonably clean, with ventilation and natural light. All patients had a bed and a mattress. Patients were assigned to a particular ward on the basis of objective medical criteria. The toilet facilities were clean and in working order. Only those patients with more serious problems were placed in special areas, separate from the rest. Violent patients could be transferred to solitary confinement cells for periods lasting from hours to days while they received medical treatment. Solitary confinement cells had no furniture, only mattresses. They also had a shower and bath. They were properly ventilated, but had very little natural light. A nurse was available 24 hours a day to attend to persons in these cells.

222. The atmosphere in the wards was relaxed. At the time of the visit, there were apparently no patients subject to constraining measures. Medical treatment was free and there were follow-up programmes for patients discharged from the facility. Some patients who had been at

the institution for a long time and had no family to support them lived together in groups of 10. These patients were taught to cook and attend to certain basic needs. After a while, these patients were given the opportunity to live in a community where they continued to receive medical supervision.

223. Although the SPT noted the availability of painting and drawing classes in certain wards, the institution's main problem appeared to be the lack of activities for patients. Just 10 to 15 per cent of patients took part in recreational therapy. The SPT found that the overwhelming majority of patients had little or no privacy, and no place to keep their personal effects. The SPT had heard serious allegations regarding the situation in this establishment. From what it was able to observe directly, the SPT concluded that there had been a significant improvement in conditions in recent times.

224. The SPT recommends that patients are given greater opportunity to take part in rehabilitation activities. The SPT also recommends that all patients are given lockers in which to store their personal effects.

D. Repercussions of the visit

225. The SPT is concerned at the possibility of reprisals against inmates who were interviewed. Detainees sometimes said that they were afraid to talk with the SPT delegation because of the possible consequences.

226. The SPT underlines that any form of intimidation or reprisals against persons deprived of their liberty constitutes a violation of the State party's obligation to cooperate with the work of the SPT under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. **In accordance with article 15 of the Optional Protocol, the SPT calls upon the Paraguayan authorities to ensure that there are no reprisals following the delegation's visit. The SPT requests the State party to provide detailed information on what it has done to prevent reprisals against detainees who provided information to the SPT.**

E. Additional information provided by the State party

227. In a note dated 19 June 2009, the Permanent Mission of Paraguay to the United Nations Office in Geneva sent the SPT information from the Ministry of Justice and Labour on the measures taken by the Ministry between the SPT's visit to Paraguay and the date of adoption of this report.

228. In its resolution No. 218/09 of 23 March 2009 the Ministry of Justice and Labour established a special commission for the monitoring and implementation of the SPT's preliminary observations. The mission is composed of six senior officials from the Ministry, and is tasked with verifying in situ the SPT observations and presenting a report to the Ministry of Justice and Labour, with conclusions and proposals for action.

229. The special commission visited the two prisons inspected by the SPT. In each prison, the work of the special commission focused on three main areas: corruption, infrastructure and human rights.

230. With regard to Tacumbú National Prison, the special commission's report echoed the SPT preliminary observations regarding the problem of corruption. The report recommends establishing a policy for restructuring the prison administration system, to include a definition of jobs and profiles and the conditions governing the recruitment and promotion of prison staff, as well as a ban on carrying money on the prison premises. The report also recommends improving systems of access to health care, minimum infrastructure standards, access to medicines and the provision of food.

231. With regard to the infrastructures at Tacumbú National Prison, the special commission noted the serious situation of overcrowding in the prison, and the shortcomings in sanitation services, electrical installations and fire emergency systems. The special commission recommended a series of measures for improving infrastructure conditions and fire prevention arrangements.

232. With regard to the human rights of detainees at Tacumbú National Prison, the special commission issued recommendations in the areas of health, food, minimum conditions of detention, torture and ill-treatment, and discrimination, with particular reference to:

- (a) Compulsory visits by prison doctors to prison wings, and an increase in their working hours to 32 hours a month;
- (b) The contracting out of food services and the acquisition of cutlery, tables and chairs;
- (c) The purchase of 500 mattresses, as a matter of urgency, for the "cuadrilátero" and "mixta" wings of D block; and
- (d) The establishment of internal systems for registering complaints of torture and ill-treatment.

233. With regard to Pedro Juan Caballero Regional Prison, the special commission issued broadly the same recommendations as for Tacumbú National Prison. With regard to the women and minors detained at Pedro Juan Caballero, the special commission recommended the introduction of educational and recreational activities and separation of the different population groups, adapting their living conditions so that women and teenagers could go outside for as long as they liked, pending their transfer to the new prison.

234. Lastly, in the context of a follow-up meeting to the SPT visit, which took place on 16 June 2009 between the Ministry of Justice and Labour and the head of the SPT delegation, the State informed the SPT that the opening of the new Pedro Juan Caballero Prison and the consequent closure of the existing prison would take place within a period of 60 days. At the same meeting, the definitive closure of the so-called "Alcatraz" solitary confinement wing at Tacumbú National Prison was confirmed, and various possibilities for follow-up activities to the SPT recommendations were discussed. The State party reiterated its willingness to cooperate and

work together with the SPT.

235. The SPT takes note with great satisfaction of the information provided by the State party regarding the forthcoming opening of the new Pedro Juan Caballero Prison and the corresponding closure of the existing prison.

236. The SPT likewise welcomes the establishment by the Ministry of Justice and Labour of the special monitoring commission responsible for verifying in situ the SPT's preliminary observations concerning matters within the Ministry's competence and for making recommendations for compliance with them. The SPT urges the State party to extend the functions of the special commission to encompass the recommendations contained in the present report.

237. In its note of 14 August 2009, the Permanent Mission of Paraguay to the United Nations Office in Geneva informed the SPT that the Ministry of Justice and Labour by its decision of 9 July 2009 had increased the working hours of prison medical staff to a maximum of 40 hours a week and had made it mandatory to establish monthly reports on the health care provided. The State party also provided information on the training in first aid and basic psychology given to a number of inmates at Tacumbú National Prison. Lastly, the SPT was informed of the plan to register all inmates in a programme of activities with effect from 17 August 2009.

V. Summary of recommendations and requests for information

A. Recommendations

Legal framework

238. In view of the current definition of the offence of torture contained in the Paraguayan Criminal Code, the SPT recommends the early adoption of the legislative measures necessary to align Paraguayan legislation with international treaties on torture, especially article 1 of the Convention against Torture.

239. The SPT recommends that, in order to remedy the lack of a definition of the offence of torture, a criminal offence should be included in the Paraguayan Criminal Code, in conformity with article 1 of the Convention against Torture, and penalties established that are commensurate with the seriousness of the offence.

Institutional framework

240. The SPT recommends that the State party should grant inter-institutional commissions the necessary financial and logistic support to carry out their regular visits to places housing persons deprived of their liberty. The SPT further recommends that the functions, experience and knowledge acquired by these commissions should be taken into account by the National Preventive Mechanism (NPM), once it has been established.

241. With regard to the Office of the Ombudsman, the SPT recommends that this institution:

- (a) Carry out periodic visits and develop techniques for thorough inspections - with the emphasis on personal contact with detainees and direct viewing of places of detention - so as to ascertain the living conditions and treatment of those deprived of their liberty;
- (b) Deal promptly and effectively with the complaints it receives concerning human rights violations;
- (c) Maintain a database to compile systematic information about the type of complaints received, the results of investigations undertaken, and the recommendations made;
- (d) Fulfil its legal terms of reference by reporting the human rights violations it discovers to the Public Prosecutor's Office.

242. With regard to the National Police, the SPT recommends that the Department of Public Order and Security or some similar office, whether existing or to be established, should regularly supervise the conditions of detention of persons deprived of their liberty in police stations, and should submit reports with recommendations for the continual improvement of those conditions. It should likewise ensure proper follow-up of those recommendations.

243. With regard to the judiciary, the SPT recommends that the Prison Supervision Unit be granted the necessary human and financial resources to carry out the functions assigned to it under Agreement No. 30, in particular its responsibilities for inspecting detention centres and prisons and collecting statistical data. Concerning supervisory visits, the SPT recommends that, to be more effective, they should not be announced in advance and should place the emphasis on direct contacts with persons deprived of their liberty, who should not be pre-selected by prison staff, and that the visits should be followed up by recommendations.

244. The SPT recommends that:

- (a) Steps should be taken to review habeas corpus and *amparo* legislation, and to examine the problems posed in practice by these legal instruments so as to ensure that they are effective in meeting the needs of persons deprived of their liberty;
- (b) The current status of proceedings with respect to all prisoners claiming to have served their sentences should be verified as a matter of priority with a view to ensuring that, where their claims are confirmed, they may be released immediately;
- (c) The information system on the status of cases pending should be made operational in all prisons in the country and should be made available for regular consultation by prisoners;
- (d) Consideration should be given to ways of simplifying the law and judicial procedure so as to make it possible for the sentence enforcement system to be based exclusively on the conduct of prisoners. This would not only help reduce prison overcrowding but would also provide legal safeguards and reduce opportunities for arbitrariness and corruption.

245. The SPT recommends that the judiciary should be granted additional budgetary resources for allocation to the criminal courts so that they may effectively discharge their task of administering justice.

246. The SPT likewise recommends that a nationwide census of the prison population should be undertaken to determine the number of detainees who have been held on trial for over three years, in violation of the legal maximum period.

National Preventive Mechanism (Mecanismo nacional de prevención – MNP)

247. The SPT recommends that the State party, and in the first instance the Legislature, give the necessary priority to the passage of the bill establishing an MNP so that the current text, or a similar draft meeting the requirements of the OPCAT, may become law at the earliest possible date.

248. The SPT likewise recommends, as the Special Rapporteur on Torture has done previously, the early designation of an independent national mechanism with the necessary resources to ensure effective and continuous supervision of the conditions governing the deprivation of liberty.

Situation of persons deprived of their liberty

249. The SPT recommends that the National Police ensure strict compliance with the legal time limits laid down for informing the Public Prosecutor's Office and the judge of any arrest and for placing the person concerned at the disposal of the judicial authorities, which must be attested in writing.

250. The SPT recommends that the necessary measures be taken to revise the criminal procedure legislation so as to eliminate situations of extreme vulnerability in the hours immediately following arrest.

251. With regard to police registers, the SPT recommends:

- (a) Establishing a compulsory system for registering persons held in detention, in the form of a bound and paginated register, separate from the duty register, which should include the reasons for the deprivation of liberty, the exact time when the detention began, how long it lasted, who was responsible for its authorization and the identity of the law enforcement officials concerned, together with precise information on the place of detention and the hour at which the detainee first appeared before a judicial or other authority;
- (b) Recording cases in which detainees are subject to a medical examination, the identity of the doctor concerned and the results of the examination;
- (c) Registering complaints received, visits by family, lawyers and monitoring bodies and the personal effects of persons detained;
- (d) Training police personnel to use the register in an appropriate and consistent manner;
- (e) Ensuring close supervision of the register system by senior officers to ensure the systematic recording of all relevant information on the deprivation of liberty.

252. Posters, booklets and other outreach materials should be produced, in both official languages, with information on the rights of persons deprived of their liberty, expressed in clear

and simple language. The posters should be placed in all places where persons deprived of their liberty are held, so as to be visible to them. The SPT likewise recommends that the police should be trained to inform detainees systematically of their rights in a language they can understand and that they should assist them in the exercise of those rights from the very start of their detention. This information should be assembled in a form, which should be handed to all persons detained and signed by them.

253. The SPT urges the State party to introduce due process safeguards so that detainees in police custody are not subject to any kind of pressure to make them confess to the commission of a crime or in order to obtain evidence unlawfully. In particular, the State party should ensure that no person under interrogation shall be subject to violence, threats or methods of interrogation that impair his decision-making capacity or his judgement.

254. The SPT recalls that any statement signed by detained persons should be in a language they know and understand.

255. In order to guard against abuses, the SPT recommends that the State party guarantee the application in practice of article 90 of the Code of Criminal Procedure, so that statements taken by the police during detention - in violation of the aforesaid provision - are not taken into account by judges in deciding on interim measures and do not serve to incriminate or convict a suspect. In accordance with article 15 of the Convention against Torture, a State party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

256. The SPT recommends that the State party should increase the financial and human resources of Office of the Public Defender, within a framework of independence and functional autonomy. The SPT further recommends that, once its independence and autonomy are ensured, the Office of the Public Defender should sign agreements with universities, bar associations and civil society organizations nationwide in order to increase its operational capacity.

257. The SPT recalls the need to respect the right of persons deprived of freedom to be examined by a doctor and recommends to the State party that it legally prescribe this right.

258. The SPT recommends to the authorities that all those persons detained be given a systematic medical examination as soon as possible following their entry to the police station, and that the doctor attest to the state of health of the person concerned in a register established for that purpose. This medical examination should be free of charge.

259. The SPT also recommends that medical examinations are carried out in keeping with the principle of medical confidentiality: no person apart from medical personnel should be present during the examination. In exceptional cases, for example when the doctor considers that the person detained on medical or psychiatric grounds constitutes a danger to medical staff, special safety measures can be envisaged, such as stationing a police officer a short distance away. In

such cases, the doctor should record in writing the reasons for this decision and the identity of the police officer present. These cases apart, police officers should remain out of hearing and sight of the place where the medical examination is taking place.

260. The SPT likewise recommends that the medical examination of each detainee should include: (a) the person's medical history; (b) the existence of any discomfort or symptoms, a description by the person examined of how any injuries were sustained, and the identity of the person held to be responsible; (c) the result of the physical examination, including a description of any injuries and an indication as to whether the whole body was examined; and (d) the doctor's conclusion as to whether the three above elements are mutually consistent. When the doctor has grounds for supposing the existence of torture and ill-treatment, he should record it in the register established under the following paragraph.

261. The SPT recommends the State party to take steps to establish a national register of allegations of torture and ill-treatment, which should include as a minimum the following information: (a) the identity of the alleged victim (name and surname and/or identity document number); (b) age and sex of the alleged victim; (c) place where the alleged incidents occurred; (d) identity of the alleged authors, including the state institution to which they belong; (e) methods of torture or ill-treatment used; (f) circumstances relating to the torture and ill-treatment; (g) conclusions of the doctor who examined the alleged victim; (h) result of the medical examination carried out in accordance with the Istanbul Protocol; and (i) information concerning the investigations carried out, including their outcome, the sentencing of those responsible and compensation to the victims. Other actors, such as the Public Prosecutor's Office and monitoring bodies, should also inform the register of cases of suspected torture and ill-treatment of which they are aware. The alleged victim should give his/her consent with respect to the information mentioned in subparagraphs (a) and (b).

262. The SPT recommends that the State party establish a system of independent examinations, under which qualified forensic doctors and psychologists will carry out exhaustive investigations when the doctor who has checked the detainee has grounds for supposing that the person has been subject to torture and ill-treatment.

263. The SPT recommends that staff assigned to police stations should systematically provide information to all persons deprived of their liberty about the right to file a petition or appeal concerning their treatment in custody. Every petition or appeal must be promptly dealt with and replied to without undue delay, and it must be ensured that detained persons do not suffer prejudice as a consequence.

264. The SPT also recommends that the Paraguayan authorities ensure that the right to file a complaint or appeal with respect to torture and ill-treatment can be exercised in practice and that the principle of confidentiality is duly respected. Police staff must not interfere with the complaints procedure or screen complaints addressed to the competent authorities, and must not have access to the content of the complaints. The SPT recommends that rules should be drawn up for the handling of complaints by police officers, covering the forwarding of complaints to

the competent authorities and the duty to provide the necessary materials for drafting a complaint.

265. The SPT recommends that a review of police salaries should be carried out to ensure that they are appropriate. The equipment required for police staff to do their job must be provided by the authorities.

266. The SPT recommends that police personnel and officials assigned to police stations and other detention centres should receive suitable training in guarding persons deprived of their liberty, including human rights training, and in the proper use of registers.

267. The SPT recommends that the Paraguayan authorities should establish a system for the effective monitoring and supervision of the work of the police by senior police officers.

268. The responsibility of police officers who commit acts of torture or inflict ill-treatment on detained persons, as well as the responsibility of senior officers who instigate, encourage, consent to or acquiesce in such acts, must be fully investigated both through internal police monitoring mechanisms and through competent prosecutorial and judicial authorities.

269. The SPT recommends that an audit of the police stations holding detainees should be conducted as soon as possible so as to ascertain what improvements can be made to the places of detention at existing facilities, at a modest cost:

- (a) The audit should be carried out by a multidisciplinary team drawn from the various sectors involved to date in visiting prisons;
- (b) Police stations should be given a budget to buy food for detainees, who should receive at least twice a day meals of sufficient nutritional value to maintain their health and strength;
- (c) Material conditions in the cells should be improved immediately, especially with regard to minimum floor space, cubic content of air, lighting and ventilation;
- (d) Persons deprived of their liberty should be given at least two litres of drinking water a day, systematically and free of charge;
- (e) Persons deprived of their liberty should be given regular access to toilet and shower facilities, and persons having to spend the night in detention should be given beds with mattresses. The cells should be cleaned regularly by police station staff. The sanitary installations should be sufficient to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

270. The SPT recommends that, where possible, persons detained in police stations for more than 24 hours should be given the opportunity of having at least one hour of exercise daily, outside their cells.

271. The SPT recommends that, unless police staff have the necessary medical training to diagnose detainees' ailments, they should immediately authorize any request by a detainee to see a doctor.

272. The SPT recommends that female detainees should be transferred to police stations that have female officers to guard them and suitable facilities for ensuring they are separated from male detainees.

273. The SPT recommends that the State party should take the necessary steps to increase female police staff at police stations.

274. The SPT recommends that the State party should, as a matter of urgency, put an end to the practice of prolonged detention in National Police premises. The SPT recommends that persons being held in preventive detention while awaiting trial should be transferred immediately to prisons where they should be separated from convicted persons. To this end the State party should take the necessary interim measures to house the detainees in conditions compatible with human dignity.

275. Police officers should receive clear, categorical and periodic instructions on the absolute and mandatory prohibition of any form of torture and ill-treatment and such prohibition should be included in such general rules or instructions as are issued in regard to the duties and functions of police personnel.

276. In accordance with the obligations entered into by the State party under articles 12 and 16 of the Convention against Torture, a prompt and impartial investigation should be conducted wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed. Such an investigation shall take place even in the absence of a formal complaint.

277. All police stations and units in the country should have information available and visible to the public on the prohibition of torture and ill-treatment as well as on how and where to file complaints concerning such acts.

278. With a view to reducing impunity, police officers who do not wear uniforms when carrying out police duties (in “plain clothes”) should be obliged to identify themselves by name, surname and rank at the time of arrest and transfer of persons deprived of their liberty. As a general rule, police officers responsible for enforcing deprivation of liberty or who have persons deprived of their liberty under their custody should be identified in the appropriate registers.

Prisons

279. The SPT recommends that the work described in paragraph 149 be implemented without further delay.

280. The SPT recommends that beds and proper mattresses should be made available to all inmates, including prisoners held in solitary confinement.

281. The SPT recommends that the Paraguayan authorities should ensure that different categories of prisoners (adults/children, convicted prisoners/prisoners awaiting trial, men/women)

are kept in different institutions or different sectors of the same institution.

282. The SPT recommends the establishment of a uniform system for registering admissions, in the form of a bound book with numbered pages, in which the identity of the persons held, the reasons for their arrest and the authority which ordered it as well as the date and time of admission and release should be clearly indicated. Prison staff should receive instructions on how to use the registers, so that they do not leave blank spaces between the notes.

283. The SPT also recommends the establishment of a uniform system for registering disciplinary offences, in which the identity of the offender, the penalty imposed, its duration and the officer in charge should be clearly indicated.

284. With regard to the problem of corruption, the SPT recommends:

- (a) The adoption by the highest authorities of a firm and transparent prison policy to combat corruption;
- (b) The training of prison officers, supervisory staff and prison management, and the payment of adequate wages to prison personnel;
- (c) The adoption of measures to promote access by civil society and representatives of the media as a means of ensuring external monitoring;
- (d) Immediate adoption of the following measures:
 - (i) Monitoring the assignment of cells and beds to ensure that all inmates have a decent place to sleep without being obliged to pay for it;
 - (ii) Banning the carrying of money by staff within the institution, and overseeing the enforcement of this ban;
 - (iii) Recording in the inmates' personal files the wings to which they are assigned and the reasons for that assignment.

285. The SPT recommends that the prison authorities should not only step up security and combat corruption but also make a concerted effort to prevent drugs being brought into the prison, to identify access routes and to establish campaigns to dissuade inmates from using these substances. At the same time, they should introduce detoxification programmes for individuals and family reintegration therapy.

286. The SPT recommends that the number of prison guards at Tacumbú National Prison should be increased to an appropriate level in order to ensure security and respect for the integrity of all persons deprived of their liberty.

287. The SPT recommends that medical practitioners should examine all inmates upon admission to the prison. The examination must be carried out on the basis of a general questionnaire that, in addition to general health questions, must cover any acts of violence suffered recently. Medical practitioners must also conduct a complete medical examination, including a full body examination. If patients show signs of having suffered acts of violence, medical practitioners must assess whether the account of the acts is consistent with the results of the medical examination. When medical practitioners have reasons to believe that torture or

ill-treatment have taken place they must include such information in the register prescribed in paragraph 97.

288. The SPT recommends that prisoners' medical records should be kept strictly confidential and that only medical staff should have access to them.

289. The SPT recommends that the supply of medicines should be increased to meet prescription requirements. In the case of a shortage of medicines, doctors should establish an order of priority among patients.

290. The SPT underlines that the right of prisoners to see a doctor at any time free of charge must be respected, and recommends that steps be taken to give effect to that right. Prisoners should be able to seek professional medical assistance in confidence and without their requests being obstructed or filtered by guards or other inmates.

291. The SPT recommends that all prisoners should have the opportunity to be X-rayed for tuberculosis using mobile X-ray units and that treatment should commence for inmates who have tested positive. Prisoners sharing a cell with a person infected with tuberculosis should be allowed to undergo a second X-ray and the Mantoux test (for prisoners who have not been vaccinated) three months later. This procedure should be repeated periodically to prevent the outbreak of further cases. As regards HIV/AIDS, the SPT recommends that all prisoners should be provided with a free and voluntary HIV test. The tests should be confidential, be accompanied by advice and be administered only with the prisoners' informed consent.

292. The SPT recommends that Paraguay should adopt legislation guaranteeing the rights of mentally disabled patients deprived of their liberty and/or under treatment against their will. The SPT further recommends that mentally disabled persons deprived of their liberty should be transferred as soon as possible to specialized institutions under medical management.

293. The SPT recommends that the furniture and roof of the wing for the mentally disabled in Tacumbú National Prison should be repaired and that programmes of activities should be organized for those patients who are able and willing to participate.

294. The SPT notes that solitary confinement should only be ordered on the basis of a medical certificate testifying, following proper examination of the detainee, that he or she is able to bear this punishment. In addition, the medical officer should visit prisoners held in solitary confinement every day, on the understanding that such visits should be in the interests of the prisoners' health. Furthermore, prisoners held in solitary confinement for more than 12 hours should have access to fresh air for at least 1 hour each day.

295. The SPT points out that prolonged solitary confinement may amount to an act of torture and other cruel, inhuman or degrading treatment or punishment and recommends that the State party should severely restrict the use of solitary confinement as punishment for persons deprived of their liberty. Solitary confinement should not be used in the case of minors or the mentally

disabled.

296. The SPT recommends that completion of the new Pedro Juan Caballero Prison should be speeded up and that maximum priority should be given to closing down the existing facility.

297. In general, the SPT recommends that a plan of action on prisons should be drawn up and disseminated so as to ensure that the basic needs of all persons deprived of their liberty are met. As a matter of priority, this should include an inspection of the material conditions of Paraguayan prison facilities, with a view to establishing and implementing cleaning, renovation and refurbishment programmes. In particular, the following should be addressed:

(a) All persons deprived of their liberty should have a bed and a mattress on which to sleep, with sufficient bedding that is properly maintained and regularly changed so as to ensure that it is kept clean;

(b) Ventilation, cubic content of air, minimum floor space, lighting and access to natural light in cells and dormitories should be guaranteed;

(c) Prisons should have adequate sanitary facilities in a proper state of repair, sufficient for personal hygiene, washing of clothes and waste disposal.

298. The SPT urges the State party to increase the current number of sanitary facilities and to carry out urgent and regular repairs on all damaged toilets and clean up the facilities in general throughout the prison wings.

299. The SPT recommends that the State party should allocate sufficient budgetary resources to provide food for prisoners and ensure, through the necessary monitoring mechanisms, that the food purchased is nutritious, effectively distributed to all inmates and prepared and served in a proper and decent manner.

300. With regard to the project for human rights training organized jointly with the International Committee of the Red Cross, the SPT encourages the State party to extend such projects to all prison officers in active service.

301. The SPT recommends that the number of prison officers should be increased so as to ensure the overall security of the facilities as well as the safety of staff themselves and that of prisoners against possible acts of violence by other prisoners. The SPT further recommends that, in line with the minimum international standards, staff should receive adequate salaries and a course of training in their general and specific duties and sit theoretical and practical tests to determine their ability to perform this type of service.

302. The SPT recommends that the State should consider the possibility of establishing a prison service study course as a means of raising professional standards among prison staff.

303. The SPT recommends that all prisons should have disciplinary regulations stipulating (a) the forms of conduct constituting a disciplinary offence; (b) the types and duration of the punishments which may be inflicted; (c) the authority competent to impose such punishments. Any disciplinary measure should be applied in accordance with the regulations, of which all

prisoners must have a copy. The SPT recommends that all persons deprived of their liberty should be granted the right to be heard before disciplinary action is taken and to bring such action to higher authorities for review.

304. The SPT recommends that the Paraguayan authorities should ensure that all prisoners (male and female) have at least one hour of suitable exercise in the open air daily, in line with the minimum international standards.

305. It further recommends that all prisoners should be given access to work, education and cultural activities, and that a library with a sufficient number of educational and recreational books should be made available.

306. The SPT recommends that the prison authorities ensure that each prison has at least two working telephones accessible to persons deprived of their liberty.

307. The SPT encourages the State party to maintain and step up measures to prevent torture and other ill-treatment, as part of a comprehensive State policy. This work should be accompanied by extensive public awareness campaigns on the prevention of torture and ill-treatment, and information campaigns on how and where to report cases. It further recommends that the State party should undertake to provide human rights training to prison staff.

308. The SPT requests the State party to carry out a prompt and impartial investigation into all allegations of torture and ill-treatment, including sexual violence, in accordance with articles 12 and 13 of the Convention against Torture. In cases where those allegations involve prison staff, the staff members should be suspended from duty for the duration of the trial, and dismissed from the service if they are found guilty.

309. The SPT recommends that the State party should set up an effective, confidential and independent complaints system in all prisons. Each prison should keep a register of complaints, which should include information on the complainant's identity, the nature of the complaint, the action taken, and the outcome of the complaint.

Neuropsychiatric hospital

310. The SPT recommends that patients are given greater opportunity to take part in rehabilitation activities.

311. The SPT also recommends that all patients are given lockers in which to store their personal effects.

B. Requests for information

312. The SPT wishes to receive information from the State party on the following:

- (a) The number of complaints of torture or ill-treatment received by the National Police against its members in the last five years, as well as the present status of those reports, including the disciplinary measures taken;
- (b) The specific way in which it plans, within a framework of institutional independence and autonomy, to increase the human and financial resources of the Office of the Public Defender to enable it to guarantee free, effective and comprehensive legal assistance for all persons deprived of their liberty who require it, as from the moment of their detention;
- (c) The way in which the Public Prosecutor's Office in practice discharges its supervisory functions with regard to both police stations and prisons. In particular, it wishes to have information on the frequency with which visits to these premises take place, whether there are any internal guidelines on how these visits are to be carried out, whether reports of the observations made during the visits are produced and, as appropriate, to whom such reports are submitted, and the number of complaints made by the Public Prosecutor's Office as a consequence of these visits;
- (d) The development and implementation of the work referred to in paragraph 149;
- (e) Progress made in establishing a health promotion system under the supervision of prisoners (see paragraph 180), and in particular on the control of infectious diseases such as HIV/AIDS and tuberculosis;
- (f) The definitive closure of the solitary confinement wing at Tacumbú National Prison and the progress of the works and the estimated date of opening of the new solitary confinement cells;
- (g) Whether the facilities referred to in paragraph 190 have in fact been repaired, as the SPT was promised;
- (h) The annual budget for food allocated to the General Directorate of Prisons, disaggregated by prison. The SPT would also like to receive clarifications on measures adopted to ensure the transparent and efficient use of the budget;
- (i) What has been done to prevent reprisals against detainees who provided information to the SPT.

313. The SPT wishes to receive a copy of:

- (a) The last three quarterly reports that the Prison Supervision Unit is required to submit to the Supreme Court under article 2 of Agreement No. 30;
- (b) The directives of the Supreme Court concerning the rights to due process of persons deprived of their liberty;

(c) The draft law on the public defenders system, together with information on the state of progress on this draft;

(d) The punishment regulations as well as more detailed information on the procedure for imposing punishments and the authority responsible for ordering them.

Annex I

List of senior officials and others with whom the delegation met

A. National authorities

Fernando Armino Lugo Méndez, President of the Republic

Ministry of the Interior

Rafael Filizzola, Minister

Elvio Segovia Chaparro, Deputy Minister of Political Affairs

Edgar Servín

Ministry of Foreign Affairs

Jorge Lara Castro, Deputy Minister

Terumi Matsuo de Claverol, Human Rights Department

Hugo Chaparro González, Human Rights Department

María Inés Benítez

Ministry of Justice and Labour

Humberto Blasco Gavilán, Deputy Minister

Olga María Blanco, Criminal Affairs Department

Iris Haydee Rojas Recalde, Human Rights Director

Ministry of Health

Néstor Giralá, Director of Asunción Neuropsychiatric Hospital

Gladys González Rodas, ministerial legal adviser

National Police

Commissioner-General Celestino R. Sánchez

Judiciary

Nury Montiel, Human Rights Director, Supreme Court of Justice

Nelly Obregón, Prison Supervision Unit, Supreme Court of Justice

Selva Morel de Acevedo, deputy criminal defence counsel, Ministry of Public Defence

Ana María Llanes, enforcement judge

Public Prosecutor's Office

Marco Antonio Alcaraz, deputy prosecutor
Silvana Otazú

Legislature

Senator Marcelo A.D. Duarte Manzoni, Senate Committee on Legislation, Codification, Justice and

Labour

Senator Ana María Mendoza de Acha, Senate Human Rights Committee
Deputy Faviola Oviedo, Human Rights Committee of the Chamber of Deputies
María Liz García de Arnold, Chamber of Deputies

Office of the Ombudsman

Manuel María Páez Monges, Ombudsman
Helem Almada Alcaraz
Judith Rolón

B. United Nations bodies

Lorenzo Jiménez de Luis, United Nations Resident Coordinator
Libertad Gutiérrez, United Nations Development Programme (UNDP)
Andrea Cid, United Nations Children's Fund (UNICEF)

C. Civil Society

Soledad Villagra, former member of the United Nations Working Group on Arbitrary Detention
Asociación de Familiares de Víctimas del Servicio Militar Obligatorio (AFAVISEM)
Centro de Estudios Judiciales
Coordinadora de Derechos Humanos de Paraguay (CODEHUPY)
Instituto de Estudios Comparados en Ciencias Penales y Sociales (INECIP)
Rondas (NGO)
Raíces (NGO)

Annex II

Places of deprivation of liberty visited by the SPT

National Police facilities

Metropolitan police district (Asunción)

Police station No. 3
Police station No. 5
Police station No. 9
Police station No. 12
Police station No. 20

Special police unit for women
Central Department police district
Police station No. 1, San Lorenzo
Police station No. 9, Limpio
Amambay Department police district
Police station No. 3, Barrio Obrero, Pedro Juan Caballero
San Pedro Department police district
Police station No. 8, San Estanislao
Special branch of the National Police

Prisons

Tacumbú National Prison, Asunción
Pedro Juan Caballero Regional Prison

Asunción Neuropsychiatric hospital

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C. Visits conducted during the reporting period

13. The Subcommittee carried out four visits in 2010, all of which fell within the reporting periods. From 24 May to 3 June 2010, the Subcommittee visited Lebanon, the third country in Asia visited by the Subcommittee (following the visit to Maldives in December 2007 and Cambodia in December 2009), and the first country to be visited by the Subcommittee in the Arab region (Lebanon being the first and currently the only Arab country which has ratified the Optional Protocol).

...

16. In addition to these three visits, which were announced at the start of 2010, for the first time, the Subcommittee undertook a follow-up visit, to Paraguay from 13 to 15 September 2010.

17. Further summary information on all these visits is given in annex IV and further details, including lists of places visited, are available in the press releases issued in relation to each visit, which may be accessed via the Subcommittee's website (www2.ohchr.org/english/bodies/cat/opcat/index.htm).

...

D. Follow-up activities, including publication of the Subcommittee's reports by States parties

18. Five Subcommittee visit reports have been made public following a request from the State party (Honduras, Maldives, Mexico, Paraguay and Sweden), as provided for under article 16, paragraph 2, of the Optional Protocol, including two in the reporting period: Mexico and Paraguay (in May 2010). Two follow-up replies (Sweden and Paraguay) have also been made public at the request of the State party, including Paraguay during the reporting period (in June 2010). Also during the reporting period, three visit reports and one follow-up submission have been published, adding considerably to the momentum behind the practice of authorizing the publication of reports, which the Subcommittee considers to be a positive development.

19. In conformity with past practice, the Subcommittee established a follow-up procedure to its visit reports. State parties are requested to provide within a six-month deadline a response giving a full account of actions taken to implement the recommendations contained in the visit report. At the time of the submission of the present report, 3 out of 11 States parties visited by the Subcommittee had provided follow-up replies: Mauritius in December 2008; Sweden in January 2009; and Paraguay in March 2010. Replies from Mauritius remain confidential, while the follow-up submissions from Sweden and Paraguay have been made public at the request of those

States parties. The Subcommittee has provided its own follow-up observations and recommendations to the submissions of Mauritius and Sweden, while a follow-up visit was undertaken to Paraguay, with a follow-up visit report transmitted to the State party. Reminders were also sent to States parties that have not yet provided follow-up replies to the Subcommittee visit reports. It should be noted that the six-month deadline for submission of follow-up replies had not expired for Lebanon, Bolivia and Liberia during the reporting period. The substantive aspects of the follow-up process are governed by the rule of confidentiality, excepting that the State party may authorize the publication of its follow-up reply.

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Annex IV

Information on country visit reports, publication status and follow-up as of 31 December 2010

<i>Country visited</i>	<i>Dates of the visit</i>	<i>Report sent</i>	<i>Report status</i>	<i>Response received</i>	<i>Response status</i>
Mauritius	8–18 October 2007	Yes	Confidential	Yes	Confidential
Maldives	10–17 December 2007	Yes	Public	No	-
Sweden	10–14 March 2008	Yes	Public	Yes	Public
Benin	17–26 May 2008	Yes	Confidential	No	-
Mexico	27 August–12 September 2008	Yes	Public	No	-
Paraguay	10–16 March 2009	Yes	Public	Yes	Public
Honduras	13–22 September 2009	Yes	Public	No	-
Cambodia	2–11 December 2009	Yes	Confidential	No	-
Lebanon	24 May–2 June 2010	Yes	Confident	-	-
Bolivia (Plurinational State of)	30 August–8 September 2010	Not yet	-	-	-
Paraguay	Follow-up visit: 13–15 September 2010	Yes	Confidential	-	-
Liberia	6–13 December 2010	Not yet	-	-	-

CAT/OP/PRY/2 (2011)

Report on the follow-up visit to the Republic of Paraguay from 13 to 15 September 2010

...

I. Introduction

1. In accordance with article 13, paragraph 4, of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the “Optional Protocol”), the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the “Subcommittee”) carried out its first follow-up visit to Paraguay from Monday, 13 September, to Wednesday, 15 September 2010.

2. The purpose of this visit was to follow-up on the observations and recommendations issued by the Subcommittee in its report¹ on its first regular visit to the country, which took place on 10–16 March 2009. That report was initially transmitted to the State party on a confidential basis on 24 August 2009. On 8 March 2010, Paraguay submitted its replies to the recommendations and requests for information made by the Subcommittee.² On 4 June 2010, the State party announced its decision to make the report public. The report was then posted on the web page of the Ministry of Foreign Affairs of Paraguay.

3. Pursuant to the Optional Protocol,³ the Subcommittee proposed a follow-up visit to the State party in a note dated 12 April 2010. The State party agreed to that proposal in a note dated 22 April 2010.

4. The delegation named by the Subcommittee to carry out the follow-up visit was composed of Mr. Mario Luis Coriolano and Mr. Wilder Tayler Souto, who served as the head of delegation. The Subcommittee members were assisted by Mr. Hernán Vales and Mr. Ricardo Freitas Da Silva (security officer) from the Office of the United Nations High Commissioner for Human Rights (OHCHR).

5. During this visit, the Subcommittee focused on follow-up to its recommendations, particularly those regarding the national preventive mechanism and the situation of persons deprived of their liberty at the Tacumbú National Prison in Asunción and at police stations.

6. In addition to visiting places of detention, the representatives of the Subcommittee met with a number of officials and with members of civil society. The names of these persons are listed in the annex.

7. This report on the Subcommittee's first follow-up visit to Paraguay presents its findings and observations in that regard. It also reiterates some of the Subcommittee's earlier recommendations and notes the progress made with respect to recommendations that are being acted upon. The Subcommittee took information from various sources into consideration in order to determine the State party's degree of compliance with those recommendations. These sources included interviews with persons deprived of their liberty, Government officials and representatives of civil society, the State party's replies to the observations made in the report on the March 2009 visit, and the press.

8. This report and the report on the initial visit form part of a dialogue between the Subcommittee and Paraguayan authorities focusing on the prevention of torture and other forms of ill-treatment. **The Subcommittee recommends that the State party make this report public and distribute it to the State agencies to which recommendations are directed.**

II. Facilitation of the visit and cooperation

9. The Subcommittee would like to express its gratitude to the Paraguayan authorities for their assistance prior to and during the visit. With a single regrettable exception (see paragraph 41), prompt, unobstructed access to places of detention was invariably provided, and the authorities responsible for the facilities in question readily cooperated with the Subcommittee. The Subcommittee would also like to note that its representatives were given unlimited access to the persons deprived of their liberty with whom they wished to speak in private.

10. The Subcommittee is deeply grateful for the logistical support supplied by the office of the United Nations Development Programme (UNDP) in Paraguay, which played a key role in the successful completion of the visit.

III. Observations and recommendations based on the follow-up visit

A. National preventive mechanism

11. Following its March 2009 visit to the country, the Subcommittee expressed its satisfaction with the process involved in securing passage of the bill establishing the national preventive mechanism and with the content of that bill. In its report the Subcommittee also, however, voiced its concern about the fact that the processing of the bill had come to a standstill and recommended that the State give priority to its passage.

12. During the follow-up visit, the Subcommittee's representatives met with authorities from the different branches of government, including legislators, and expressed their deep concern about the absence of progress in moving the bill through the legislature. In the course of meetings with legislators, the representatives of the Subcommittee were informed that the various Senate committees which had been considering the bill had approved it.⁴ The Subcommittee was also told that the bill had been included in the order of business for upcoming sessions and was soon to be passed by the Senate.

13. After the follow-up mission had been completed, the Subcommittee learned that the Senate had passed the bill. Pursuant to the country's legislative procedure, after the bill's approval by the originating chamber (the Senate), it is to be submitted to the Chamber of Deputies, which is to consider it and either pass it or reject it within three months. If no amendments are introduced or the bill is not considered within that time, it will become law, with the only remaining step being its promulgation by the executive.

14. The Subcommittee is pleased that renewed impetus has been given to the bill, as attested to by its passage by the Senate after having been under consideration for a period of three years. The Subcommittee is also pleased that the Senate made no substantive amendments to the bill and that it remains faithful to its original intent, with which the Subcommittee is in accordance. Despite the efforts made, however, and given the information obtained during the follow-up mission, the Subcommittee is of the view that the creation of a national preventive mechanism in Paraguay is a matter of urgency.

15. The Subcommittee recalls that Paraguay has assumed an international obligation to create a national preventive mechanism under article 17 of the Optional Protocol and that this obligation should have been fulfilled within one year, at the latest, of this international instrument's entry into force for the State party (i.e., by 2 January 2007). The Subcommittee also recalls that the fulfilment of the State's international obligation in this respect is the responsibility of all branches of government. In the view of the Subcommittee, Paraguay's failure to establish, designate or maintain a national preventive mechanism in conformity with the Optional Protocol constitutes a serious instance of non-fulfilment of the international obligations assumed thereunder. The Subcommittee trusts that the approval by the legislature of a national preventive mechanism and its subsequent implementation will take place within a matter of months.

16. The Subcommittee therefore recommends that the Paraguayan legislature, and specifically the Chamber of Deputies, give priority to the consideration and subsequent passage of the bill establishing a national preventive mechanism. The Subcommittee also recommends that other branches of government urge the legislature to give priority to the bill on the creation of a national preventive mechanism with a view to its immediate passage. Following this law's passage and promulgation, the Subcommittee recommends that, as a matter of urgency, the State party take the legislative, administrative and other steps required to enable the national preventive mechanism to enter into operation as soon as possible and to carry out its work effectively. The Subcommittee requests that the State party furnish it with information by 15 January 2011 concerning the progress made by the legislature in processing the bill on a national preventive mechanism. The Subcommittee requests that, following the law's promulgation, the State party report to it on a regular basis concerning implementation of the national preventive mechanism.

B. Safeguards against torture and ill-treatment

1. Legal framework

17. *The definition of torture as an offence in the Criminal Code.* In its earlier report, the Subcommittee referred to shortcomings in the current definition of the offence of torture as it appears in article 309 of the Criminal Code and the practical difficulties that this posed.⁵ In line with the request made by the Committee against Torture,⁶ the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,⁷ the Inter-American Court of Human Rights⁸ and the Truth and Justice Commission of Paraguay, the Subcommittee recommended the early adoption of the legislative measures necessary to align Paraguayan legislation with international treaties on torture, especially article 1 of the Convention against Torture.

18. In its replies to the Subcommittee's observations, the State party did not supply information on the means by which it intends to act upon this recommendation. The Subcommittee has learned, however, that a bill was submitted by a senator in May 2009 that would amend articles 236 and 309 of the Criminal Code and that it is now under consideration by various Senate committees. **The Subcommittee welcomes this initiative and reiterates its recommendation regarding the prompt alignment of the definition of the criminal offence of torture with article 1 of the Convention against Torture. The Subcommittee requests that the State party provide it with a copy of the bill in question.**

19. In view of the fact that torture is not defined as a criminal offence in the Military Criminal Code, the Subcommittee recommended that the definition of such an offence in accordance with article 1 of the Convention against Torture be included in that code and that penalties commensurate with the seriousness of the offence be established. In addition to pointing out the need to fill this void, the Subcommittee recalls that military jurisdiction should be confined to infractions of a specifically military character committed by members of the armed forces and that it does not encompass human rights violations, which fall within the purview of the nation's ordinary courts. The State party has informed the Subcommittee that a draft amendment to the Military Criminal Code which would bring it into line with the Convention against Torture is now under consideration.⁹ **The Subcommittee welcomes this initiative and requests information on its progress.**

2. Institutional framework

20. Following its first visit to the country, the Subcommittee expressed its concern about systemic shortcomings in the operations of some of the Government bodies responsible for preventing torture and recommended measures for rectifying them. During its follow-up visit, the Subcommittee's delegation met with representatives of some of these institutions. Because the follow-up mission was so brief, however, the delegation was unable to visit all of the agencies referred to in the first report. The Subcommittee reiterates its earlier recommendations, which, it regrets to note, have not been implemented in most cases.

21. *Office of the Ombudsman.* In the report on its visit, the Subcommittee voiced concern about the way in which the Office of the Ombudsman carried out its duties in respect of persons who have been deprived of their liberty and made a number of recommendations in that connection.¹⁰

The Office of the Ombudsman provided information in writing¹¹ and orally during a meeting concerning the manner in which it is acting upon those recommendations.

22. The Office of the Ombudsman indicated that it refers reports of torture and ill-treatment to the Public Prosecutor's Office, which performs due process checks in cases concerning prisoners, and that a file is kept on the case of each person who lodges a complaint. The Ombudsman further informed the Subcommittee that the recommended database would be rolled out during the week of 13 September 2009. He also referred to the fact that the number of complaints that were received was small owing to the fact that the general public was unfamiliar with the work done by his Office.

23. The Subcommittee recommends that the State party:

(a) Set up a database in the Office of the Ombudsman in order to compile information on a systematic basis concerning the complaints received, the outcome of the investigations that are undertaken and the recommendations made. Insofar as is possible while maintaining the necessary confidentiality, this database, or a portion of it, should be made available on the Office's web page;

(b) Provide information to the Subcommittee on the launch of the database, on its availability on the web page, and on its structure and content;

(c) Conduct a campaign to inform the public about the mission and duties of the Office of the Ombudsman with a view to explaining what services it provides and encouraging the public to make use of them. The campaign should include a special module targeting locations where persons deprived of their liberty are being held;

(d) Make public (while protecting the privacy of persons who do not wish to be identified) the Office of the Ombudsman's reports on the visits made to places in which persons deprived of their liberty are being held, along with its recommendations and the corresponding follow-up.

24. *National police.* In its earlier report, the Subcommittee indicated that police personnel had been responsible for acts of torture and other forms of ill-treatment of detainees and recommended, inter alia, that the physical infrastructure of police stations be inspected and inventoried, that police personnel receive further training, that a complaints system be set up and a new registry system introduced, and that the working conditions for police personnel be improved.

25. In connection with the Subcommittee's recommendation that police personnel receive training in guarding persons deprived of their liberty and other aspects of human rights,¹² the State party furnished information on the inclusion of the subject of human rights in the curricula of various police academies and schools, on the conclusion of an agreement with the International Committee of the Red Cross for human-rights trainer training¹³ and on the training of approximately 200 police officers assigned to the 911 system and to various police stations in

2009 and 2010. **The Subcommittee appreciates this information and recommends that human-rights training activities be conducted on a regular basis for all police personnel in the country.**

26. The Subcommittee welcomes the creation, by means of resolution No. 542 of 16 September 2009, of the Human Rights Department of the national police force, whose duties include inspecting and evaluating the infrastructure of police stations where persons are held in custody.¹⁴ It also welcomes the introduction of a new infrastructure plan under which the number of police stations with custodial facilities will be reduced and existing facilities will be improved. The Subcommittee hopes that these measures will improve the conditions of detention, which, as discussed later on in this report, are extremely unsatisfactory at present.

27. The Subcommittee is pleased to take note of the establishment, by Decree No. 1811 of 15 April 2009, of the Human Rights Directorate within the Ministry of the Interior, which currently has a staff of six and could potentially serve as a key component in the police oversight system whose establishment has been requested by the Subcommittee. **The Subcommittee recommends that the current structure of the Ministry of the Interior's Human Rights Directorate be strengthened.**

28. The Subcommittee takes note of the information provided to it concerning administrative proceedings undertaken before the Police Justice Directorate involving charges against police personnel for acts of torture or other ill-treatment, which indicates that the number of such proceedings increased from 21 in 2004 to 37 in 2009, with the resulting penalties ranging from eight days of suspension to dismissal. The Subcommittee also takes note of the fact that complaints of ill-treatment not only give rise to administrative inquiries but are also referred to the Public Prosecutor's Office for criminal investigation.

29. **In order to heighten the deterrent effect of administrative sanctions, the Subcommittee recommends that statistics on the number of administrative inquiries and the penalties imposed be made public and, in particular, be brought to the attention of members of the national police force. In addition, the Subcommittee recommends that the Ministry of the Interior follow up on the cases submitted to the Public Prosecutor's Office. The Subcommittee asks that it be provided with information on the structure and role of the Department of Internal Affairs of the National Police and on current plans to strengthen it and to ensure its independence and effectiveness in carrying out impartial investigations.**

30. Ministry of the Interior officials recognized the need to continue their efforts to set up an effective system for lodging complaints at police headquarters that shields complainants from reprisals. The Subcommittee takes note of the importance of establishing procedures for the proper and confidential referral of complaints brought by detainees that will also protect them from reprisals. Ministry officials have informed the Subcommittee about the Citizens' Complaint Centre, which can receive reports over a toll-free telephone line, through the Ministry's webpage, and in person. **As a provisional measure until a formal system has been established, the**

Subcommittee recommends that the existence of the Centre be publicized and that the public be made aware that the Centre can receive complaints of torture or ill-treatment by police personnel. The corresponding information materials should include the placement of posters in every police station in the view of persons who have been deprived of their liberty and in customer service areas in which people may be submitting complaints concerning ill-treatment or any other contravention or dereliction of duty by the police. Such complaints should be received by an independent body with the authority to take action (e.g., the Human Rights Directorate of the Ministry of the Interior), should be reviewed in internal proceedings at which administrative penalties may be imposed and should, when appropriate, be referred to the Public Prosecutor's Office.

31. With respect to the improvement of working conditions for police personnel, the Ministry of the Interior has informed the Subcommittee that police were given a 25 per cent wage increase in 2009 and that a new law regulating the wages and benefits of specialized personnel is to be drafted. The Subcommittee regrets, however, that, according to the information available to it at this time, police personnel are still not being supplied with service weapons but must instead obtain their own.

32. *Judiciary.* During the follow-up visit, the Subcommittee's representatives saw how excessive delays in processing some criminal cases adversely affected the prison population. Some of the main effects include overpopulation and crowding and the existence of a large number of unsentenced detainees in the country's jails. The Subcommittee was informed that one of the causes of these delays was that the Criminal Chamber of the Supreme Court is working at 50 per cent of capacity because it is not fully staffed, as one of the Supreme Court justices has retired and his replacement has not yet been named by Congress. **The Subcommittee finds this situation to be regrettable and recommends that the State party take the necessary steps to ensure that a replacement for the outgoing judge is designated and that, until then, it use other means to reduce the Criminal Chamber's case backlog, such as provisionally designating appeals court judges to serve in the Criminal Chamber on a temporary basis.**

33. The Subcommittee has also been informed that prison authorities have wanted to transfer inmates to other facilities where the prison population is smaller in order to avoid or relieve overcrowding in certain prisons. Such transfers have been objected to by the judiciary (chiefly enforcement judges), however, on the grounds that prior authorization by the courts is required before a prisoner can be transferred from one prison to another. In view of the serious overcrowding that exists in facilities such as the Tacumbú National Prison, the Subcommittee feels it is necessary for State authorities to find a means of promptly overcoming the difficulties that are currently preventing inmates from being transferred to prisons where the conditions are more suitable. **The Subcommittee recommends that the State party look into possible solutions for expediting transfers while upholding the rights of persons deprived of their liberty, particularly the right to be in contact with their families and the right to due process.**

34. *Legal assistance.* Officials from the Office of the Public Defender who met with the

Subcommittee's representatives during the follow-up mission again raised the issue of the institution's lack of autonomy, since, in the absence of a specific organizational law regarding the Office's structure, it is simply a division of the Supreme Court. This situation shows up the disparities between the resources available to the Office of the Public Defender and the Office of the Public Prosecutor, which has been an autonomous agency for around a decade now (Act No. 1560/2000) and has expanded much more than the Office of the Public Defender has. It is enough to simply visit the two offices to see how unequal the distribution of resources between them is: whereas the Office of the Public Prosecutor is housed in various buildings with modern facilities, the Office of the Public Defender is located on one floor of the courthouse. Public prosecutors' salaries are higher than those of public defenders, and senior prosecutors can earn more than judges. These differences between the two institutions reflect a public policy preference for a justice system that places priority on criminal prosecution while failing to provide adequate human and material resources for the implementation of the system of guarantees administered by the Office of the Public Defender. Such a system may not be the most appropriate one for preventing torture and ill-treatment.

35. In addition, information supplied to the Subcommittee indicates that, at the time of this writing, there were 112 public defenders who dealt with criminal cases and 272 criminal court judges,¹⁵ whereas there were over 300 public prosecutors assigned to criminal cases (including deputy prosecutors). Having a suitable ratio between public defenders and the prosecutors and judges assigned to the various types of courts within the justice system (e.g., one defence counsel for every two prosecutors, plus one defence counsel for each court in which oral proceedings are held, plus those needed to handle the appeals workload and the sentence enforcement stage of proceedings), in conjunction with an administrative support system and staffing table that are also commensurate with those of the Office of the Public Prosecutor and the courts, is essential in order to ensure the necessary equality of arms.

36. In 2009, public defence counsel in Paraguay handled 27,654 criminal cases, which was almost twice as much as the caseload in 2002. Public defenders are also called upon to take on the cases of most of the persons being held in pretrial detention. The Subcommittee was informed, for example, that the cases of 70 per cent of the prison population in Tacumbú National Prison were being handled by public defenders. At the time of the visit, however, 53 of the slightly more than 100 posts in the Office of the Public Defender, which handles cases in both adult and youth courts, were vacant. The public defence apparatus in Paraguay is weak and overextended and is not in a position to guarantee a proper or effective defence.

37. The Subcommittee has been informed that a draft organization act for the Office of the Public Defender was submitted to the Chamber of Deputies in November 2008. Information posted on the legislature's web page indicates that the bill was rejected by two committees and that no further action in that connection has been taken since August 2009.

38. The Subcommittee underscores the importance of providing professional legal defence services free of charge as a means of helping to prevent torture and ill-treatment and of ensuring genuine equality of arms in respect of the Office of the Public Defender and the Office of the

Public Prosecutor. The Subcommittee also wishes to emphasize that the Office of the Public Defender must be operationally independent and must have its own budget in order to perform its work effectively. **The Subcommittee recommends that the State party, and the legislature in particular, take steps to secure passage of the existing bill or of another bill that will ensure this institution's operational, administrative and budgetary autonomy.**

39. *Office of the Public Prosecutor.* In its earlier report, the Subcommittee expressed its concern about the fact that, between the years 2000 and 2008, only 1 out of the 230 cases relating to the offence of torture had resulted in a conviction.¹⁶ Organization Act No. 1562/2000 (art. 24) notwithstanding, the Prosecutor's Office¹⁷ has told the Subcommittee that it does not have powers of supervision that would permit it to check on the physical condition of accused persons or conditions in places of detention. The Subcommittee's representatives would have liked to have the opportunity to meet with the Attorney-General during their follow-up visit to discuss this and other matters, such as the duties of the Human Rights Directorate of the Office of the Public Prosecutor. However, although they arrived at the time of their appointment with him and waited for over 45 minutes, the Attorney-General did not receive the members of the delegation, who ultimately had to leave in order to keep their scheduled appointments with other persons. The Subcommittee finds this situation regrettable, as it has prevented the Subcommittee from formulating additional recommendations for this key institutional actor in the prevention of torture and ill-treatment.

C. Situation of persons deprived of their liberty

1. National police stations

40. The Subcommittee's representatives returned to three of the police stations that the delegation had gone to see during the first regular visit: Station No. 3 in Asunción, Station No. 5 in Asunción and Station No. 1 in San Lorenzo. During these visits, the Subcommittee's representatives examined the registers of detainees and spoke with police commanders and officers at these stations and with persons being held in custody.

41. With respect to Station No. 1 in San Lorenzo, the Subcommittee regrets to report, as was also the case during its earlier visit,¹⁸ that the station commander was uncooperative. On this occasion, he interrupted interviews of detainees in a very aggressive manner and made it necessary to suspend the visit temporarily. This incident was swiftly resolved thanks to the intervention of the Ministry of the Interior. The Subcommittee informed local authorities about what had happened so that the State party could take the necessary action. **The Subcommittee recommends that the State party take the necessary steps to ensure that incidents of this sort do not occur in future and asks that it be kept abreast of the outcome of the measures adopted in this connection.**

42. It became evident to the Subcommittee's representatives that progress had not been made in the areas covered by the Subcommittee's recommendations. The information gathered during the interviews clearly pointed to the continued violation of the rights of detainees which serve as

safeguards against torture and other ill-treatment (e.g., access to a physician and notification of a family member or other person close to the detainee). Regrettably, the Subcommittee once again received credible, detailed reports of torture and ill-treatment at the hands of police personnel.

43. *Arrest records.* Based on the information gathered during the follow-up visit, the Subcommittee regrets to note, once again, that no substantial improvement has been made in the system for registering detainees. The system remains unsatisfactory, since it does not permit proper monitoring of the arrival and departure of detainees or of procedural guarantees.

44. The “events log”¹⁹ continues to be the preferred form of record-keeping, although the delegation of the Subcommittee noted that, at the time of the visit, one of the police stations was using a “registry of detainees”, which included information on the date and time of detainees’ entry. On one occasion, a detainee was identified whose entry and departure had not been recorded, and there was thus no evidence that he had been at the police station. Because of the vulnerable position in which detainees are placed under such circumstances, this kind of situation had been a cause of serious concern to the Subcommittee during the preceding visit.

45. The Subcommittee has been informed of the existence of resolution No. 176 of 10 February 2010, which contains instructions from the Office of the National Police Commander for the establishment of a registration system of the sort recommended by the Subcommittee.²⁰ As indicated by the Ministry of the Interior and as ascertained by the Subcommittee’s representatives during their visit, however, these instructions have not yet been carried out. The Subcommittee has also been informed that there are plans to computerize these records in the police stations in Asunción. **The Subcommittee recommends that the State party implement resolution No. 176 without further delay. It also recommends that, as a minimum, the basic pieces of information recommended by the Subcommittee for inclusion in such registers be incorporated into any plans for computerizing such records.**

46. *Information on detainees’ rights.* The Subcommittee was disappointed to find that the recommended information materials on detainees’ rights, which the State party has reported that it has prepared, were not in evidence in any of the three police stations that were visited.²¹ **The Subcommittee reiterates its recommendations in this respect.**²²

47. *Physical conditions.* Conditions in the police holding facilities that were visited remain deplorable; they do not meet the minimum requirements in terms of hygiene, cubic content of air, floor space, lighting or ventilation. Not only have these conditions not improved, but they have actually grown worse since the last visit. The Subcommittee does not deem it necessary to repeat its description of the cells that were visited on this occasion but instead refers the State party to the information provided in the report on its 2009 visit.²³

48. The only difference between what was observed in March 2009 and what was seen during the September 2010 follow-up visit that may be worthy of mention is the presence of a bunk bed in the cell at Station No. 1 in San Lorenzo which was not there during the earlier visit. This two-tiered bed was not, however, sufficient for the five detainees present in the cell at the time of

the visit. Furthermore, no furnishings, such as chairs or other beds, that would make it more comfortable for persons spending hours or days in police custody were to be found either in that cell or in any of the other cells that were inspected. **The Subcommittee recommends that police holding facilities be furnished with a suitable number of beds and/or chairs.**

49. The Subcommittee was once again struck by the glaring difference between physical conditions in the police stations and conditions in the holding facilities for detainees within those police stations. In Station No. 3, for example, the Subcommittee's delegation observed that there was a large, clean, well-ventilated room just a few metres away from the cell which could have been used to house detainees. **The Subcommittee reiterates the recommendations it made in its 2009 report concerning physical conditions in the cells located in police stations.**²⁴

50. *Detention for a protracted period of time in police custody.* Authorities of the State party have informed the Subcommittee that it remains a common practice in the country to hold detainees in police cells for prolonged periods. Some police stations in Paraguay are obliged, by court order, to hold detainees in pretrial detention for months at a time, even though they do not have the necessary infrastructure, personnel or budget to do so. The Subcommittee condemned this practice in its earlier report and asked that it be discontinued immediately.²⁵ **The Subcommittee reiterates its recommendation and further recommends that the judiciary and the Ministry of the Interior enter into discussions for the purpose of reaching an agreement that will enable them to put an end to this practice.**

51. *Allegations of torture and other forms of ill-treatment.* In their conversations with the Subcommittee's representatives, detainees said that they had been subjected to torture and to cruel, inhuman or degrading treatment. One prisoner said that he was handcuffed and then forced to kneel while officers stepped on the handcuffs and hit various parts of his body. The prisoner said that, later, officers took him into the police station bathroom and shoved his head into a urine-filled toilet in order to obtain a confession. Another detainee said that police officers put a wet towel into his mouth, which made him feel that he was suffocating, so that he would say he was guilty. According to information received during the follow-up mission, other techniques of torture, such as the "dry submarine" and squeezing of the testicles, continue to be common. The Subcommittee notes that many of the forms of ill-treatment to which it referred in its earlier report appear to continue to be used during administrative detention. **The Subcommittee emphasizes the importance of the recommendations which it made at that time,**²⁶ **particularly with respect to the need to provide regular, explicit, unequivocal instruction for all police personnel about the absolute, imperative prohibition of any form of torture or ill-treatment and the need to undertake a prompt and impartial investigation whenever there is reason to believe that an act of torture or ill-treatment has been committed, whether or not a formal complaint has been lodged.**

2. Prisons

52. The Subcommittee's delegation visited the Tacumbú National Prison in Asunción and

spoke with its director and with prisoners. At the time of the visit, there were 3,154 inmates in the prison, of whom 2,367 were being held in pretrial detention.

53. The Subcommittee found that some improvements had been made in the prison's infrastructure: new bathrooms have been built in some blocks, some blocks have been remodelled, and the number of beds has been increased. The Subcommittee is particularly gratified to learn of the demolition of the infamous isolation block known as "Alcatraz" and of the construction of a new isolation block that meets minimum standards of general living conditions, hygiene, natural lighting and ventilation. The Subcommittee also notes that steps have been taken to reduce the number of persons who are not assigned to any block but instead live in the corridors (known as *pasilleros*, or "corridor people"). The authorities reported that the number of *pasilleros* has been lowered to 150, although the inmates who were asked about this said that the number was higher (about 250).

54. These relative improvements are greatly overshadowed, however, by the serious problems plaguing Tacumbú National Prison, in particular, and possibly Paraguay's entire prison system.

55. Overcrowding remains a cause of concern. Tacumbú has capacity for approximately 1,200 inmates but houses far more than double that number. The Subcommittee is aware that the Government has made an effort to increase the number of beds in Tacumbú Prison, but would point out that those efforts will not be sufficient, since the prison structure is inadequate. The Subcommittee is also aware of the plans of the Ministry of Justice and Labour to build new prisons (Pedro Juan Caballero, Ciudad del Este, Misiones, Emboscada, etc.) and to refurbish existing ones (Emboscada). During their visit to the country, the Subcommittee's representatives learned from the press that Tacumbú Prison was soon to be closed.²⁷ **The Subcommittee is of the view that Tacumbú National Prison should be closed as soon as possible and requests confirmation from the State party of the above-mentioned announcement, together with information on the timetable for its closure.**

56. The Subcommittee is also of the view that the *pasilleros'* situation has humanitarian implications that call for urgent action. **The Subcommittee recommends that the State party immediately resolve the situation of the *pasilleros*, reduce their number to zero and guarantee each inmate a bed and a roof over his or her head.**

57. According to statements made to the Subcommittee, torture and ill-treatment have continued to be commonplace and have been the usual means employed by prison guards to impose their authority. The Subcommittee's delegation spoke with one inmate who showed signs of torture, including a recent open wound on his head, a recent open wound on his leg and bruises running down his back. The inmate said that the blows had been dealt by a prison guard with his truncheon the day before in punishment for having been in a brawl with another prisoner. **The Subcommittee reiterates its recommendation that a speedy and impartial investigation be undertaken into any allegation of torture or ill-treatment in accordance with articles 12 and 13 of the Convention against Torture. When such allegations concern prison staff, those persons should be suspended while the inquiry is conducted and should be removed**

from their posts if they are found to be guilty.

58. *Prison management, corruption and system of privileges.* The Subcommittee refers the State party to the statements made in its earlier report regarding corruption and the illegal system of privileges that is in use in prisons.²⁸ The Subcommittee was informed about certain steps that were taken in line with its recommendations.²⁹ Based on its follow-up visit, however, the Subcommittee is of the view that corruption in Tacumbú Prison, far from having been reduced, appears to have spread and become worse.

59. Although prison authorities report having removed corrupt prison staff from their posts, inmates and other credible sources have told the Subcommittee, in great detail, how corruption continues to affect each and every area of prison life. “Fees” continue to be charged for the different services (such as access to a doctor, to a given block or wing, etc.), with some modifications. “If anything has changed”, some inmates said, “it is that now you have to pay more for certain things.” Whereas, slightly over a year ago, inmates had to pay the guards 5,000 guaraníes in order to be allowed to carry a knife, the sum had risen to 50,000 guaraníes by September 2010. The Subcommittee has also been informed of other illegal fees now being charged by the guards (e.g., a fee of 2,000 guaraníes for allowing an inmate’s visitor to sit on a chair or to return a mobile phone to a visitor who was required to leave the phone at the prison entry hall).

60. In addition, although the information received from official sources indicates that budgetary allocations for meals ought to be sufficient to meet inmates nutritional requirements, inmates are almost unanimous in asserting (and their version is backed up by statements from many staff members) that the food they receive is neither nutritional nor sufficient in quantity because most of the food is taken out of the prison and sold for profit. A number of inmates also reported that, on repeated occasions, personal effects (including CD players and new undergarments) were taken by the guards during searches.

61. The Subcommittee is extremely concerned by information received from credible sources which indicates that corruption is not confined to a given prison or operational level. On the contrary, it seems to exist in almost all of the country’s prisons and to be very well coordinated and organized. The Subcommittee has repeatedly been apprised of consistent allegations that certain political circles are profiting from this nationwide form of organized corruption.

62. Corruption can pave the way for degrading treatment and has an adverse impact on the human rights of those subject to it.³⁰ Persons deprived of their liberty constitute a vulnerable group for which the impact of corruption is even greater, since they are less able to defend themselves or to report it. Many of the specific examples in Tacumbú Prison that were cited to the Subcommittee illustrate this: when an inmate must pay 15,000 guaraníes for medicine that should have been provided free of charge, that inmate’s right to health is being impaired. When prison guards bring drugs into a prison or allow drugs to be brought in, they are also interfering with the inmates’ right to health and, indirectly, their right to life. Corruption is also intrinsically discriminatory, since inmates who pay bribes enjoy privileges, while inmates who do not engage

in corrupt practices do not. Poor inmates, who may already be subject to the “criminalization of poverty”, thus become victims of additional discrimination in prison because they are unable to take part in the prevailing scheme of corruption.

63. The existence of widespread corruption in Tacumbú Prison was exposed by reports that appeared in the press³¹ soon after the Subcommittee’s visit concerning a child pornography ring operating from within the prison. It is the Subcommittee’s understanding that these actions led to the dismissal of the prison’s director and the intervention of the Director of Prisons and Corrections. **The Subcommittee deeply deplores these actions, which it condemns energetically and categorically. The Subcommittee recommends that an investigation of these actions be undertaken without delay and that the inmates and staff members involved be tried and, if found guilty, punished.**

64. Given the scope and entrenched nature of corruption, a strong political commitment to its elimination is required, as are a series of short-, medium- and long-term measures for its prevention and suppression. **The Subcommittee reiterates its earlier recommendations³² and, in addition, recommends that the State party:**

- (a) Undertake an independent audit without delay, starting with Tacumbú National Prison but including all prisons in the country, to investigate the corruption existing in this sector, identify corruption risks and develop recommendations for internal and external oversight. This audit should be followed up with regular inspections to ascertain the extent of compliance with the initial recommendations;**
- (b) Carry out a campaign to sensitize staff and the general public to the need to combat corruption in the prison system and to make them aware of the adverse consequences of corruption;**
- (c) Draft, approve and then distribute a code of conduct to prison staff;**
- (d) Promote transparency in the administration of the prison system’s resources by, inter alia, making public each prison’s budget, budgetary decisions and the names of the responsible officials;**
- (e) Increase the wages of prison staff in order to ensure that their pay levels are fair and adequate and raise the professional standards and status of prison workers by creating a correctional studies curriculum;**
- (f) Investigate allegations of corruption and, in cases where it is suspected that a crime has been committed, provide the relevant information to the Office of the Public Prosecutor.**

65. *Narcotics.* Paraguayan authorities have informed the Subcommittee about the “Zero Drugs” campaign, whose aim is to eradicate narcotics from the country’s prisons. During the visit

of the Subcommittee's delegation, it became evident that drugs were commonplace in Tacumbú National Prison. In one case, the Subcommittee's representatives witnessed an inmate smoking marihuana when prison guards were not far off. In another, an inmate showed the Subcommittee's representatives how much crack cocaine he had in his possession, as well as the device he used to inhale it. This inmate told them that a "rock" of crack cocaine could be bought for just 3,000 guaraníes (approximately US\$ 0.50). A number of persons said that the use of crack cocaine had recently become more prevalent in Tacumbú Prison and that this had had extremely serious consequences for the inmates.

66. A number of inmates told the Subcommittee's delegation that the consumption of this highly addictive and harmful narcotic was a factor in the situation of the *pasilleros*. They said that inmates (who, as noted earlier, have to pay for their lodging and other benefits) sell off their personal effects and even stop paying for their cells, thus ending up sleeping in the corridors, so that they can continue to use this drug. Crack addicts' cell block mates also reject them out of fear that the addicts will rob them, as well as because of the state of euphoria that they sometimes display. The Subcommittee believes that the use of crack cocaine and other narcotics in prisons inevitably has an adverse impact. Illegal drug use and trafficking have a powerful negative influence on relations among prisoners and between them and the authorities. Illegal drugs give rise to a series of related problems as well, such as violence, the status enjoyed by traffickers, the presence of adulterated drugs, debts and the risk of infection (particularly with HIV and hepatitis) for inmates who share contaminated needles.

67. The Subcommittee recommends that prison authorities step up their efforts to prevent drugs from being brought into prisons, to identify access routes and to launch drug prevention campaigns (harm reduction programmes). Detoxification programmes for individual drug users and family reintegration therapy should be provided in conjunction with the above measures.

Notes

¹ CAT/OP/PRY/1.

² CAT/OP/PRY/1/Add.1.

³ Article 13, paragraph 4, of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment reads as follows: "If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit."

⁴ This information was later confirmed by the State party in a note verbale dated 28 September 2010.

⁵ See paragraphs 26-28 of the report.

- ⁶ Report of the Committee against Torture (A/55/44), para. 150 (b).
- ⁷ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Paraguay (A/HRC/7/3/Add.3), para. 17.
- ⁸ Inter-American Court of Human Rights, Case of *Goiburú et al. v. Paraguay*, Merits, reparations and costs, judgement of 22 September 2006, Series C, No. 153, para. 92.
- ⁹ CAT/OP/PRY/1/Add.1, para. 2.
- ¹⁰ CAT/OP/PRY/1, para. 33.
- ¹¹ CAT/OP/PRY/1/Add.1, paras. 3-11.
- ¹² CAT/OP/PRY/1, para. 106.
- ¹³ CAT/OP/PRY/1/Add.1, para. 33.
- ¹⁴ CAT/OP/PRY/1/Add.1, para. 12.
- ¹⁵ Information current as of October 2009.
- ¹⁶ CAT/OP/PRY/1, paras. 53 and 54.
- ¹⁷ CAT/OP/PRY/1/Add.1, paras. 107-114.
- ¹⁸ CAT/OP/PRY/1, para. 118.
- ¹⁹ CAT/OP/PRY/1, para. 70.
- ²⁰ CAT/OP/PRY/1/Add.1, para. 25.
- ²¹ CAT/OP/PRY/1/Add.1, paras. 30 and 45.
- ²² CAT/OP/PRY/1, para. 77.
- ²³ CAT/OP/PRY/1, paras. 112, 113 and 118.
- ²⁴ CAT/OP/PRY/1, para. 128.
- ²⁵ CAT/OP/PRY/1, para. 133.
- ²⁶ CAT/OP/PRY/1, para. 144.

²⁷ UltimaHora.com, *Balance de ministro de Justicia menciona intención de clausurar penal de Tacumbú* (Overview provided by the Minister of Justice makes reference to plans to close Tacumbú prison), 14 September 2010.

²⁸ CAT/OP/PRY/1, paras. 157-165.

²⁹ CAT/OP/PRY/1/Add.1, paras. 57-61.

³⁰ See A/HRC/10/21, paras. 56, 60 and 74; CCPR/C/MKD/CO/2, para. 8; E/C.12/1/Add.91, para. 12; E/C.12/KEN/CO/1, para. 10; A/HRC/7/3/Add.5, para. 91.

³¹ “Paraguay: descubren red pornográfica en una cárcel” (Pornography ring discovered in Paraguayan jail), *BBC Mundo*, 18 September 2010; “Parejas de reos son coaccionadas por otros para tener relaciones sexuales” (Inmate couples forced to have sexual relations by other inmates), *ABC Digital*, 20 September 2010.

³² CAT/OP/PRY/1, para. 165.

Annex

List of senior officials and other persons with whom the delegation met

A. National authorities

Ministry of the Interior

Mr. Rafael Filizzola, Ministry of the Interior
Ms. Diana Vargas, Human Rights Directorate

Ministry of Foreign Affairs

Mr. Juan Esteban Aguirre, General Directorate for Multilateral Policy
Ms. Lorena Cristaldo
Ms. Lizza Estigarribia

Ministry of Justice and Labour

Mr. Humberto Blasco Gavilán, Minister of Justice and Labour
Mr. Carlos María Aquino, Deputy Minister of Justice and Human Rights
Ms. Olga María Blanco, General Directorate for Prisons and Corrections

Judiciary

Mr. Víctor Nuñez, Supreme Court Justice
Ms. Ana María Llanes, Enforcement Judge
Ms. Nury Montiel, Human Rights Director, Supreme Court
Ms. Noyme Yore, Chief Public Defender, Office of the Public Defender

Legislature

Members of the Senate Committee on Legislation, Codification, Justice and Labour
Members of the Senate Human Rights Committee

Office of the Ombudsman

Mr. Manuel María Páez Monges, Ombudsman
Ms. Helem Almada Alcaraz
Ms. Diana Roa
Ms. María José Méndez

B. United Nations bodies

Mr. Lorenzo Jiménez de Luis, Resident Representative of the United Nations Development Programme (UNDP) and United Nations Resident Coordinator
Mr. Joaquín Cáceres Brun, Coordination Officer, UNDP
Ms. Liliana Valiña, Human Rights Adviser, OHCHR

C. Civil society

Human Rights Coordinator for Paraguay (CODEHUPY)

(b) Action taken by State party

CAT/OP/PRY/1/Add.1 (2010)

Replies of the Republic of Paraguay to the recommendations and requests for information made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in its report on its first periodic visit to Paraguay

...

1. The Government of Paraguay takes careful note of all the recommendations and observations made by the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was established pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, following the visit carried out by the Subcommittee from 10 to 16 March 2009. The Government of Paraguay takes this opportunity to make the following comments.

I. Recommendations

Paragraphs 238 and 239

2. The Government of Paraguay is pleased to report that a draft amendment to the Military Criminal Code (Act No. 843/1980) is currently under consideration. This amendment is aimed at incorporating the legal definitions set out in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - in view of the fact that the current Code dates from 1980 - in order to bring this legislation into conformity with international treaties on the subject.

Paragraphs 240 and 241

3. The Office of the Ombudsman has described the progress made in implementing these recommendations, as follows.

4. The Office of the Ombudsman - through its Department for Persons Deprived of their Liberty, which, since the month of May, has been assigned to the First Rotation Office - has restructured that office and has appointed a permanent director and a secretary with a view to ensuring full respect for human rights. The type of service provided by the First Rotation Office for Persons Deprived of their Liberty consists of routine monitoring of the criminal justice (judicial and prison) system and of complaints and reports filed by persons deprived of their liberty. In order to obtain an overview of the situation with respect to torture in Paraguay's prisons, the Office of the Ombudsman, together with representatives of various State bodies and civil society organizations, established the Inter-Agency Commission to Conduct Visits and Monitoring in respect of Adolescents Deprived of their Liberty. This commission visited all

juvenile detention centres in Paraguay in order to inspect the living conditions of their inmates and to detect any situations of torture or ill-treatment that might exist. All of these data were collected using a protocol according to which adolescents deprived of their liberty were interviewed personally and - with regard to inmates' complaints, particularly those relating to torture - in strict confidentiality.

5. An in-depth investigation into torture has not yet been carried out in adult detention centres; however, in 2009, a number of complaints of torture were lodged by inmates themselves. These allegations were taken up by the Office of the Ombudsman, which referred them to the Public Prosecutor's Office and subsequently performed due process checks in each case. Acts of torture in police stations have also been reported, and the Office of the Ombudsman followed the same procedure in dealing with these cases, which consisted of organizing an on-site meeting of representatives of the Office of the Ombudsman, conducting an interview with the detained person who showed signs of torture and subsequently transmitting the complaint to the competent body so that it could conduct an investigation into the matter.

6. The system is monitored by sending out requests for reports on the judicial status of inmates at the various prisons. These reports are submitted in a table format and indicate inmates' judicial status, whether they have defence counsel, whether they have been given a firm date to apply for a conditional release and the name of the court handling the case. On the basis of these data, the Office of the Ombudsman performs a due process check on prisoners' cases, especially those in which there is some irregularity, such as a failure to appoint a defence counsel or to provide official notification of the prisoner's sentence.

7. The Office of the Ombudsman also gathers information on the basic requirements of the various prisons. To that end, the directrice of the First Rotation Office held meetings with the directors of the Tacumbú and the Buen Pastor prisons, who described the various shortages in these prisons that made it difficult for them to meet inmates' needs.

8. The Office of the Ombudsman has requested the Ministry of Justice and Labour to provide adequate supplies in order to ensure that inmates' needs are met and their human rights fully respected.

9. The main actions taken by the Office of the Ombudsman in response to complaints or allegations of human rights violations include an immediate request for a report from the authorities of the detention centre where the events occurred, or the dispatch of the director or secretary of the First Rotation Office to the place of detention in question in order to take the person's statement, record the visible condition of his or her body and bring any detected violations of rights to the attention of the competent authority for investigation.

10. All proceedings are recorded in case files containing the complainant's first name and surname, together with information on the matter being reported and the proceedings undertaken. A backup electronic file containing the same information is also kept.

11. All complaints lodged with the Office of the Ombudsman are first registered and then transmitted to the competent body having the authority to investigate the alleged incidents. The Office of the Ombudsman then performs a monitoring role and ensures that due process is observed.

Paragraph 242

12. With the aim of promoting policies on human rights, the current Administration, by means of resolution No. 542 of 16 September 2009, established the Human Rights Department. The operating regulations of the Department are being studied with a view to their approval, and its organization chart includes a planning, operations and evaluation section. One of the functions of the section is to inspect the infrastructure of police stations where persons are held in custody and evaluate it in terms of the conditions prescribed by international humanitarian standards. The purpose here is to improve prisoners' conditions in accordance with the provisions of article 3 of National Police Organization Act No. 222/93 and in conformity with the Constitution, the Criminal Code and the Code of Criminal Procedure.

13. The Office of the National Police Commander has been working with the International Committee of the Red Cross (ICRC) under a cooperation agreement aimed at incorporating international human rights standards and humanitarian principles, as applicable to police duties, in the education and training of its staff, as well as in police procedures and internal regulations.

14. In keeping with the Government's commitment to promote and respect human rights, the executive branch, by Decree No. 1811 of 15 April 2009, established the Human Rights Directorate, which is attached to the Office of the Deputy Minister for Political Affairs. Its objective is to promote and protect human rights within the Ministry of the Interior and its divisions. In addition, it is also charged with promoting dialogue and cooperation among civil society organizations, academic institutions, State institutions and the media, as well as other stakeholders, on topics relating to public security and human rights.

15. Efforts have also been directed towards the formulation of State policies on law enforcement and the police force's role in society that incorporate various aspects of State policy on criminal matters. The latter provides for scientific research into the causes of criminal behaviour and the effectiveness of different penalties to serve as a basis for State efforts to combat crime through the use of penalties, preventive measures and other means.

16. Lastly, the police force has made significant progress from the humanitarian standpoint, despite the fact that many aspects of the new directives have not yet been fully implemented. Since the establishment of the National Police in 1992, the powers and duties of the police force have been changing in order to keep pace with the times, to ensure respect for the rights of all inhabitants of Paraguay and to make the transition from a repressive to a preventive police force with a greater social role and local presence.

Paragraph 243

17. The Government of Paraguay would like to point out that visits to prison facilities, particularly those located in the capital, are not announced in advance. On a weekly basis, staff from the Prison Supervision Unit enter into direct contact with male and female prison inmates; these inmates are not pre-selected by prison staff. A request has been made through the appropriate channels for increased allocations of human and financial resources.

Paragraph 245

18. With regard to this point, we wish to report the following.

19. A total of 3.2 per cent of the general central government budget is allocated to the judiciary, which is composed of the Supreme Court, the electoral courts, the Public Prosecutor's Office, the Council of Justice and the Tribunal for the Prosecution of Judges.

20. The national general central government budget approved for the current financial year totals PYG 15,542,869,035,120 (fifteen trillion, five hundred forty-two billion, eight hundred sixty-nine million, thirty-five thousand one hundred twenty guaraníes).

<i>Description</i>	<i>Amount allocated</i>		
NGB (central government) 2009	PYG 15 542 869 035 120	46.54%	NOTE
Judiciary (Supreme Court)	PYG 497 840 015 356	3.20%	(*)

(*) Share of 2009 national general budget (NGB 2009).

21. The share of the Supreme Court budget allocated to the criminal courts is approximately 6.38 per cent, or PYG 31,774,182,409 (thirty-one billion, seven hundred seventy-four million, one hundred eighty-two thousand four hundred nine guaraníes).

22. The percentage increase in the budget of the Supreme Court for the period 2007/08 may be seen in the following table.

<i>Financial year</i>	<i>Amount</i>	<i>Increase</i>	<i>%</i>
2007	373 397 047 032	-	-
2008	434 856 996 941	61 459 949 909	16
2009	497 840 015 356	62 983 018 415	14

Note: In each case, percentage increase calculated relative to previous year.

23. With regard to allocations for salaries of criminal judges, it may be noted that the budget for personal services was 22 per cent higher in 2007/08 than in 2006. No increases were approved for the current financial year.

24. In the 2010 draft budget submitted to the National Congress for the Supreme Court, a request was made for a 25 per cent increase in base allocations for the judiciary. The request is still under consideration.

Paragraph 251

25. Resolution No. 176 of 10 February 2010 of the Office of the National Police Commander provides for:

26. Establishment of a system of compulsory registration in a paginated register, separate from and parallel to the duty register, which is to include the legal grounds for the deprivation of liberty, the exact time when the detention began, how long it lasted, who was responsible for its authorization and the names of the law enforcement officials concerned, together with precise information on the place of detention, the time at which the competent authorities were informed, the means of communication used to do so and the time at which the detainee first appeared before a judicial or other authority (Prosecutor's Office).

27. Maintenance of a clear record in the register of medical examinations of persons deprived of their liberty, including the type of care provided, the name of the doctor concerned and any findings or diagnoses made during the examination.

28. Maintenance of a record in the register of complaints received; visits, whether by family or others, by lawyers, or by members of supervisory bodies or of a competent judicial authority; and an inventory of the personal effects of persons who are detained.

29. Police station chiefs are responsible for training and supervising police personnel to ensure the proper completion of the registers and their lawful utilization.

Paragraph 252

30. The Publications Department of the National Police has prepared posters and other publicity materials on the subject of persons deprived of their liberty. These have been printed in the two official languages and have been distributed to all police stations throughout the country.

31. In order to support the work of the police, the Chamber of Deputies has developed a police officer's guide to human rights. Copies of this pamphlet have been distributed to all commissioned and non-commissioned police officers.

32. The Office of the National Police Commander and the Ministry of the Interior have jointly organized one-day events, courses, workshops and seminars on the subject of human rights as they relate to the field of law enforcement.

33. An agreement has been concluded between the Office of the National Police Commander and the International Committee of the Red Cross for the training of instructors in human rights.

(To date, 87 staff members have completed the training: 77 commissioned officers and 10 non-commissioned officers.) Human rights training will be mainstreamed within the curricula of all technical vocational courses offered by training institutes attached to the Higher Institute of Police Education.

Paragraph 263

34. There are plans to draft a circular instructing all police stations to provide a “complaints book” in which the names of detainees are to be noted. These persons would then be able to file a complaint about and/or bring to the attention of the authorities the type of treatment they received in that particular police station, as well as any other type of complaint relating to human rights.

Paragraph 266

35. Over the course of 2010, the police force plans to continue developing numerous human rights courses, to update them on the basis of provisions of domestic positive law related to human rights and to include segments on the custody of persons deprived of their liberty and on the proper use of registers.

Paragraph 267

36. Articles 128-132 of National Police Organization Act No. 222/93 establish the duties and powers of senior officers with regard to the organization, oversight, inspection and penalization, when necessary, of subordinate police staff in cases of misconduct under police regulations or under domestic positive law that is considered to impair the proper functioning of the police force.

Paragraph 268

37. The Department of Internal Affairs of the National Police is the division charged with investigating, overseeing and informing the Commander and the Directorate for Police Justice of all irregular conduct allegedly involving police officials so that they may apply the appropriate sanction in each particular case. In addition, the Human Rights Department was established by the Office of the National Police Commander in order to ensure full compliance with the human rights covenants and agreements signed and ratified by the State of Paraguay.

Paragraph 269

38. An inter-agency commission composed of representatives of the Ministry of the Interior, the Office of the Ombudsman, the National Police (Human Rights Department) and the Secretariat for Women has been set up in order to monitor police stations. It will check on conditions in detention cells and on the provision of drinking water, regular access to toilets and proper mattresses and beds, in order to ensure that people's basic needs are met.

Paragraph 270

39. The above-mentioned commission has established measures relating to all aspects of the treatment of persons who are detained or deprived of their liberty for a period greater than 24 hours, with particular emphasis on their placement in detention cells, lavatory facilities, food and rest.

Paragraph 271

40. The current procedure followed by police staff in order to check persons arrested or detained for any physical disorder that they might exhibit as from the time of their arrest or detention consists of a thorough examination of the prisoner by doctors from the Medical Emergency Centre or the Police Hospital (in the case of police procedures in the capital) or from a health centre (in the case of police procedures in the interior of the country).

Paragraph 272

41. The police procedures manual explicitly states that any woman who is arrested or detained should be protected and guarded by female police officials in order to avoid the commission of procedural irregularities or excesses by male police officials in the course of their arrest or detention. This rule's sole purpose is to safeguard their physical integrity and other human rights as provided for by law.

Paragraph 273

42. Concurrently with the establishment of the National Police in 1992, women were admitted into the ranks of the police force as both commissioned and non-commissioned officers. Likewise, ever since the Specialized Urban Police was established in 2006, female staff have performed custodial, monitoring and guard duties and have carried out checks on detainees or offenders within the established parameters.

Paragraph 275

43. Police personnel are given thorough instruction on the agreements, laws and other instruments ratified by the Government of Paraguay that concern acts of torture, ill-treatment, cruel punishment or the prevention and punishment of breaches of the law. With the support of other institutions, the National Police provides human rights courses, seminars and training to all police personnel.

Paragraph 276

44. A number of governmental bodies, such as the Human Rights Prosecution Unit, have been set up to conduct prompt and impartial follow-up and investigations into all allegations or reports that a member of the police force has breached a provision of the Convention against Torture and

Other Cruel, Inhuman or Degrading Treatment or Punishment or any related regulation. The legislative branch has a special commission for receiving, monitoring and following-up complaints relating to acts of torture, ill-treatment or cruel punishment. There are also various social groups that are dedicated to overseeing, reporting and following up cases involving cruel, inhuman or degrading treatment or punishment.

Paragraph 277

45. The Publications Department of the National Police has prepared posters and other publicity materials on the subject of persons deprived of their liberty. These have been printed in the two official languages and have been distributed to all police stations throughout the country. Information has also been made available to the public on the prohibition of torture and ill-treatment, as well as on how and where to file complaints concerning such acts.

46. In order to support the work of the police, the Chamber of Deputies has developed a police officer's guide to human rights. Copies of this pamphlet have been distributed to all commissioned and non-commissioned police officers.

Paragraph 278

47. All "plain clothes" (i.e., non-uniformed) commissioned and non-commissioned police officers and other police staff who conduct arrests, detain or apprehend suspects or perform other police duties must be duly accredited and carry badges. Police force regulations prescribe the type of uniform and insignia that officers should wear and the scope of their functional responsibilities. Any breach of the regulations contained in the Police Charter is to be punished by the institution through the Directorate for Police Justice on the basis of the corresponding report from the Department of Internal Affairs of the National Police.

Paragraph 279

48. The Emboscada Prison, which has a capacity for 132 persons housed in three-person cells, will soon become operational. At that time, sentenced convicts currently held at the Tacumbú National Prison will be transferred to Emboscada.

49. In 2009, all the country's prisons were refurbished. Improvements were made to the *ex sótano* wing, the D wing and the *cuadrulátero* sector of Tacumbú National Prison. These improvements are described in the present report.

50. The new Pedro Juan Caballero Regional Prison has been outfitted as discussed in paragraph 187 of the Subcommittee's report. The new prison is located on an 11-hectare plot and comprises a central facility and three wings with 103 cells having a capacity for approximately 300 inmates (see annex 1: CD Video showing transfer of inmates to Pedro Juan Caballero).

Paragraph 281

51. Prisoners are separated into sectors and wings. Female inmates are housed in the front part of the facility and are separated from male inmates by a physical structure. Adolescents deprived of their liberty in Pedro Juan Caballero are housed in a separate wing from adult inmates. Attention is drawn to the fact that the two adolescents currently being held in this prison will be transferred to a nearby educational facility in Concepción. The new prison centre offers improved conditions in terms of space and infrastructure.

52. As an annex to the present report, a DVD is being submitted with footage of the new prison before and after its inauguration, along with photographs depicting other improvements.

Paragraphs 282 and 283

53. The Deputy Minister of Justice and Human Rights, by means of resolution No. 2 of 11 January 2010, has required that all new event registers and logs and all registers of visits to prisons and women's correctional facilities under the authority of the Ministry of Justice and Labour should be numbered and signed by the secretariat of the Directorate-General of Prison Establishments.

54. Between Monday, 17 August 2009 and the end of that month, a general census was taken of inmates at all prisons in Paraguay.

55. The objective of this census was to collect data on the country's prisons that could then be used as a source of information for plans and projects aimed at a comprehensive reform of the prison system. The Ministry of Justice and Labour now has a clear picture of the characteristics of the persons being held in custody, including their socio-cultural situation, personal data and judicial status. The following data are provided in the annexes to this document: total number of prisoners by age bracket, broken down by prison facility and gender; total number of prisoners by marital status, broken down by prison facility and gender; total number of prisoners by nationality; total number of prisoners by educational level; grade or course completed, by gender and five-year age group; educational level by the highest stage, grade or course successfully completed; percentage of prisoners who would like to receive job training upon release, by gender and five-year age group; number of persons suffering from some type of contagious disease; number of persons receiving medical treatment, by gender and five-year age group; percentage of persons with identification documents; number of persons who are working within the prison; number of inmates who receive assistance from relatives and/or third parties, by gender and five-year age group; number of inmates who receive visits, by gender and five-year age group; number of inmates with minor children; number of inmates according to legal status of housing previously occupied by them or currently occupied by their family, by five-year age group; number of inmates who own their home and have or do not have minor children, broken down by highest grade/course successfully completed; and number of repeat offenders, by five-year age group.

56. This project is being carried out with funds provided by the Spanish International Agency for Development (AECID); technical assistance from the Directorate-General of Statistics and

Censuses; the help of more than 200 students from the Faculty of Law and Social Sciences of the National University at Asunción and its affiliates, who gathered data from every prison in Paraguay; cooperation from the Identification Department of the National Police, which, concurrently with the census, collected data on inmates using the same procedure as that used for issuing an identification document to any citizen in the country; and assistance from the judicial branch, which has pledged to provide all procedural data relating to the criminal cases in which these persons are implicated. The Government is currently in the process of making percentage calculations on the basis of the data collected.

Paragraph 284

57. By means of resolution No. 218/09 of 23 March 2009, the Ministry of Justice and Labour established a special commission for following up and implementing the observations and recommendations of the Subcommittee on the Prevention of Torture. The commission is composed of senior officials from the Ministry of Justice and Labour. It has verified, in situ, the comments made by the Subcommittee and has submitted its report to the Minister of Justice and Labour.

58. The report submitted by this special commission focuses on three main areas: corruption, infrastructure and human rights. The commission carried out its field work in the Tacumbú National Prison and the Pedro Juan Caballero Regional Prison. It then formulated conclusions and proposals for action, which were incorporated into the final report of the Subcommittee on the Prevention of Torture.

59. In the area of corruption, the proposed measures include: establishing a policy for re-engineering the prison administration system and a new organizational structure (organization chart and handbook of responsibilities); formulating job description profiles in the prison system; designing, proposing and implementing a selection process for the prison service; designing, proposing and implementing a promotion process for the prison service; designing and implementing a plan for re-engineering these processes; prohibiting staff from carrying money within prison premises and overseeing enforcement of the ban; making the most senior authority responsible for monitoring the assignment of cells and beds in order to ensure that each prisoner has a decent place to sleep without having to pay for it.

60. The report also calls for improvements in minimum material conditions and health-care systems, medicines and food.

61. With the support of experts from AECID, the Deputy Minister of Justice and Human Rights has developed five guideline papers as part of the prison reform process. The reform proposal is currently being studied with a view to its approval and implementation. These papers address the following: (1) advisory services concerning new prison construction and the renovation of existing prisons; (2) recruitment of human resources; (3) training of human resources; (4) technical assistance in designing a prison health system; and (5) technical assistance in designing a system of intervention or treatment. The above-mentioned guideline

papers may be found in the annex to the present document.

Paragraph 286

62. In terms of the human resources assigned to the various prisons, it may be noted that, as of 15 August 2008, the total number of persons deprived of their liberty was 5,893, while the total number of staff members was 989 (805 permanent and 184 contractual staff). This works out to a ratio of 1 staff member for every 6 inmates.

63. As of November 2009, the number of persons deprived of their liberty was 6,252, and the number of staff members totalled 1,160 (937 permanent and 223 contractual staff) for a ratio of 1 staff member for every 5 inmates.

Paragraphs 287 to 295

64. Resolution No. 9 of July 2009 of the Ministry of Justice and Labour (DGRRHH No. 157/2009) establishes provisions concerning services to be provided by medical professionals, other specialists and nurses with various specializations who are assigned to prison units, women's correctional facilities, educational facilities for adolescent offenders and children's homes that are under the purview of the Ministry of Justice and Labour. The resolution provides for an increase in working hours up to a maximum of 40 hours a week, depending on need, and the submission of monthly reports on the provision of health-care services by the units under its responsibility.

65. The 2009-2010 budget of the Ministry of Justice and Labour provides for the purchase of medicines on the basis of diagnoses made of 65 per cent of inmates. The budget estimates for purchases of medical supplies for the current year were based on the data compiled earlier. The bidding process is currently under way, in accordance with the provisions of Act No. 2051 on public tenders.

66. When the World Health Organization declared the H1N1 flu pandemic, in view of the danger of contagion within prisons, the medicines needed to treat that disease were purchased, and a preventive and treatment protocol for suspected cases was developed and implemented. Ultimately, however, there were no diagnosed cases of H1N1 and, consequently, no related deaths (see annex 2: Ministry of Justice and Labour).

67. A health promotion system, managed by inmates trained for the purpose, has been set up in the Tacumbú National Prison. Training was imparted to 83 inmates enrolled in a personal development course covering basic first aid and basic psychology. The first phase of the course began in April and ended on 29 July 2009, and the attending inmates were issued course completion cards.

68. The second phase of the personal development course, which included other inmates who had been selected on the basis of their profile, went into greater depth concerning basic first aid and basic psychology. The second phase ended in December 2009. The objective of the health

promotion system is to promote early diagnosis of illnesses, encourage inmates to seek medical treatment and impart basic medical knowledge. Following inmates' completion of their sentences, the fact that they have acquired this knowledge will boost their self-esteem and thus facilitate their social reintegration.

69. Paraguay's Country Coordinating Mechanism (CCM) initiative for dealing with cases of tuberculosis among the prison population was classified as a Category 2 proposal and awarded a US\$ 3,900,000 grant by the Global Fund in its ninth round of funding. The project provides for the strict monitoring of patients with HIV/AIDS, since their depressed immune systems heighten their susceptibility to tuberculosis (see annex 2: Ministry of Labour and Justice).

Paragraph 296

70. After one year under the direction of the new Minister of Justice and Labour and the senior officials who assist him, the first phase of the new Pedro Juan Caballero Regional Prison, which had remained unfinished for 12 years, has been successfully completed and outfitted. The shutting down of the unfortunately named *gallinero* (chicken coop), which for so long was the seat of the Amambay Prison, brings to a close a chapter of human rights failures.

71. The Government of Paraguay plans to invest PYG 2,366,710,950 in the construction of the second stage of the prison facilities, work having commenced on 7 December 2009. These works include the construction of the infirmary, kitchen, visiting area, intake area, workshops and second floor of the B wing, which has a holding capacity of 100 persons and increases the total capacity of the prison to 380 inmates.

72. The new prison is located on an 11-hectare plot and consists of a central block, 3 wings and 103 cells having a holding capacity of approximately 300 inmates (see annex 1: CD video showing transfer of inmates to Pedro Juan Caballero).

73. Prisoners are separated into sectors and wings. Female inmates are housed in the front part of the facility and are separated from male inmates by a physical structure. Adolescents deprived of their liberty in Pedro Juan Caballero are housed in a wing separate from adult inmates. Attention is drawn to the fact that the two adolescents currently being held in this prison will be transferred to a nearby educational facility in Concepción. The new prison centre offers improved conditions in terms of space and infrastructure.

Paragraph 297

74. The Ministry of Justice and Labour reports that a total of PYG 22,176,443,859 has been invested in educational facilities and prisons, as follows:

Concepción Regional Prison 585,346,000
San Pedro Regional Prison 250,588,860
Emboscada Antigua Regional Prison 461,745,716

Villarrica Regional Prison	223,491,150	
Colonel Oviedo Regional Prison	406,060,350	
Misiones Regional Prison	7,483,325,639	
Encarnación Regional Prison	649,635,821	
Ciudad del Este Regional Prison	99,991,426	
Ciudad del Este Educational Centre	510,855,570	
Casa del Buen Pastor Women's Correctional Facility		953,738,440
Virgen of Fátima Educational Centre	411,025,841	
Itaugúa Educational Centre	267,508,363	
Esperanza Educational Centre	134,722,899	

75. Total investments in 2009 in the Tacumbú National Prison amounted to PYG 2,471,696,834. The improvements were begun on 1 September 2009. The specific works involved renovating the façade, polishing floors, repairing the infirmary's roof, painting the bathrooms, installing sanitary fixtures, installing a sewerage system, installing a water tank, installing electrical wiring in walls, repairing prison wings and installing a telephone switchboard. To date, the improvements are about 35 per cent complete, and work will continue until they are finished. A deadline of 120 working days has been set for their completion (see annex 2: Ministry of Justice and Labour).

76. Improvements to public infrastructure coming under the responsibility of the Ministry of Justice and Labour have included enlarging, maintaining, remodelling and improving prisons, correctional institutions and other facilities, as specified in the document submitted as annex 2: Ministry of Justice and Labour.

Paragraph 299

77. For financial year 2010, budget allocations to provide meals to persons deprived of their liberty in the various prisons of the country total PYG 19,598,948,084. This amount is broken down by correctional facility. The respective draft budget may be found in annex 2: Ministry of Justice and Labour. Also attached to the present report is a description of the food products (beef, dried foods, canned foods and perishables) purchased by the Ministry of Justice and Labour in 2009 for the various prisons in the country.

Paragraph 301

78. As of 15 August 2008, the total number of staff members was 989 (805 permanent and 184 contractual staff). This works out to six a ratio of 1 staff member for every 6 inmates. As of 15 November 2009, the total number of staff members was 1,160 (937 permanent and 223 contractual staff), which meant that there was 1 staff member for every 5 inmates (see annex 2: Ministry of Justice and Labour).

79. All staff working in the prison system currently receive, as basic pay, the current minimum current wage, although some officials receive other remunerations in addition to the legal

minimum (see the annex).

Paragraph 303

80. The application of disciplinary penalties is provided for in article 28 of the Prisons Act (No. 210/70) and in resolution No. 99/2001, which establishes regulations governing inmates of the nation's prisons and correctional facilities. Disciplinary measures are taken only when evidence has been duly provided in the course of proceedings held to determine whether disciplinary action should or should not be taken against the person in question.

81. Chapter IV of the Prisons Act (No. 210/70) stipulates, with regard to disciplinary measures:

“Art. 28. Disciplinary actions consist of: (a) a warning; (b) total or partial loss of acquired statutory benefits; (c) confinement in one's own cell and reduction of additional amenities; (d) solitary confinement for up to 30 days; (e) placement in groups subject to more rigorous treatment; and (f) transfer to another type of establishment.

“Art. 29. Persons subject to the disciplinary measures specified in subparagraphs (c), (d) or (e) shall be visited periodically by a senior official of the prison establishment, by the chaplain, when requested, and by the physician.

“Art. 30. In the case of a first offence at the prison establishment, if justified on the basis of the inmate's previous conduct, at the time that the prison director orders the application of the measures prescribed by article 28, subparagraphs (b), (c) or (d), the director may also suspend their enforcement. If the inmate commits another infraction within the period of time specified in each case by the prison director, the inmate shall be subject both to the punishment whose enforcement had been suspended conditionally and to the penalty corresponding to the new infraction.

“Art. 31. In each prison establishment, a bound, paginated and signed register of disciplinary actions shall be kept in which the penalties imposed, their grounds and their application or conditional suspension shall be noted in chronological order.

“In addition, a record of the penalties imposed, their grounds and their application shall be included in the personal files of the inmates. In the cases specified in article 28, subparagraphs (c), (d) and (f), the judge in charge of the case shall be informed.

“Art. 32. Physical force or restraint shall be employed only after having exhausted other means of subduing the inmate or inmates and when threatened or actual conduct, whether individual or of a group, poses imminent danger of grave harm to persons or things. It shall be employed exclusively at the order of the person currently acting as director of the prison establishment, when the need for it arises.

“Art. 33. The use of service weapons shall be limited to exceptional circumstances in which they are considered necessary for purposes of prevention or when imminent danger is posed to the life,

health or safety of officials, inmates or third parties.”

82. Prisons Act No. 210/70, resolution No. 99/2001, which establishes regulations governing inmates of the nation’s prisons and correctional facilities, and the regulations themselves are attached to this document.

Paragraph 305

83. An inter-agency cooperation agreement has been signed by AECID, the Ministry for Foreign Affairs and the Ministry of Justice and Labour for the implementation of the Cultural Development in Prison Centres Project.

84. The project will be carried out over a six-month period (from July to December 2010) and will focus on four areas, details of which are to be found in the annex: (1) cultural education; (2) audio-visual resources; (3) library; (4) live cultural performances.

85. The new Pedro Juan Caballero Regional Prison has a wing for women with a capacity for 25 persons. To date, the prison houses two women inmates. This wing has a large laundry area that is divided from the facilities housing the male prison population by a double wall, allowing inmates to spend time outdoors every day.

Paragraph 306

86. The designated visiting days in all prisons and women’s correctional facilities are Tuesdays, Thursdays, Saturdays and Sundays.

87. The Tacumbú National Prison has made telephone booths, with a total of three telephone lines, available to the prison population.

Paragraphs 307 to 309

88. Investigations have been made into allegations of torture and ill-treatment. In the first eight months of 2009, complaints were received of ill-treatment in education centres attached to the Directorate-General for Adolescent Offenders and Prison Centres.

89. The staff members who were on duty on the date and at the time that persons claim to have been ill-treated were identified in the complaints which they lodged. These complaints were submitted to the authorities for criminal investigation. The list of staff members was submitted to senior authorities for investigation and punishment. To date, the preliminary investigations have not yet been completed.

90. A number of administrative inquiries have been opened in prisons. One of these has been completed, and its findings have been reported to the Inter-American Commission on Human Rights. Others are being pursued before the Secretariat of the Civil Service.

91. The Human Rights Directorate-General of the Ministry of Justice and Labour plans to provide training courses to public servants assigned to prisons throughout the country. These courses will specifically cover the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Standard Minimum Rules for the Treatment of Prisoners.

Paragraph 310

91. Patients are currently offered the following rehabilitation activities:

- Recreational therapy
- Occupational therapy
- Indoor recreational activities
- Supported formal employment, with the opportunity to be hired to work under supervision
- Participation in informal work activities in the hospital

93. Although the percentage of patients who participate in such activities has already doubled with respect to the 10-15 per cent cited in the report of the Subcommittee, this area continues to pose a challenge and is one in which progressive improvements continue to be made. An expansion, particularly of indoor recreational activities, is planned for the current year.

94. The 2010 budget provides for the purchase of storage racks with individual compartments for each patient that will be purchased and installed in February and March 2010.

Paragraph 311

95. The 2010 budget provides for the purchase of individual lockers for the patients that will be purchased and installed in February and March 2010.

II. Requests for information

Paragraph 312 (a)

96. By means of resolution No. 542 of 16 September 2009, the National Police established the Human Rights Department. The Department's operating regulations are being studied with a view to their approval, and its organization chart provides for the establishment of a planning, operations and evaluation section. The functions of this section will include inspecting and evaluating the infrastructure of cells in police stations and carrying out inspections in cases of court-ordered eviction.

97. The National Police, through the Department of Internal Affairs, is investigating incidents involving unlawful misconduct on the part of police personnel, including any incidents related to acts of torture or cruel treatment or punishments inflicted on civilians.

98. Once the Department of Internal Affairs has completed all of its investigations, it will submit a detailed report on its findings to the Office of the Commander. On the basis of its analysis of that report, the Office will then decide whether cases warrant referral to the Directorate of Police Justice for disciplinary action against any police staff implicated in acts of torture or cruel treatment in accordance with the regulations and the National Police Organization Act. Disciplinary measures taken against police personnel by the Directorate of Police Justice are subsumed under any punishment handed down by the ordinary courts in the event that a criminal and/or judicial investigation is opened.

Paragraph 312 (b)

99. In relation to this point, the Office of the Public Defender reports that, for the 2010 budget, it has requested an increase in the number of defence counsel, higher wages, a larger allocation for legal representation costs, vehicles, structural improvements and furniture, an increased allotment of fuel vouchers to defray public defenders' travel expenses and an increase in staff. To date, it has not been possible to obtain these increases.

100. In the Republic of Paraguay, the right to legal assistance has been established in the following instruments:

(a) Article 12 (*on detention and arrest*) and article 17 (*on procedural guarantees*)¹ of the Constitution;

(b) Article 6 of the Code of Criminal Procedure (Act No. 1286/98).²

101. Thus, the right to counsel is guaranteed from the moment of arrest, and failure to respect this right may invalidate the proceedings.

¹ Constitution of the Republic of Paraguay: article 12 (*on detention and arrest*) stipulates that: "Any person who is arrested has the right: (1) To be informed, at the time of the arrest, of the reason for it and of his or her right to remain silent and to be assisted by a lawyer of his or her choice. At the time of the arrest, the official must produce an arrest warrant; ... (3) To communicate freely, save when, in exceptional circumstances, an order is issued by a competent judicial authority to hold the person incommunicado. A person's incommunicado status, which in no case may exceed the duration prescribed by law, shall not prevent the person from contacting defence counsel; (4) To have access to the services of an interpreter, if necessary, and (5) To be brought before a competent judge within 24 hours in order to allow the judge to take appropriate legal measures."

² Code of Criminal Procedure (Act No. 1286/98), article 6 (*on inviolability of the right to a defence*) stipulates that: "The right of the accused to a defence and the exercise of his or her rights shall be inviolable ... The right to a defence is unwaivable, and any violation of that right shall entail the absolute nullity of the proceedings from the moment it occurs."

102. The Office of the Public Defender has informed this Directorate that, according to records of trials conducted throughout the country, in 2007, the offices of public defence counsel that deal with criminal matters processed 26,615 cases. In 2008, they processed 26,556 cases.

103. From 1 January to 20 November 2009, 27,654 cases were processed. The number of defence counsel assigned to criminal matters, including both confirmed and appointed counsel, was 51.

- In 2008, there were 18 defence counsel assigned to criminal proceedings, including both confirmed and appointed counsel.
- In 2009, two defence counsel were appointed. A total of 192 public defenders were appointed throughout the territory; of these, 94 were attached to the Office of Public Defender for Criminal Proceedings and 10 were serving as public defence counsel in criminal proceedings involving adolescents. There are currently 41 vacancies.
- For 2010, 56 new public defender posts were requested.³

104. The Office of the Public Defender has submitted a bill to Congress containing 99 articles setting out the nature, location and mission of the Office. The bill also establishes the Office's autonomy, self-sufficiency and scope of responsibility. It also sets out the specific principles governing public defence, such as prioritization, unity of operation, priority consideration for the interests of the person being assisted, confidentiality, supplementary intervention, residual jurisdiction and the provision of services free of cost. Article 11 stipulates that: "Staff attached to the Office of the Public Defender, without hierarchical distinction, shall, in the discharge of their functions, adhere to the principles of flexibility, specialization, teamwork and personal responsibility in respect of proceedings and shared responsibility in respect of the results of the management of the office to which they are attached, all with a view to improving its efficiency".⁴ The bill was submitted to the Chamber of Senators three years ago and was subsequently withdrawn and submitted to the Chamber of Deputies. Recommendations regarding the bill have already been received from the legislation, human rights, constitutional and justice and labour committees. (A copy of the bill is attached as annex 4: Office of the Public Defender.)

105. In 2007, by means of Act No. 3140, the sum of PYG 27,973,717,088 from the general budget of the Supreme Court was allocated to the Office of the Public Defender. In financial year 2008, by means of Act No. 3409, the Supreme Court allocated PYG 32,352,785,948 to the Office of the Public Defender. In 2009, the Office was allocated PYG 42,561,853,204.⁵

³ Report submitted by the Office of the Ombudsman on 20 November 2009 to the Human Rights Directorate of the Supreme Court.

⁴ Draft Ministry of Public Defence Organization Act, arts. 1, 2, 3 and 11.

⁵ Ministry of Finance, Office of the Under-Secretary of State for Financial Administration. Directorate-General of the Budget and Supreme Court Budget Directorate.

106. The report of the Paraguayan Human Rights Coordinator (CODEHUPY) highlighted the work of the Office of the Public Defender: “It is worth noting that the Office of the Public Defender, as a division of the judiciary, represents the hope of the justice system. There are many individuals who are committed to its success ...” Particular attention is drawn to the work of the Chief Public Defender and the Deputy Public Defender for Criminal Matters.

Paragraph 312 (c)

107. The chief role of the Public Prosecutor’s Office, conferred upon it by the Constitution, is to exercise the public right of action in criminal matters. This institution represents society before the judicial organs of the State, and its duties are to:

- Ensure respect for constitutional rights and safeguards
- Exercise the public right of action to defend the public and social heritage, the environment and other broad-ranging interests, as well as the rights of indigenous peoples
- Initiate criminal proceedings in cases where an application by the interested party is not required in order to bring or continue such proceedings, without prejudice to cases in which the judge or court proceeds *ex officio*, as determined by law
- Gather information from public officials for the proper discharge of its duties, and
- Any other duties and powers established by law⁶

108. In keeping with its institutional policy to respect and protect human rights, the Public Prosecutor’s Office established the Human Rights Directorate as one of its divisions. The overall objective of the Directorate is to deal with human rights issues in cases or situations that fall under the authority of the Public Prosecutor’s Office, whether they concern a risk to or an actual violation of such rights by public officials or other persons working in concert with them, and to carry out preventive efforts.⁷ Its duties include representing the institution in the area of human rights at the national and international levels when so empowered by the Attorney-General, or, if applicable, by the designated deputy prosecutor, and processing inquiries by officials that relate to cases involving human rights.

109. The foregoing notwithstanding, the Subcommittee on the Prevention of Torture has requested information on how the Public Prosecutor’s Office discharges its supervisory functions with regard to police stations and prisons. It should be noted that the Public Prosecutor’s Office does not carry out periodic visits to police stations and prisons as a measure of prevention. Rather, it initiates criminal proceedings, whether at the instance of the victim or of its own motion, in cases involving punishable offences for which it has *notitia criminis*. That is to say, it intervenes once it has taken

⁶ Constitution of the Republic of Paraguay, art. 268.

⁷ Operations manual for the Human Rights Directorate of the Public Prosecutor's Office.

cognizance of the alleged commission or imminence of a punishable act, including punishable acts involving human rights violations. It possesses specialized prosecution units that are responsible for investigating acts that have been brought to their attention.

110. With regard to inspections and the supervision of prisons and police stations, as part of its policy to prevent the commission of punishable acts that violate human rights, the State of Paraguay, by means of its Constitution, established the position of Ombudsman, which is defined as "a parliamentary commissioner whose functions consist in safeguarding human rights, channelling claims or reports from members of the public and protecting community interests. In no circumstances shall the Ombudsman perform judicial or executive functions".⁸ The duties of the Ombudsman are to:⁹

- (1) Receive and investigate reports, complaints and claims concerning human rights violations and other such acts as may be determined by the Constitution and the law;
- (2) Request information for the effective performance of his or her duties from authorities at various levels, including the police and security forces. The provision of the requested information is mandatory. He or she is entitled to have access to the places where any such acts are reported to have been perpetrated. The Ombudsman may also act on his or her own initiative;
- (3) Publicly censure acts or conduct contrary to human rights principles;
- (4) Report annually to the Chambers of Congress on his or her activities;
- (5) Draw up and issue reports on those aspects of human rights that, in his or her view, require prompt public attention; and
- (6) Carry out such other functions and powers as established by law.

111. The State of Paraguay also established the position of the enforcement judge. In accordance with the Code of Criminal Procedure promulgated in 1998, enforcement judges have, inter alia, the following duties:

- (1) They monitor compliance with the prison regime and respect for the constitutional aims of the penalty; they arrange for inspections of prison institutions and may summon prisoners or prison administration officials to appear before them for purposes of oversight and monitoring;
- (2) Prior to a prisoner's discharge, the appropriate authority seeks, insofar as possible, to resolve any problems that the prisoner will face immediately after release;
- (3) They work with the bodies responsible for providing pre- and post-release assistance in order to ensure that they are able to provide prisoners with the proper help and support.¹⁰

⁸ Constitution of the Republic of Paraguay, art. 276.

⁹ *Idem.*, art. 279.

¹⁰ Code of Criminal Procedure, art. 492.

112. In short, the Public Prosecutor's Office has the legal and constitutional power to pursue and investigate acts punishable under criminal law of which it takes cognizance.

113. In order to carry out its duties, the Office has prosecution units that specialize in specific areas and work in coordination with other judicial auxiliaries.

114. However, the particular objectives regarding which the Subcommittee has requested information are protective in nature and fall within the legal powers conferred upon the Ombudsman and the enforcement judges; the latter are attached to the judiciary.

Paragraph 312 (d)

115. With regard to paragraph 149, we wish to report that in 2009, all prisons were refurbished. In that connection, it should be noted that improvements were made to the *ex sótano* wing, the D wing and the *cuadrulátero* sector of the Tacumbú National Prison. These improvements are described in the present report.

Paragraph 312 (e)

116. A health promotion system, managed by inmates trained for that purpose, has been set up in the Tacumbú National Prison. Training was imparted to 83 inmates enrolled in a personal development course covering basic first aid and basic psychology. The first phase of the course began in April and ended on 29 July 2009, and the attending inmates were issued course completion cards.

117. The second phase of the personal development course, which included other inmates who had been selected on the basis of their profile, went into greater depth concerning basic first aid and basic psychology. The second phase ended in December 2009. The objective of the health promotion system is to promote early diagnosis of illnesses, encourage inmates to seek medical treatment and impart basic medical knowledge. Following inmates' completion of their sentences, the fact that they have acquired this knowledge will boost their self-esteem and thus facilitate their social reintegration.

118. Paraguay's Country Coordinating Mechanism (CCM) initiative for dealing with cases of tuberculosis among the prison population was classified as a Category 2 proposal and awarded a US\$ 3,900,000 grant by the Global Fund in its ninth round of funding. The project provides for the strict monitoring of patients with HIV/AIDS, since their depressed immune systems heighten their susceptibility to tuberculosis (see annex 2: Ministry of Labour and Justice).

Paragraph 312 (f)

119. The solitary confinement wing at Tacumbú National Prison, known as “Alcatraz”, was closed for complete renovation. Over several weeks’ time it was outfitted and structural improvements to it were made, including: improved bathrooms, larger windows, proper ventilation and the provision of mattresses, pillows and sheets. As a result, the cells are now properly equipped for solitary confinement (see annex 2: Ministry of Justice and Labour).

Paragraph 312 (h)

120. For financial year 2010, budget allocations to provide meals to persons deprived of their liberty in the various prisons of the country total PYG 19,598,948,084. This amount is broken down by correctional facility. The respective draft budget may be found in annex 2: Ministry of Justice and Labour.

121. Also attached to the present report is a description of the food products (beef, dried foods, canned foods and perishables) purchased by the Ministry of Justice and Labour in 2009 for the various prisons in the country.

III. Copies transmitted to the Subcommittee

Paragraph 313 (a)

122. The following summary of the activities carried out by the Prison Supervision Unit that was submitted to the Supreme Court of Justice:

(a) The main problems identified as a result of the visits made to various prisons and correctional facilities in the country are:

- The large number of prosecutions poses a problem. The Unit considers cases at the request of inmates and monitors trials, supporting the efforts of the public defender to ensure that judicial proceedings are conducted as speedily as possible in accordance with the Code of Criminal Procedure. Inmates who can demonstrate that they do not have access to counsel need to be provided with assistance by the Office of the Public Defender.

Few work opportunities exist within prisons and there is insufficient vocational training.

These shortcomings stem from the lack of prison policies designed to ensure that prisoners are reintegrated into the workforce and from the private sector’s limited interest in investing in prison labour.

The Supervision Unit therefore considered it appropriate to work in partnership with Parliament, through the Legislative Office of Deputy Dionisio Ortega, on two highly important initiatives. The first concerns the submission of a bill to promote the employment of individuals who have broken the law and served their sentences. The bill proposes tax incentives for companies that hire former prisoners.

The other activity which was successfully undertaken over the last year was the Freedom Expo, an exhibition of handicrafts produced by the inmates of the Tacumbú, Esperanza and Buen Pastor prisons. This exhibition was launched directly by a number of inmates, thanks to the cooperation of the Criminal Enforcement Court of Asunción, presided over by Isacio Cuevas.

(b) On the initiative of the Office of the Deputy Minister of Justice and Human Rights, an inter-agency commission was set up to inspect, supervise, oversee and study the preliminary list of candidates for pardons. The Prison Supervision Unit is represented on this commission. The objective of this screening process, which entails a comprehensive and thorough study of the behavioural evaluations and records of the prisoner prior to the list's submission to the Supreme Court, is to ensure strict compliance with the conditions and requirements of the Constitution and legislation in force. Every prison in Paraguay was visited in order to confirm the details in the file of each prisoner who had served at least half of his or her sentence and to check the files for the person's criminal record and any reports of good or bad behaviour. A team of volunteer psychologists, all professors from a private university, also interviewed each prisoner and submitted a written report to the commission on the prisoner's psychological profile and the family support available in the event of his or her reintegration into society. It took three weeks to compile the data and reports.

Once all the visits in Asunción and the rest of the country had been completed, a final evaluation was made of the profile and legal status of each prisoner and a final list was drawn up of prisoners eligible for a Presidential pardon. The final list, prepared and checked by the commission, was submitted to the Ministry of Justice and Labour, which in turn transmitted it to the Chief Justice of the Supreme Court for evaluation.

(c) The Prison Supervision Unit is a member of the Inter-Agency Commission to Conduct Visits and Monitoring in respect of Adolescents Deprived of their Liberty. Members of the Commission carried out visits in August and September 2009 to the education centres overseen by the Adolescent Offenders Welfare Service and to the sections for juveniles in regional prisons in order to observe and inspect the situation in those centres and the living conditions of young persons deprived of their liberty nationwide.

The Commission had produced a report based on those visits which contains information on the following issues: rights and due process (police procedures, access to justice, contacts with judges, defence counsel and prosecutors), material concerns (food, lighting and ventilation, personal hygiene, sanitation, clothing and bedding, overcrowding and the general standard of accommodation), treatment (torture and ill-treatment at the time of arrest, torture and ill-treatment during detention, use of solitary confinement, control and security measures, use of force), medical services (access to medical care, health care for inmates suffering from mental disorders, treatment of communicable diseases, medical staff), education, training and recreational services (formal education programmes within the centre, vocational and occupational training and/or apprenticeship programmes), activities and links with the outside

world (education programmes or work placements, outdoor exercise and recreational activities, religion, creative activities within the community).

Paragraph 313 (b)

123. When considering this point, in the light of the guidelines adopted by the Supreme Court to provide guarantees of due process, the following should be borne in mind: firstly, specific provisions exist in the relevant legislation on the matters referred to in the report, and the correct application of such directives is the sole responsibility of the Court; secondly, the Supreme Court, sitting in plenary, lays down guidelines and establishes rules through the issuance of Agreements, such as the following:

(a) Agreement No. 154 of 21 February 2000 established a system for dealing with urgent cases under which a criminal court judge is on call at all times in order to ensure that constitutional rights and the procedural rules adopted to protect the accused are upheld.¹¹

(b) Under Agreement No. 222 of 5 July 2001, the Supreme Court approved procedural guidelines for the criminal justice enforcement system concerning oversight of the rights and safeguards established with respect to the prison system by the Constitution, international law and ordinary law for the benefit of those convicted or accused of committing an offence. Those guidelines provide that the right to human dignity and the principles of equal treatment and procedural expeditiousness must be borne in mind at all times.¹²

124. With regard to the constitutional right of habeas corpus, the Criminal Chamber of the Supreme Court currently finds itself in an unusual political position, since it is missing one member, as Dr. Wildo Rienzi has not been replaced. The decision to replace him must be taken by other branches of government. This situation could slow down the processing of habeas corpus applications, although the Criminal Chamber is doing its utmost to avoid this. So far this year, the Criminal Chamber of the Supreme Court has received 71 habeas corpus petitions, and it has ruled on them as speedily as possible.

125. With regard to the directives of the Supreme Court on that matter, it should be noted that the Court regularly carries out training workshops for judges and magistrates in order to standardize the criteria used for the proper application of procedural rules to protect the accused.

¹¹ See http://www.csj.gov.py/par97017/reglamentaciones/modulos/detalle.asp?codigo_acord=502&tipo=Acordada.

¹² See http://www.csj.gov.py/par97017/reglamentaciones/modulos/detalle.asp?codigo_acord=560&tipo=Acordada.

126. The Supreme Court has issued Decision No. 298/05, article 2 of which states that all court and administrative officials must attend courses for which they are convoked.

127. In addition to activities aimed at improving the level of training, articles 28 to 34 of chapter IV of Paraguay's Code of Judicial Ethics cover knowledge and training.

128. Article 28 of that chapter states: "The need for knowledge and continuous training of judges is based on the right of the accused and society in general to be provided with a high quality of service in the administration of justice."

129. The Supreme Court has carried out the following actions in this area through its various departments:

(a) The Human Rights Directorate of the Court has conducted various training sessions both for judges and for court officials from the various judicial districts in the country. Training was provided between 2006¹³ and 2009 on the following topics: indigenous rights and human rights, criminalization of the use of children and adolescents in pornography, domestic violence and gender, mental health and human rights, prevention of trafficking in persons and forced labour with a focus on human rights, access to justice, and gender and domestic violence. Paraguay has also hosted international seminars such as the International Seminar on the Justice System and the Human Rights of Women and the Third Latin American Meeting of Local Governments in Indigenous Territories. Materials on indigenous rights and human rights in Paraguay were written and published by the Human Rights Directorate in cooperation with representatives of the Coordinating Body for the Self-Determination of Indigenous Peoples (CAPI) and independent experts under the coordination of the Supreme Court;

(b) The International Centre for Judicial Studies (CIEJ) is in charge of training judges in all courts and judicial districts throughout the country. In 2007 it held workshops on personal preventive measures and a workshop-course on pretrial detention in Asunción and elsewhere in the country. In 2008 the International Centre for Judicial Studies organized more than 45 one-day training and refresher courses that dealt with issues involving children and adolescents, judicial reasoning and the amendments to the Criminal Code;¹⁴

The International Centre for Judicial Studies, with the support of the Human Rights Directorate, will provide training on the subject of mental health and human rights as part of the implementation of the recommendations made by the Inter-American Commission on Human Rights (IACHR) concerning preventive measures within the Neuropsychiatry Hospital. The Centre also plans to provide training on topics involving the rights of children and adolescents within the framework of

¹³ *Informe de Gestión/2006*, pp. 36-37.

¹⁴ *Informe de Gestión/2008, Informe de Gestión/2007*, p. 25

the recommendations made by the Inter-American Commission on Human Rights regarding the case of *Cristina Aguayo et al.*;

(c) The Museum of Justice and the new location of the Documentation Centre and Archive for the Defence of Human Rights - known as the Archive of Terror - was created in 2007 as part of the CONMEMORIA project, which called for the relocation and strengthening of the Documentation Centre and Archive for the Defence of Human Rights, created in 1993. The purpose of the museum is to promote and recover the historical memory of the nation during the period of dictatorship, with a focus on human rights and the struggle of generations of Paraguayans to ensure the exercise of and respect for those rights. It also serves as an educational and cultural space;¹⁵

The Museum of Justice receives many habeas data requests regarding cases of torture, illegal detention, violation of correspondence or inquests during the dictatorship; in 2009 it received a total of 6,153 requests. It has also been visited by 69 groups of secondary students, 12 groups of university students, 5 from foreign institutions, 1 from the police department and 6 other groups, with an average of 30 people per national group and 12 people per international group. With regard to cultural activities carried out in 2009, books such as “Tortura, Represión y Constitución” and “Relatos de Torturas” were published, documentaries were shown, and conferences, seminars, panel debates and talks aimed at students were held. The management of the Museum of Justice has also developed activities and given various presentations to raise awareness about, disseminate and recover historical memory on issues involving human rights;¹⁶

(d) The Office of International Affairs is promoting training abroad for judges and court officials through scholarships offered by the Spanish International Agency for Development (AECID). This office is responsible for choosing the thematic focuses of the training or applying for training programmes on behalf of the potential candidates and for providing the institutional backing needed to make the necessary arrangements;

(e) The Human Resources Directorate is responsible for training officials from all departments of the judicial branch. A number of training sessions have been provided for officials in various areas, such as a workshop that was part of a programme to enhance the performance of courts, transparency and access to information and the first and second round tables for dialogue and consensus-building on the new legislative framework of the civil service.¹⁷

¹⁵ *Informe de Gestión/2008*, p. 34.

¹⁶ *Informe de Gestión del Museo de la Justicia*, January-October 2009.

¹⁷ *Informe de Gestión/2008*; p. 53; *Informe de Gestión/2007*, p. 56.

Other actions carried out by the judicial branch to monitor and supervise prisons within the country

130. In light of the judicial branch's authority over the prison system, the judges of the Supreme Court make visits to the prisons in their respective judicial districts in their role as supervisors of those prisons. The Supreme Court has held special events to help respond to and channel prisoners' questions and concerns and to inform them about the status of their cases. In 2007, a total of 13 visits were made to various prisons in the country, and 8 special events were held in 2008.¹⁸

131. In conformity with Agreement No. 222, the criminal enforcement courts are authorized by law to monitor the prison system through inspection tours, and they have the ability to summon prison officials and to render general and individual decisions to protect the rights and guarantees established under that system. Persons who have been convicted or are under pretrial detention can request the protection of the courts by filing a petition.

132. Cases in which prisoners adopt extreme measures, such as hunger strikes, are monitored on a continual basis. Specialized judges and forensic physicians are commissioned to respond swiftly and to determine the current status of the cases involving accused persons.

133. Enforcement judges visit the prisons once a month, unless a high-risk situation merits a special visit. The inspections are conducted without prior notice (see annex 5: Supreme Court report on prison visits by the Encarnación Criminal Enforcement Court for the general monitoring of the Special Rehabilitation Centre (CERESO)).

134. There are two other types of visits, the first of which is conducted in the company of the members of the Criminal Chamber of the Supreme Court, while the second is of an official nature and is conducted in order to plan, together with prison authorities, artistic, cultural and sporting activities and the dissemination of information on criminal law. These efforts have resulted in the following:

- "Cultural Thursdays" in Tacumbú and the first music festival for prisoners in the country, where prisoners participate in the initial selection process for the final competition to be held in the capital. Trips have been made to every district to inform prisoners about the event, while at the same time taking advantage of the opportunity to observe the situation in the prisons.
- Authorization for prisoners to leave the prison under custody in order to sell handicrafts that they have made themselves. The purpose of this is to encourage their rehabilitation and to provide a substantial income that will allow them to help their families. The products are sold in pre-established locations.

¹⁸ *Informe de Gestión/2008*, p. 41; *Informe de Gestión/2007*, p. 21.

- The creation of two vegetable gardens, one in Emboscada and the other in the Granja Coe Puaju in Asunción, a tilapia farm and a poultry and rabbit farm. All of these initiatives have been arranged for by the criminal enforcement courts.
- The construction of a wing in Tacumbú Prison for mentally-ill prisoners, with bathrooms, ceiling fans, and capacity for 250 people, through the “Obligation to Provide” initiative (see photos in annex 3).

135. The Public Defender’s Offices for the criminal enforcement courts enjoy the competencies provided to them by law. Their functions are regulated by articles 490 to 501 of the Title on Enforcement of the Code of Criminal Procedure, and most specifically article 491 on the role of the defence during the sentence enforcement stage. In general terms, they are also regulated by articles 19 (conditional suspension of proceedings), 44 (deferment of sentence under supervision) and 51 (parole) of the Criminal Code, as well as articles 6 and 98 to 111 of the Code of Criminal Procedure and Agreement No. 222 of 5 July 2001.

136. Generally speaking, visits by representatives of the Public Defenders’ Offices of the criminal enforcement courts to detention centres, whether for adults, minors or women, are conducted once a month, apart from those made in exceptional cases, such as when an urgent need arises to talk to a particular prisoner, to request family contact, to request documents, etc. During each visit, the public defender signs a visitor registry and must present a form indicating the date of the visit, name and signature of the prisoner visited. That form is handed over to the head of the prison’s judicial department.

137. The manner in which complaints of ill-treatment are handled depends on the degree of seriousness of the allegation (interview with the head of the institution or note or verbal communication sent to the enforcement judge for the case). The most common complaints concern lack of treatment for health problems, lack of suitable medicine, and requests by prisoners to be transferred to prisons elsewhere in the country so they can be closer to their families.

138. The number of cases before the Public Defender’s Office for the criminal enforcement courts is constantly changing, depending on the number entering or the number of prisoners serving sentences, but there are generally about 300 case files, on average, for each public defender’s office. Since there are four such offices in the capital, the total is approximately 1,200 case files.

Paragraph 313 (c)

139. The draft law is annexed to this document, as requested. The Office of the Public Defender reports that certain advances have been made, as the draft law has now been approved by three subcommittees. The Speaker of the Chamber of Deputies, Mr. Enrique Salim Buzarquis,

has assured Minister Alicia Pucheta and the Chief Public Defender, Dr. Yore, that it will be considered in a plenary session within the first few days after the start of the 2010 session.

Paragraph 313 (d)

140. The Ministry of Justice and Labour has provided the requested regulations in an annex to this document.

CAT/OP/PRY/2/Add.1 (2011)

Replies from Paraguay to the recommendations and questions of the Subcommittee on Prevention of Torture in its report on the follow-up visit to Paraguay (CAT/OP/PRY/2)

...

1. The Government of Paraguay takes careful note of all the recommendations and observations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment established pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which were published in the document "Report on the follow-up visit to the Republic of Paraguay from 13 to 15 September 2010" (CAT/OP/PRY/R.2). The Government of Paraguay takes this opportunity to make the following comments.

Recommendations

A. Introduction (para. 8)

2. In accordance with the recommendation, the Ministry of the Interior has published the report on the Subcommittee's initial visit in 2009 and the report on its follow-up visit on both its own website (www.mdi.gov.py) and the website of the National Police (www.policianacional.gov.py).

3. The new decisions issued by the Office of the National Police Commander relating to human rights are also scheduled to be published, with the support of the Millennium Challenge Threshold Program. The main recommendations of the various mechanisms of the United Nations, such as the Subcommittee and the universal periodic review, concerning the work of the National Police will also be published.

4. The Ministry of Foreign Affairs has promised to continue publishing the Subcommittee's recommendations and observations on its website.

5. The Ministry of Justice and Labour has published the Subcommittee's recommendations and observations on its website and plans to include them in its refresher workshops, which will initially be for the directors of prisons and juvenile detention centres before subsequently being extended to all staff of these institutions.

B. National preventive mechanism (para. 16)

6. The Government of Paraguay is pleased to report that the national preventive mechanism was adopted by Act No. 4.288/11 of 20 April 2011. Given the brief period of time that has elapsed since then, it is not yet possible to provide any information on its implementation.

7. A copy of the Act can be found in annex I.

C. Safeguards against torture and ill-treatment (paras. 18 and 19)

1. Legal framework

8. The bill submitted by Senator Carlos Filizzola on 20 May 2009 which amends the definition of the crimes of enforced disappearance (Criminal Code, art. 236) and torture (art. 309) was forwarded for consideration to the senate committees on human rights; constitutional affairs, the armed forces and the police; legislation, codification, justice and labour; and equity, gender and social development. At the Subcommittee's request, the Government has included the bill in annex II.

9. A committee of experts has been set up to assess the possibility of amending the Military Criminal Code to include the new definition of torture. It is hoped that its legal findings will suggest a solution.

2. Institutional framework

(a) Ombudsman's Office

(i) Paragraph 23 (a)

10. With regard to the Subcommittee's recommendation, the Ombudsman's Office has created a basic database of allegations of torture. The database is now being harmonized so that information can be systematically compiled, as recommended.

(ii) Paragraph 23 (b)

11. As mentioned above, the Ombudsman's Office has begun harmonizing the database in line with the Subcommittee's recommendation. For this reason, the database is not yet available on its website.

12. As part of the harmonization process, the Ombudsman's Office plans to include details from the case file in the database, including the date of submission, the complainant's details, the subject of the complaint, the scene of the incident, the official dealing with the case, and follow-up.

13. The data for internal use will be based on the details given on the complaint form, such as the personal details of the complainant and the alleged victim (where the victim is not the complainant), the scene of the incident, the nature of the incident (a description of the torture or ill-treatment), a description of any injuries, alleged perpetrators, evidence, complaints or allegations filed with other institutions and their replies, and updates on the proceedings.

(iii) Paragraph 23 (c)

14. There has not yet been a mass campaign to inform the public about the mission and duties of the Ombudsman's Office, although dissemination of information is part of the job of the Ombudsman's assistants.

15. Representatives of the Ombudsman regularly give talks on the mission and duties of the institution in various forums such as radio and television programmes, schools, colleges, cooperatives and neighbourhood groups.

16. The Ombudsman's Office currently has 20 branches in Asunción and 21 outside the capital.

(iv) Paragraph 23 (d)

17. The process of analysing and changing procedures for visits to detention centres has been started, in particular with regard to data collection and the processing of recommendations.

18. Once the procedures have been changed and the recommendations processed, reports on the visits will be made public, as will the follow-up to the recommendations.

(v) Police personnel training (para. 25)

19. In 2011, a programme was launched to train police personnel in the use of the "Basic guide to human rights for the police service", published in late 2010. The programme includes two days of training in all police headquarters in the various departments of the country, as well as in the metropolitan area (Asunción). The training days involve the chiefs and deputy chiefs of all the police stations in each police district where the training takes place.

20. Training in human rights continues to be offered in police training institutions, as detailed below.

General José Eduvigis Díaz national police academy for officers

21. This academy provides officers in their second year with a total of 128 hours of human rights lectures (16 hours of lectures a week).

22. In 2009, a theoretical and practical training programme on human rights and humanitarian principles as they apply to policing was introduced in the national police academy for commissioned and non-commissioned officers, instructors and cadets, based on 24 hours of lectures. The programme also covers the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Sargento Ayudante José Merlo Saravia police training college for non-commissioned officers

23. This college covers human rights in the second semester of its training, with 64 hours of lectures. The subject of human rights is covered at the central campus in Capiatá as well as at 11 other large campuses and 2 smaller ones. In 2009, a theoretical and practical training programme on human rights and humanitarian principles as they apply to policing was introduced in the national police academy for commissioned and non-commissioned officers, instructors and cadets based on 24 hours of lectures.

School for Police Administration and Policy: training and promotion courses for assistant commissioners

24. The School for Police Administration and Policy provides human rights training in the second cycle, based on a total of 32 hours of lectures (2 hours a week).

25. In addition to specific human rights training, the following areas of study include concepts related to the implementation of the Convention:

Table II
Courses at the National Police Academy

<i>Academy</i>	<i>Subject area</i>	<i>Related articles of the Convention against Torture</i>
	Constitutional law	Arts. 2, 11, 4, 10, 14, 15, 17 (including para. 1), 18 (including paras. 1 and 3), 21, 22, 36
	Police procedure	Arts. 2, 10, 11, 12, 13, 23
	Principles and ethics of policing	Arts. 1, 2, 10, 11
	Physical education	Art. 1
	Applied national legislation, parts I and II, first course	All articles
	Police investigations	Arts. 5, 7, 11, 15
	Physical education	Art. 1

Source: Ministry of the Interior (2010).

26. As to training in investigation techniques, the Institute of Criminalistics, which is part of the Higher Institute for Police Training, offers subjects such as investigation methodology, investigative techniques and applied criminal statistics. These are taught during the third year for

228 hours, while criminal psychology, methodological instruction, crime-scene inspection techniques, forensic dentistry and criminology are taught in the fourth year for 380 hours.

27. An agreement has been concluded between the Ministry of the Interior, the Office of the National Police Commander and the International Committee of the Red Cross on training human rights instructors and mainstreaming human rights in all technical and vocational subjects offered by training institutes attached to the Higher Institute for Police Training. In 2009, 77 commissioned officers and 10 non-commissioned officers graduated. In 2010, a further 115 police officers graduated, bringing the current total of police staff trained in this area to 202.

28. In 2009, as a result of cooperation agreements between the Institute for Comparative Studies in Criminal and Social Sciences and the Paraguayan Institute for Human Rights, active police officers in the special branch and in the 911 emergency system received human rights training. Overall, 120 police officers benefited from improved training.

29. In 2010, the Human Rights Directorate of the Ministry of the Interior trained approximately 80 police officers serving in district police stations.

30. A plan to give police personnel standard training in human rights is currently being drafted and will focus on areas such as prevention at the grass-roots level, community policing, public safety and an international, national and administrative regulatory framework. The plan will also address the use of force, the prevention and punishment of acts of torture, assistance for vulnerable groups and the application of human rights in the enforcement of judicial orders.

31. The Ombudsman's Office and the Office of the National Police Commander are to sign an inter-institutional agreement on a schedule and subsequent delivery of human rights courses for police personnel. The Ombudsman's Office will be responsible for supplying course instructors and materials for the participants, as well as issuing certificates of attendance. The National Police will provide training facilities, computer equipment (computer and projector) and an instructor in human rights to teach one of the subjects, and will ensure that staff attend. The courses are scheduled to take place between 8 a.m. and 10.30 a.m.

(vi) Human Rights Directorate of the Ministry of the Interior (para. 27)

32. With regard to strengthening its structure, the Ministry of the Interior's Human Rights Directorate now has new offices equipped with the materials necessary for its operations (computer equipment, telephone/fax), a dedicated mobile phone and a small reception area for receiving complaints. It has also hired a further two officials.

33. The Human Rights Directorate plans to have regional branches or offices in operation by 2012.

(vii) The Department of Internal Affairs and investigations into police personnel (para. 29)

34. The Department of Internal Affairs of the National Police is responsible for making inquiries into reports of police misconduct that fall within its remit. It subsequently transmits its findings to the Directorate of Police Justice for it to carry out an investigation and determine administrative responsibility.

35. The Department of Internal Affairs was established in 2003 by Decision No. 142 of the Office of the National Police Commander, to which it is organizationally and administratively bound.

36. The department has a main office and a sub-office, which in turn have an audit division and an investigation division, as well as a support and public relations office. A copy of the organization chart is annexed to this report (annex III).

37. The Directorate of Police Justice, established under the National Police Organization Act, is responsible for conducting investigations into police personnel.

38. The Directorate conducts these investigations on the basis of the inquiries by the Department of Internal Affairs or reports submitted by the Ministry of the Interior, the National Police Commander or trustworthy third parties.

39. After the investigation has been completed, the Director of Police Justice submits the information and conclusions to the disciplinary tribunal, which recommends the penalties to be imposed by the National Police Commander.

40. Since March 2010, this department has had an organizational and functional structure and clearly defined procedures that meet the requirements of due process and the principles of speed and efficiency.

41. With a view to strengthening the Directorate-General of Police Justice, Decision No. 88/11 was adopted this year; the decision amends article 15 of Decision No. 7/95 on the Disciplinary Regulations of the National Police and establishes courts and prosecutors' offices specializing in human rights violations within the Directorate of Police Justice.

42. The creation of these specialized bodies within the Directorate of Police Justice will allow investigations into human rights violations to be conducted more quickly and to be more focused.

(viii) The Department of Internal Affairs and investigations into police personnel (para. 30)

43. Over 5,000 posters displaying information on the Citizens Complaint Centre and a toll-free number for filing reports or complaints have been printed.

44. The posters, which are available in two different versions, aim to inform citizens of their rights in relation to the police and of the circumstances in which deprivation of liberty in police stations is within the law.

45. The posters are sent to police headquarters to be distributed to police stations in their district, for use in the workshops at which police personnel from different stations are trained in the use of the “Basic guide to human rights for the police service”.

46. Furthermore, the Ministry of the Interior has a mechanism for receiving complaints, which transmits the complaints to the Office of the National Police Commander and submits a request for administrative proceedings to be opened to investigate the cases. The investigations are conducted initially by the Department of Internal Affairs and subsequently by the Directorate-General of Police Justice.

47. Since March 2010, this department has had an organizational and functional structure and clearly-defined procedures that meet the requirements of due process and the principles of speed and efficiency.

48. With a view to strengthening the Directorate-General of Police Justice, Decision No. 88/11 was adopted this year; the decision amends article 15 of Decision No. 7/95 on the Disciplinary Regulations of the National Police and establishes courts and prosecutors’ offices specializing in human rights violations within the Directorate of Police Justice.

49. The creation of these specialized bodies within the Directorate of Police Justice will allow investigations into human rights violations to be conducted more quickly and to be more focused.

50. The complaints received are then sent to the Public Prosecution Service to be investigated, where necessary, at the judicial level as well as at the administrative level.

51. The Human Rights Directorate regularly monitors both the administrative and the criminal investigations in order to update complainants on the proceedings, if they so request, and to inform them of the eventual outcome of their complaint. This allows the complainant to follow the progress and outcome of the proceedings and means that the case cannot be shelved and the outcome kept from the complainant.

(ix) Weapons for police personnel (para. 31)

52. With regard to the recommendation on supplying firearms to police officers, steps have been taken to provide service weapons to cadets who have recently graduated from police academies, in accordance with the following instruction: “Commissioned and non-commissioned national police officers shall be issued with the weapons, ammunition and vests referred to in the previous article upon graduation from police training institutes.” When the current Administration took office, the Ministry of the Interior began issuing service weapons to new

police recruits. To date, the police force has issued 1,844 weapons, thereby putting an end to the practice of having law enforcement officers purchase their firearms themselves.

53. The above-mentioned weapons have been registered with the Directorate of War Materials, which comes under the Ministry of Defence and is responsible for registering weapons at the State level. The weapons are also being registered with the Weapons and Ammunition Department of the National Police, and supplement the 8,977 weapons already in use.

(x) Judiciary (para. 32)

54. The Supreme Court of Justice has supplied information on the new members of its Criminal Division. A copy of Agreement No. 667 of 8 February 2011, which appoints the three members needed to complete the membership, is attached (annex IV). Over time, this measure will alleviate the shortage of personnel and thus reduce the court's backlog.

(xi) Transfers of persons deprived of their liberty (para. 33)

55. There are real differences of opinion with respect to this recommendation. Enforcement judges claim that they are the only State officials who can authorize the transfer of persons deprived of their liberty from one prison to another. The Supreme Court of Justice suggests that the current regulations should be reviewed and a dialogue organized for actors from the penal and prison system in order to reach a reasonable solution to this specific problem. Meetings have been held at the highest level between officials from the Supreme Court of Justice and the Ministry of Justice and Labour to assess the situation and discuss different strategies to tackle the problem. They came to the conclusion that an inter-institutional working group should be established to draw up a set of guidelines. Both organizations are currently busy organizing the working group.

56. The Ministry of Justice and Labour reported that most prisons, except those in Tacumbú and Ciudad del Este, have begun to separate accused from convicted inmates.

(xii) Public Defender Service (para. 41)

57. It is important to note that the Organization Act on the Public Defender Service (*Defensa Pública*) obtained partial approval in December 2010. This measure is a crucial step forward and shows that there is the political will to legislate to establish conditions in which the Public Defender Service can carry out its mandate more efficiently and increase its legitimacy in the eyes of the public. This will help society to see the usefulness and importance of the service for persons in vulnerable situations. This law, which should be fully approved in the course of the 2011 parliamentary year, will give this institution administrative and functional independence (see annex V, on the current status of the draft organization act).

D. Situation of persons deprived of their liberty

1. National police stations (para. 41)

58. In light of what occurred at police station No. 1 in San Lorenzo, the Minister of the Interior, Rafael Filizzola, sent a note to the National Police Commander calling for an administrative inquiry into the events reported by the Subcommittee and the appropriate sanction for the police superintendent responsible. The administrative inquiry recently concluded its work, and the superintendent responsible received a warning.

2. Paragraph 45

59. In light of what was said by the Subcommittee regarding the failure to effectively enforce Decision No. 176 of the Office of the National Police Commander (annex VI), the Human Rights Directorate of the Ministry of the Interior has conducted spot checks and informed both that office and the Human Rights Department of the National Police about the cases in which the obligatory detainee registers had not been established.

60. Consequently, the offices responsible for public order and security have been reminded that this decision is still in effect and must be enforced, and that disciplinary proceedings may be taken out against police station chiefs who fail to implement the decision.

61. Furthermore, the Ministry of the Interior has designed model detainee registers for distribution in all the country's police stations.

62. Five thousand copies of these are expected to have been printed and distributed by mid-2011.

3. Information on detainees' rights (para. 46)

63. Copies of the "Basic guide to human rights for the police service" and "Police serving the community: Know your rights when dealing with the police" have been printed.

64. These materials are distributed to all police staff attending human rights courses or involved in monitoring, discussions and seminars organized by the Ministry of the Interior.

65. Furthermore, the police technical body responsible for publicizing human rights recommends, in accordance with a decision of the National Police Commander (annex VII), that 100 information posters and signs be printed, spelling out the basic and primary rights of all persons stopped by the police, detained or deprived of their liberty. These should be distributed in all the police stations attached to the metropolitan and central police headquarters, since the statistics show that they register the highest number of arrests and detentions. These materials are also given to governors' offices and municipalities for distribution.

66. Copies of these materials are attached to this report (annexes VIII and IX).

4. Physical conditions (paras. 48 and 49)

67. In order to give effect to this recommendation, the Ministry of the Interior has drawn up a plan for cells in police stations in the metropolitan area.

68. It thus requested that the Subcommittee provide information on the minimum standards for cells in police stations that are used as temporary holding cells.

69. The plan envisages the construction of cells in police stations in the metropolitan area that have been identified as those requiring better infrastructure to avoid overcrowding and ensure basic conditions that are hygienic and provide enough space for anyone deprived of their liberty in these police stations.

70. Mr. Wilder Tayler, a member of the Subcommittee and the delegation that visited Paraguay, has expressed the view that there is no “universal formula available or any model that can be applied uniformly to a situation that, by definition, should be temporary”.

71. He has also said that “adjusting infrastructure to satisfy a temporary need carries the risk of prolonging the situation beyond what is recommended in human rights standards”.

72. However, the Subcommittee recommended in 2009 and reiterated in its 2010 report that “material conditions in the cells should be improved immediately, especially with regard to minimum floor space, cubic content of air, lighting and ventilation” (CAT/OP/PRY/1, para. 128 (c)).

73. Nevertheless, the Ministry of the Interior called for bids for the construction of new cells in the 24 police stations in the metropolitan area, and has already begun building in 22 of them.

74. This process is expected to extend to police stations outside the capital in 2012.

5. Detention for a protracted period of time in police custody (para. 50)

75. In May 2011, two summit meetings between the President of the Supreme Court of Justice and officials from the Ministry of the Interior were held to discuss matters of common concern to them. One of the main topics of discussion was prolonged detention at police stations. The discussions produced a joint policy on putting an end to this practice.

76. The policy requires joint action: the Supreme Court of Justice has drawn up a draft agreement prohibiting pretrial detention in police stations, while the ministry has drafted a ministerial decision establishing minimum conditions for deprivation of liberty in police stations and an institutional communication mechanism to facilitate the exercise of the right to a defence and the observation of procedural time limits.

77. This decision is designed to satisfy the need to have a standardized procedure for monitoring the minimum conditions of deprivation of liberty in police stations, as well as an institutional communication mechanism to facilitate the right to a defence and the observation of procedural time limits.

78. Furthermore, the Ministry of the Interior reviews the list of detainees at all of the country's police stations three times a week, in order to monitor the observation of procedural time limits.

79. In cases where a violation of the procedural time limits has been detected, the Human Rights Directorate sends memos to the Public Prosecution Service and the Supreme Court of Justice, reporting the violation of the procedural time limit and asking both agencies to respect such limits.

6. Allegations of torture and other forms of ill-treatment (para. 51)

80. In addition to the training for police personnel on the use of the "Basic guide to human rights for the police service", the decisions of the National Police Commander concerning human rights will be publicized more widely and brought to the attention of police station chiefs and their deputies.

81. These decisions include Decision No. 88/11, which amends article 15 of Decision No. 7/95 on the Disciplinary Regulations of the National Police and establishes courts and prosecutors' offices specializing in human rights violations within the Directorate of Police Justice.

82. Pursuant to this decision, torture is considered a serious offence under the Disciplinary Regulations of the National Police.

83. The aforementioned plan to provide police personnel with standard training in human rights has a section focused exclusively on the prevention and punishment of the crime of torture.

7. Prisons

(a) Closure of Tacumbú National Prison (para. 55)

84. On 4 April 2011, the Minister of Justice and Labour presented the President of the Republic with a plan for the phased-in closure of the prison. An official call for tenders for the construction of a new prison facility in Tacumbú has been issued, with four companies being prequalified to submit a design proposal.

(b) Pasilleros ("corridor people") (para. 56)

85. This problem will be solved primarily by the relocation of inmates, which will be undertaken in coordination with a working group, set up on 12 April 2011, consisting of representatives of the Ministry of Justice and Labour and members of the judiciary.

86. By the end of 2011, 1,500 further places will become available with the completion and construction of new prisons in San Juan, Pedro Juan Caballero, Emboscada and other sites.

87. The long-term solution is to relocate all inmates of Tacumbú National Prison.

(c) Torture and ill-treatment

88. Nine complaints of torture within the prison system were filed in 2009, all of which were duly investigated. The sole confirmed case was that of disciplinary officer Federico Bustos Molinas (Esperanza factory prison), who physically assaulted prison inmate Anibal del Rosario Valiente Vazquez on 3 November 2009 and who was consequently dismissed from his prison post and reported to the Public Prosecution Service.

89. Other important related cases are: (a) the dismissal of disciplinary officers Ariel Alfonso Molas Candia and David Saul Gonzalez (employed by Empresa Boyerito S.A., who jointly run the Esperanza facility of the Ministry of Justice and Labour) for their assault on inmate Jorge Galeano on 13 September 2009; (b) the criminal complaint against nurse Avelina Fernandez (Esperanza facility) for allegedly modifying the dosage of controlled substances dispensed to inmates and for wrongful exercise of professional duties; (c) the criminal complaint against the guard Ronald Soloaga (National Prison) for an alleged physical assault on inmate Joel Benitez; (d) the call for the dismissal of staff members Silvio Mora and Cecilio Barros Genes (Esperanza facility) and the recommendation that a criminal complaint be filed against them for abuse of authority.

90. Likewise, the Office of the Deputy Minister of Justice and Human Rights is negotiating with civil society organizations with a view to improving the complaint mechanism for persons deprived of liberty and promoting action to inform inmates about their rights and about situations that ought to be, but are not, reported. Another important goal of this joint effort is to make it easier to submit a complaint, by hiring and training personnel to handle complaints and forward them to the central authority for further investigation, thus forming an internal human rights network.

(d) Prison management, corruption and system of privileges (paras. 58–62)

91. The Transparency and Anti-Corruption Directorate, under the authority of the Ministry of Justice and Labour, has been working on some specific mechanisms in this area, focusing initially on Tacumbú National Prison, with the goal of creating an effective system which could be replicated in other prisons.

92. Furthermore, in May of 2011, the Minister of Justice and Labour ordered the replacement of the director of Pedro Juan Caballero prison and the indictment and dismissal of 17 prison employees following a prison break by 6 inmates.

(e) Investigation into events in Tacumbú (para. 63)

93. When the director of Tacumbú prison was dismissed after the exposure of a child-pornography ring in the prison, the Ministry of Justice and Labour intervened through the Directorate-General of Prisons and Corrections. The prison director was charged by the public prosecutor following the criminal investigation.

(f) Measures for the prevention and suppression of corruption (para. 64 (a)-(e))

94. The Ministry of Justice and Labour has initiated an audit focusing on anti-corruption and transparency. The auditors, in conjunction with the Directorate-General of Human Rights, are expected to devise permanent, efficient mechanisms for internal use, one of which will be a code of conduct.

95. Work is also under way on establishing a training school for prison officers, with the help of foreign cooperation agencies, civil society organizations and the Ministry of the Interior (which will bring to bear its knowledge of the structure of the police academy). The school is expected to be located in Tacumbú National Prison.

(g) Narcotics (para. 65)

96. The Prison Oversight Unit established by the Supreme Court of Justice has confirmed that on 4 and 5 April 2010, 10 July 2010 and 21 March 2011, guards caught four women trying to enter the Tacumbú prison with narcotics. The guards reported details of the incident to the judicial authorities for the purpose of the criminal proceedings.

97. On 5 April 2010, another woman caught attempting to smuggle drugs into the same prison was sentenced to 8 years' imprisonment.