

ARGENTINA

Follow-up - State Reporting

i) Action by Treaty Bodies

CAT, A/60/44 (2005)

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CHAPTER IV. FOLLOW-UP ON RECOMMENDATIONS AND OBSERVATIONS ON STATES PARTIES REPORTS

115. At its thirtieth session, in May 2003, the Committee began a routine practice of identifying, at the end of each set of concluding observations, a limited number of recommendations that are of a serious nature and warrant a request for additional information following the dialogue with the State party concerning its periodic report. The Committee identifies conclusions and recommendations regarding the reports of States parties which are serious, can be accomplished in a one-year period, and are protective. The Committee has requested those States parties reviewed since the thirtieth session of the Committee to provide the information sought within one year.

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118. The Rapporteur has welcomed the follow-up information provided by six States parties as of 20 May 2005, when its thirty-fourth session concluded, indicating the commitment of the States parties to an ongoing process of dialogue and cooperation aimed at enhancing compliance with the requirements of the Convention. The documentation received will be given a document number and made public. The Rapporteur has assessed the responses received particularly as to whether all of the items designated by the Committee for follow-up (normally between three and five issues) have been addressed, whether the information provided is responsive, and whether further information is required.

119. With regard to the States parties that have not supplied the information requested, the Rapporteur will write to solicit the outstanding information. The chart below details, as of 20 May 2005, the conclusion of the Committee's thirty-fourth session, the status of follow-up replies to concluding observations since the practice was initiated. As of that date, the replies from seven States parties remained outstanding.

120. As the Committee's mechanism for monitoring follow-up to concluding observations was established in May 2003, this chart describes the results of this procedure from its initiation until the close of the thirty-fourth session in May 2005.

| <u>State party</u> | <u>Date due</u> | <u>Date reply received</u> | <u>Further action taken/required</u> |
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|-----------|---------------|--|--|
| Argentina | November 2005 | | |
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CAT, A/61/44 (2006)

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania, Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting

them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

44. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

A. Follow-up reply due before 1 May 2006

| State party | Date due | Date reply received | Document symbol number | Further action taken/required |
|-------------|----------|---------------------|------------------------|-------------------------------|
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|-----------|---------------|-----------------|----------------------|--|
| Argentina | November 2005 | 2 February 2006 | CAT/C/ARG/CO/4/Add.1 | |
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CAT, A/62/44 (2007)

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IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In Chapter IV of its annual report for 2005 2006 (A/61/44), the Committee described the framework that it had developed to provide for follow up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala, Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

53. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

Follow up procedure to conclusions and recommendations from May 2003 to May 2007

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Thirty third session (November 2004)

| State party | Information due in | Information received | Action taken |
|--------------------|---------------------------|---|-----------------------------------|
| Argentina | November 2005 | 2 February 2006 CAT/C/ARG/CO/4/Add.1 | Request for further clarification |

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CAT, CAT/C/SR.776 (2007)

COMMITTEE AGAINST TORTURE

Thirty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC) OF THE 776th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 15 May 2007, at 3 p.m.

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ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

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Follow-up to the Committee's conclusions and recommendations on country reports (document without a symbol, distributed in English only)

16. Ms. GAER, Rapporteur on follow-up to conclusions and recommendations, said that since the establishment of the follow-up procedure, 43 States parties had been reviewed, of which 37 had been asked for additional information and 22 had replied, which was a significant proportion. Those which had not replied had received a reminder, and three examples of reminder letters were presented in the document distributed to the Committee...

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19. The letter addressed to Argentina followed up on the recommendation urging the State party to create a national registry of persons deprived of their liberty. The State party had replied that that measure would be implemented with the creation of a national mechanism of protection, which had been delayed owing in particular to administrative considerations. The follow-up letter therefore stressed the importance of taking the simple measure of creating that registry...

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.³ However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. Since the recommendations to each State party are crafted to reflect the specific situation

in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44).*

**Follow-up procedure to conclusions and recommendations
from May 2003 to May 2008**

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Thirty-third session (November 2004)

| State party | Information due in | Information received | Action taken |
|-------------|--------------------|---|-----------------------------------|
| Argentina | November 2005 | 2 February 2006 CAT/C/ARG/CO/4/Add.1 | Request for further clarification |
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IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

Follow-up procedure to conclusions and recommendations from May 2003 to May 2009

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Thirty-third session (November 2004)

| State party | Information due in | Information received | Action taken |
|--------------------|---------------------------|---|-----------------------------------|
| Argentina | November 2005 | 2 February 2006 CAT/C/ARG/CO/4/Add.1 | Request for further clarification |
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Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

| | |
|---|-------------|
| Ensure prompt, impartial and effective investigation(s) | 76 per cent |
| Prosecute and sanction persons responsible for abuses | 61 per cent |
| Guarantee legal safeguards | 57 per cent |
| Enable right to complain and have cases examined | 43 per cent |
| Conduct training, awareness-raising | 43 per cent |
| Ensure interrogation techniques in line with the Convention | 39 per cent |
| Provide redress and rehabilitation | 38 per cent |
| End gender-based violence, ensure protection of women | 34 per cent |
| Ensure monitoring of detention facilities/visit by independent body | 32 per cent |
| Carry out data collection on torture and ill-treatment | 30 per cent |
| Improve condition of detention, including overcrowding | 28 per cent |

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for

improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

...

Thirty-third session (November 2004)

| State party | Information due in | Information received | Action taken |
|--------------------|---------------------------|---|------------------------------------|
| Argentina | November 2005 | 2 February 2006 CAT/C/ARG/CO/4/Add.1 | Request for further clarifications |
| ... | | | |

...

ii) Action by State Party

CAT/C/ARG/CO/4/Add.1 (2006)

Comments submitted by the Government of Argentina on the conclusions and recommendations of the Committee against Torture (CAT/C/CR/33/1)

[2 February 2006]

1. Following recommendations made by the Committee, information can be found annexed to the present document in response to the recommendations appearing below.
2. In paragraph 7, the Committee recommends that the State party should take all necessary steps to prevent acts of torture and ill-treatment in the territory of the State of Argentina, and in particular that it should:
 - (a) Organize a national register of information from domestic courts on cases of torture and ill-treatment in the State party, a measure stated by the State party to be feasible;
 - (b) Take specific steps to safeguard the physical integrity of the members of all vulnerable groups;
 - (c) Take appropriate steps to guarantee full respect for the dignity and human rights of all persons during body searches, in full compliance with international standards;
 - (d) Establish national prevention machinery with authority to make periodic visits to federal and provincial detention centres for the purpose of fully implementing the Optional Protocol to the Convention.
3. Finally, the Government of Argentina promises to keep the Committee informed of progress in implementing the recommendations made subsequent to the oral introduction of Argentina's most recent periodic report.

Report of the Human Rights Office of the Ministry of Justice and Human Rights in reply to the recommendations by the United Nations Committee against Torture subsequent to the oral introduction by Argentina of its fourth periodic report before the Committee at its thirty-third session on 16 and 17 November 2004

4. The Committee produced a set of recommendations, asking that within a year a reply should be forthcoming on the specific measures adopted to give effect to four recommendations in particular. With regard to these, we would like to provide the information appearing below.

Recommendation (e)

Organize a national register of information from domestic courts on cases of torture and ill-treatment in the State party, a measure stated by the State party to be feasible.

5. When the Argentine delegation made its oral introduction of the fourth periodic report in November 2004, it was not in a position to provide adequate and full information from each province and the federal jurisdiction on cases of torture and ill-treatment of persons deprived of their freedom. Replies were received from only about half the provinces circulated, and those that did reply gave signs of having only a limited amount of adequate and reliable information.

6. In 2005 a working group was established comprising staff of the Office of Crime Policy and Prison Affairs, part of the Ministry of Justice and Human Rights. It considered the general situation and problems involved in sending complete information on torture and ill-treatment from the law courts, at both the federal level and that of the various provinces. Various options were evaluated, including that there was a need for a special database, created by executive decree, dealing with matters of federal interest, stemming from Argentina's obligations as a State party to an international instrument, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

7. Since then, work has been proceeding on the associated legislative framework and various proposals for attaining the general goal, in which the instruments used by the Ombudsman before the Court of Appeal of Buenos Aires province were used as precedents; these are shown by way of example (annex 1).

8. In November 2005, when the draft decree for implementing the Optional Protocol to the Convention against Torture was being drawn up, an article was incorporated in it providing for the establishment of a national register or database for reporting on cases of torture and ill-treatment. The draft decree is under consideration by the Minister of Justice and Human Rights, before being submitted to the President of the Republic for signature. It states: "Instruct the Minister of Justice and Human Rights to proceed to create, within sixty (60) days of publishing this decree, a database containing statistical information on incidents of torture and other cruel, inhuman or degrading punishment or acts." The database will be federal in scope, and gather information from around the country, employing specialized model data fields for providing information in varying formats differentiated by factual descriptions of the various situations. It will make it possible to retrieve detailed and reliable information on specific cases foreseen in the Convention against Torture and on the precedents established so far by the international courts on human rights issues.

9. Similarly, and with reference to incidents reported, the Under-Secretary for Prison Affairs of the Office of Crime Policy and Prison Affairs of the Ministry of Justice and Human Rights has, in order to obtain information on prisoners held in institutions of the federal penitentiary system who report being victims of torture or ill-treatment (*apremios ilegales* in the language of Argentina's Criminal Code) and identify prison staff involved, forwarded enquiries to the President of the National Appeal Court for Criminal and Correctional Cases, to the President of the National Appeal Court for Federal Criminal and Correctional Cases, and to the Presidents of

the Federal Appeals Courts in different parts of the country, through whom it was asked whether the courts at any of these levels were recording cases stemming from reports of torture or ill-treatment. To give a clearer idea, copies of these enquiries, replies to which were being assembled as this report was being drafted, are annexed hereto (annex 2).

10. In addition, in the absence of a reliable register containing data on violent deaths occurring in any place of incarceration during 2005, staff of the Human Rights Office compiled a register of deaths in custody on the basis of cross-checked information from different sources, government and non-governmental, such as the federal and provincial prison services, police and other security forces, persons in jail and members of their immediate families, journalistic articles, human rights organizations and private information from staff of the Office. The aim is for this register to be organized with greater precision in 2006, to which end the different federal and provincial agencies are asked to submit the relevant information in periodic form to the Human Rights Office. A copy of the register is annexed hereto (annex 3).

Recommendation (f)

Take specific steps to safeguard the physical integrity of the members of all vulnerable groups.

11. A necessary precondition for compliance with this recommendation is to have information that can be relied on in both qualitative and quantitative terms.

12. To this end, in November 2004 the Human Rights Office began to prepare a database that was afterwards refined with the assistance of the United Nations Children's Fund (UNICEF). An integrated picture of the situation at the national level and in each of the different provinces of Argentina has been produced, indicating the number of persons under 21 years of age held in jail, the number and type of institutions where they are held, and the reasons why they are confined.

13. As part of this survey, an event entitled "Days of Good Practice in Juvenile Criminal Justice" was held on 19 and 20 September 2005. Organized by the Human Rights Office and the National Council for Childhood, Adolescence and the Family, the event was sponsored by Argentina's Senate, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), and the Special Rapporteur on the rights of persons in confinement of the Inter-American Commission on Human Rights (for programme, see annex 4). The Days of Good Practice saw the presentation of the first data generated from the various provinces of Argentina, giving an estimate of 24,000 children and adolescents, confined for reasons of social insecurity in more than 80 per cent of cases (see final investigation report, annex 5). This cohort, children and adolescents of both sexes in custody, is the group whose rights are more widely and seriously affected than any other, both in numbers and in the degree of insecurity they suffer from.

14. In the context of this project involving research and subsequent action, visits were made to establishments where children were held in custody - police stations, centres, institutions and prisons - in the provinces of Tucumán, Ró Negro, Jujuy, Mendoza, Salta, and the Autonomous

City of Buenos Aires. In each of these cases, public inquiries were held and direct approaches were made to the executive, judiciary and legislature. Similarly, in each of the areas visited, publicity was given to the content and aims of the Optional Protocol to the Convention against Torture.

15. Special mention should be made of the province of R ó Negro, where in June 2005 a thematic observatory for the study of conditions of detention in places of confinement was established, based on a joint project between the United Nations Development Programme (UNDP), the Human Rights Office of Argentina's Ministry of Justice and Human Rights, and the Human Rights and Imprisoned Persons' Group formed at the local university. As part of the work of the Observatory, major activities were conducted in two cities of R ó Negro province: General Roca and Viedma. In General Roca a visit was undertaken for the first time to the Alfonsina Storni Home, a facility for single mothers with infants, girls and adolescents. The condition of the accommodation noted by the Observatory team led to a public outcry, and a number of changes were introduced by the authorities. In Viedma, where there is also a branch of the Observatory, following a visit to the local reformatory, where a meeting took place with two adolescents held in custody because of their social situation, a series of legal moves was begun in association with their families and the local authorities, with the aim of putting an end to their detention.

16. It should be noted that on 28 September 2005 the Argentine Parliament adopted the Act on the Comprehensive Protection of the Rights of the Child, promulgated on 26 October 2005. This norm, applicable to all minors under 18 years of age, lays down a series of "measures for the comprehensive protection of rights" which must be applied by the competent administrative authorities "if there are threats or violations of rights or guarantees of one or more children or adolescents individually considered, with the aim of preserving or restoring them, or remedying their consequences" (art. 33). The same article lays down that "lack of material resources of the parents, family, legal representatives or guardians of the children and adolescents, whether circumstantial, temporary or permanent, shall not constitute grounds for separation from their nuclear or extended family, or from those with whom they retain emotional ties, or for placing them in institutions", ensuring that such measures of protection do not consist in loss of freedom (art. 36).

17. Act No. 26,061 meant no longer allowing the Child Welfare Agency, that is judges, to decide what happens to children and adolescents, a state of affairs which had resulted in 18,000 children being confined in various kinds of State and private institutions because of their own poverty or that of their families. The change in approach (from the concept of minors in an irregular situation to that of comprehensive protection of their rights) is a process that is fully under way. The State's responsibility for tackling the problem of children and adolescents from the standpoint of protecting their rights instead of confinement implies a series of structural changes and changes in institutional practice. The enactment of this norm is merely a first step.

18. Regarding arbitrary detentions of children and adolescents, a Day of Youth, Punishment and Rights, jointly organized by Argentina's National Youth Directorate (DINAJU) of the Ministry of Social Development, the Office of Crime Policy and Prison Affairs, and the Human Rights Office, was held on 9 September 2005.

19. Following the interventions by family members of young persons killed by security forces and the presentations made by Mariano Cascallares, Director of DINAJU, Alejandro Slokar, Secretary for Criminal Policy and Prison Affairs, and Eduardo Luis Duhalde, Secretary for Human Rights, all taking part in the event, some 100 members of youth organizations and officials from the relevant areas, met in three commissions, formulating conclusions that included:

- (a) The need to promote suitable education for police officers, including general education, training in treaties, laws, specific practical training and precise guidelines via the chain of command on the limits of their authority and on respect for human rights (disciplinary rules);
- (b) Information on the rights of young people and adolescents, exploiting the potential offered by the media;
- (c) Increasing the effectiveness of the criminal investigation police;
- (d) Encouraging mediation as an alternative system for conflict resolution;
- (e) Promoting the formulation and submission of general reform proposals on criminal provisions, analysing and reviewing the decriminalization of certain types of conduct and de-emphasizing arrest as a response.

20. The event formed part of efforts by Argentina to comply with the judgement of the Inter-American Court on Human Rights in the case of Walter Bulacio, the aim being to use that case and others in which violations of human rights have been perpetrated by the security forces as a basis for discussion of policies on the rights of young people.

21. Regarding care for imprisoned persons, the Under-Secretary's Office for Prison Affairs reports that "health checks on the prison population in establishments of the Federal Prison Service" are being implemented in full. The programme is aimed at undertaking a medical examination of all imprisoned persons, in particular those whose rights are most ignored: women, persons with psychiatric disorders, drug addicts, young adults and children confined with their mothers. At the same time, on 26 December 2005 a foetal monitoring team visited Prison Unit 31 of the Federal Prison Service to examine pregnant women held in jail there (25 out of a total of 232). The examinations were requested by Stella Maris Martinez, Deputy Ombudsman of Argentina, in response to a request from women imprisoned in that unit.

Recommendation (I)

Take appropriate steps to guarantee full respect for the dignity and human rights of all persons during body searches, in full compliance with international standards.

22. It should be pointed out here with regard to the procedure for body searches in places of detention, in the provinces and in cases covered by the Convention against Torture, that body searches and inspections of items are still conducted manually.

23. However, with regard to the regulations in force in the area of the Federal Prison Service, which reports to the Ministry of Justice and Human Rights, a draft revision is under way of the “Guide to Body Search Procedures”, decision No. 42 of 15 March 1991, issued by the then Under-Secretary for Prison Affairs; the new regulations will reflect the revised criteria for procedures used by Spain’s prison security judges approved at the VIII meeting (Madrid, November 1994), item D; the recommendations made by the Inter-American Commission on Human Rights in its report No. 38/96 on case 10,506, dated 15 October 1996; and two memorandums, 84/2000 from the Department of Prisons and 109/01 from the Department of Corrections, which lay down that body searches must be external and respect the integrity of the prisoner.

24. It should be noted that report No. 38/96 of the Inter-American Commission on Human Rights refers to a submission made by the mother of a 13-year-old girl, complaining that both she and her daughter had been subjected to vaginal examinations when going to a federal prison to visit the husband of the complainant and father of the child.

25. The Commission found the case admissible and concluded that “the lawfulness of a vaginal search or examination, in a particular case, must meet a four-part test”, namely:

- (a) It must be absolutely necessary to achieve the security objective in the particular case;
- (b) There must not exist an alternative option;
- (c) It should in principle be determined by judicial order; and
- (d) It must be carried out solely by health professionals.

26. Since in this specific instance, there was no judicial order, and no adequate medical guarantees had been provided, the Commission concluded that the State of Argentina had violated the rights of both mother and daughter, guaranteed in articles 5, 11 and 17 of the American Convention on Human Rights, in relation to article 1.1, which requires the Argentine State to respect and guarantee the full and free exercise of all the provisions recognized in the Convention. In the case of the daughter, the Commission concluded that the State of Argentina also violated article 19 of the Convention.

27. In consequence, it recommended that the State should “adopt the necessary legislation in order to adjust its provisions to the obligations established by the Convention as expressed in the present conclusions and recommendations”.

28. The authorities responsible for prison affairs began in 2000 with a proposal to implement non-invasive procedures in prison units of the Federal Prison Service but, although detectors were installed, they were never put into operation, which gave rise to various recommendations by the Office of the Government Procurator for the Prison System following complaints by prisoners, family members and close relatives.

29. The decision taken by the Under-Secretary for Prison Affairs, referred to previously, was in the final revision stage by that body as the present report was being drafted (2 January 2006), after which it was to be forwarded to the International Centre for Prison Studies at King's College, London, two of whose staff members, Andrew Coyle and James Haines, recently undertook a cooperation and collaboration visit to Argentina, organized jointly by the Human Rights Office and the British Embassy in Buenos Aires.

Recommendation (o)

Establish national prevention machinery with authority to make periodic visits to federal and provincial detention centres for the purpose of fully implementing the Optional Protocol to the Convention.

30. After signing the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 15 November 2004, and depositing the associated instruments, the Human Rights Office decided to begin a process that would lead to its effective enforcement by establishing and putting into effect the national prevention mechanism foreseen in article 17 et seq.

31. As a result, a working group from the Office of Crime Policy and Prison Affairs drew up a draft decree regulating Act No. 25,932 ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the object of which is to establish a national prevention mechanism (a copy of the preliminary draft decree is appended as annex 6). The work was carried out with the assistance of a legal and technical team drawn from both offices.

32. At the time the present report was drawn up, the question was under consideration by the Minister of Justice and Human Rights.

33. In addition to drawing up this draft decree, visits were made in the course of 2005 to different prison units and other facilities throughout the country where detainees were being held. The visits were made by teams from the Human Rights Office, with additional members from social and human rights groups on occasion. On these visits, the mechanism of the Optional Protocol was used, together with other associated instruments such as the Monitoring Manual for Sanctioning and Preventing Torture drafted by the Association for the Prevention of Torture (APT), so as to improve the use of visits as a system of control with a view to future implementation of the national mechanism. Mention may be made of inspections at prisons (Mendoza Penitentiary, Mendoza Women's Unit, known as El Borbollón, General Roca Remand Centre and Viedma No. 1 Penal Establishment, both in R ó Negro province; Unit 11 in Neuquén; Penitentiary Unit No. 31 of the Penitentiary Service in Buenos Aires province; Villa Urquiza Prison in Tucumán province; the federal units in the provinces of R ó Negro, Neuquén, Córdoba, and the Federal Capital and Buenos Aires province); various psychiatric centres, institutions, and homes where children and adolescents are held.

34. Similarly, as part of outreach work in connection with implementation of the Optional Protocol, the following publicity and preparatory work may be mentioned:

(a) The Human Rights Office, together with Argentina's Centre for Legal and Social Studies (CELS) and the Association for the Prevention of Torture (Switzerland), held a seminar for judges, prosecutors and defence lawyers on the prevention and punishment of torture. Discussions were held on the "Combating Torture" manual, published by the University of Essex, United Kingdom (see programme in annex 7). The seminar ran from 26 to 28 April 2005, with the inaugural ceremony being held in the main lecture theatre of the Faculty of Law of the National University of Buenos Aires, with the panels and discussions continuing in the Ministry of Justice and Human Rights. The goal of the seminar was to make available to judges and officials the Essex manual as a major tool for prevention, detection, follow-up and evaluation for investigation and suitable punishment of torture cases, and an exchange of practical experience and existing regulations among the various experts. One reason why the event, which was also attended by representatives from both outside and inside the country, was successful was because it could be repeated in various provinces of Argentina, depending on its content, a goal that is under way this year;

(b) Through a delegation made up of officials from the Ministry of Foreign Relations, International Trade and Religious Affairs, the Office of the Government Procurator for the Prison System, and the Human Rights Office, Argentina took part as a federal State in a seminar entitled "The Optional Protocol to the United Nations Convention against Torture: Implementation in federal and decentralized States", in Sao Paulo, Brazil, from 22 to 24 June 2005. One of the main aims of the seminar was to consider ways and means of implementation for federal States a type of politico-institutional organization that poses particular problems of implementation given the autonomous character of the constituent provinces and states. During the seminar, the Argentine delegation introduced initiatives and made proposals for defining the preliminary drafts of legislative instruments mentioned earlier and methods of application in federal States;

(c) A similar objective - discussions on the implementation of the Optional Protocol in federal States - was the object of the meeting in Mexico, on 13 and 14 July 2005, through an international seminar entitled "Exchange of experience on implementation of the Optional Protocol to the Convention against Torture in Mexico", organized by Mexico's Ministry of Foreign Affairs, the United Nations High Commissioner for Human Rights and the Association for the Prevention of Torture. To show the challenges presented by implementation of the Optional Protocol in States that are organized along federal lines, the Under-Secretary for the Promotion and Protection of Human Rights, Rodolfo Mattarollo, outlined the case of Argentina (see copy of his speech in annex 8);

(d) As mentioned above, pursuant to an agreement with the United Nations Development Programme, the Human Rights Office has set up the first observatory for human rights on a thematic basis, on conditions of detention in places of confinement in Rio Negro province. In a public presentation on 26 August 2005 in the city of General Roca, Rodolfo Mattarollo publicized the aims of the Optional Protocol as well as the importance of implementing it in our country.

As part of the outreach work associated with publicizing and setting up the Observatory,

workshops entitled “Visits to places of confinement as a method of preventing torture” were held in the cities of General Roca, Bariloche and Viedma. The workshops, arranged by experts from the Human Rights Office, were attended by a total of 80 law and prison officers, members of social bodies and religious organizations, as well as family members of imprisoned persons.

CAT, CAT/C/ARG/CO/4/Add.2 (2007)

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

Comments submitted by the Government of ARGENTINA * ** on the conclusions and recommendations of the Committee against Torture (CAT/C/CR/33/1)

[22 October 2007]

Recommendation (e)

Organize a national register of information from domestic courts on cases of torture and ill-treatment in the State party

1. The creation of a national register or database is one of the measures incorporated into draft legislation adopted by Argentina under Act No. 25,932 in order to implement the national preventive mechanism for torture and other cruel, inhuman or degrading treatment or punishment stipulated in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
2. As part of the obligations of the national preventive mechanism, the proposed legislation provides for the creation of a database containing statistical data on incidents of torture and other cruel, inhuman or degrading treatment or punishment.
3. As will be explained fully in the relevant paragraph, the aforementioned draft is currently being dealt with by the competent bodies of the National Public Administration before being submitted to the Congress for consideration and adoption. It is therefore too early at this stage to be able to determine when the national register will be ready for implementation.
4. However, it is worth mentioning that in mid-2006 this Human Rights Office prepared a questionnaire on the subject, in order to obtain up-to-date data on incidents of torture and ill-treatment of persons deprived of their liberty, drawing on the efforts made between 2001 and 2004 (annex 1).
5. The questionnaire was sent to the authorities in the provinces and the Autonomous City of Buenos Aires with jurisdiction on this matter, to enable the federal Government, which had not previously had a database containing statistical data on such offences committed nationwide, to fulfil the obligations arising from the aforementioned international instrument.
6. This tool was developed with the support of the Federal Council of Human Rights (comprising the provincial High Authorities and the Autonomous City of Buenos Aires with jurisdiction on this issue, assisted by our Office), a body with an important role in laying a common foundation for public policies concerning the promotion and protection of human rights.

7. However, in many cases, the provinces have reported difficulties in obtaining the required information in their respective areas, and our Office continues to receive replies to the questionnaire from the different provinces. It has therefore still not been possible to collect all the data required to carry out a complete quantitative and qualitative examination of the issue.

8. Nevertheless, it should be noted that the province of Buenos Aires has kept a register of criminal cases of torture and ill-treatment since 2001, administered by the province's Department of Human Rights, Prison Policy and Complaints of the Office of the Procurator-General in the Supreme Court. Until 2005, the register used to include offences related to economic crimes affecting the public interest and those committed by government officials in the exercise of their duties. Since 2005, the register has specifically covered only torture and unlawful coercion offences.

Recommendation (f)

Take specific steps to safeguard the physical integrity of the members of all vulnerable groups **Status report on children and young people**

9. As highlighted in previous reports, the legal framework for the protection of the rights of persons under 18 years of age was established through Act No. 26,061 on the Comprehensive Protection of the Rights of Children and Young Persons, which provides a general outline for public policy planning on childhood issues (annex 2).

10. This Act abrogated Act No. 10,903 on the Child Welfare Agency, recognized that all persons up to the age of 18 are subjects of rights and created a System for the Comprehensive Protection of Rights, through which the administrative or judicial institutions are equipped with mechanisms that will be activated if rights of children and young people are violated or threatened.

11. The Act also regulates the protection measures that aim to provide comprehensive protection of rights through mechanisms that are activated should the rights of children and young people be threatened and/or violated, to ensure that those rights are fully, effectively and permanently exercised.

12. In addition, under the National Executive, the Act created the National Secretariat for Children, Young Persons and the Family and the Federal Council for Children, Young Persons and the Family; both institutions are operational. Furthermore, an Ombudsman for the Rights of Children and Young Persons is provided for under the legislature.

13. In 2006, decrees Nos. 415 and 416 were enacted, regulating various provisions contained in Act No. 26,061, and specifying in greater detail the protection for those in this vulnerable group (annex 3).

14. Meanwhile, there are several draft parliamentary bills aimed at abolishing the current criminal regime for juveniles established by Act No. 22,278 and introducing a new regime tailored to the principles stemming from the Convention on the Rights of the Child. This debate

coincides with significant Court judgements calling into question the constitutionality of the current system.¹

15. Hence there is increasing agreement on the need for a new regime (the first step being the adoption of the law) that restricts State intervention in criminal matters, which today is still referred to in terms of *guardianship and protection*. The introduction of a new regime will ensure the beginning of a substantial improvement in the legal status of young people accused of breaking the law.

16. Additional measures implemented at institutional level have led to action being taken and progress made with respect to the protection of the rights of children and young people.

17. The Human Rights Office has also performed a number of tasks related to monitoring of the implementation of the Convention on the Rights of the Child and the protection of those rights, in some cases jointly with the Federal Human Rights Council.

18. Special mention should be made of the following action taken:

(a) The drafting of bills and decrees, as well as the provision of advice on human rights standards to legislators and government bodies at both national and provincial level;

(b) The drafting of a report entitled “Deprived of liberty: Status of children and young people in Argentina”. This report offers a clear diagnosis of the situation with respect to deprivation of liberty and an assessment of the actual status of the issue as at 31 December 2005 (annex 4);

(c) The strengthening of non-custodial measures and those for children deprived of or lacking in parental care.

19. Our Office has also launched a new initiative on data collection, since the aforementioned report on children deprived of liberty would give rise to 195 non-custodial schemes, sometimes known as “alternative” or “substitute” programmes. It was therefore decided to seek further information through the National Department for Direct Assistance to Vulnerable Persons and Groups, which comes under this Office. The objectives were:

(a) To find examples of existing schemes in the country in order to become familiar with the approach and methodology used;

(b) To encourage forums for dialogue with the provinces to review progress made and difficulties encountered in implementing programmes;

(c) To follow up the implementation of Act No. 26,061 and observe its impact on local legislation, on institutions and in practice;

(d) To publicize relevant experience;

(e) To strengthen non-custodial measures and those for children deprived of liberty or

lacking in parental care and in conflict with the law.

20. In order to achieve these objectives, data collection forms were designed in compliance with human rights standards, both for the schemes dealing with criminal matters and for children deprived of liberty or lacking in parental care. To date, information has been obtained from several provinces, with excellent results, and the task is ongoing.

21. A report entitled “Minimum standards of human rights for a new criminal justice law for juveniles”, published in May 2005 with the assistance of UNICEF, is being updated.

22. Finally, it should be pointed out that, apart from the visits our Office makes to detention centres for children and young people in different provinces and in the Autonomous City of Buenos Aires, the Commission to Monitor the Institutional Treatment of Children and Young Persons, which operates under the Office of the Advocate-General in the Public Prosecutor’s Office, carries out significant work, making periodic visits to the various internment centres under federal jurisdiction. This mechanism for periodic visits ensures that the rights of interned children and young people are respected and that referrals, complaints and requests for reports are made to the competent bodies.

Recommendation (l)

Take appropriate steps to guarantee that body searches respect the dignity of the rights of all persons in compliance with international standards

23. The additional information requested by the Rapporteur falls under the substantive competence of the office of the Under-Secretary for Prison Affairs in the Ministry of Justice and Human Rights, which therefore needed to be consulted. The office confirmed that bringing domestic regulations into line with international standards with regard to creating registers of persons in federal prison establishments has not yet been finalized.

24. The office pointed out that, since some of the provisions of the “Guide to body search procedures”, approved by the then Under-Secretary for Justice by resolution No. 42/91, do not follow the guidelines, the current Under-Secretary intended to replace it. A text was therefore drafted, in consultation with State agencies and non-governmental organizations specializing in the area of respect for human rights in prison establishments in Argentina, which was forwarded for review by the expert Andrew Coyle of the International Centre for Prison Studies (ICPS) in the United Kingdom.

25. The office later stated that the guide could enter into force once domestic requirements had been met as to its planned relationship to other rules, while clarifying that the principles set out in the guide are already being implemented in the federal prison establishments, on specific instructions from the Under-Secretary’s office.

Recommendation (o)

Establish national prevention machinery with authority to make periodic visits to federal and

provincial detention centres for the purpose of fully implementing the Optional Protocol to the Convention

26. As indicated in previous paragraphs, Argentina does not yet have national machinery for the prevention of torture and other cruel, inhuman or degrading treatment with the powers and the independence stipulated in the Protocol.

27. The reason is that, when the draft decree was forwarded for consideration to the relevant government departments, they made a number of comments relating mainly to the relationship between the decree and other legislation. The objections raised, to the effect that the national prevention machinery should be introduced through the adoption of a law by the National Congress, were aimed at ensuring that the machinery operated in the most efficient and effective manner and that the organization and its members enjoyed independence in decision-making.

28. Accordingly, this Office reformulated the draft decree to allow the creation under national law of an organization with legal personality and economic and financial autonomy and to precisely specify its sphere of competence, thus ensuring it fully exercises the functions envisaged in the Optional Protocol.

29. A series of meetings were held, in which non-governmental organizations specializing in the area participated and expressed their opinions with respect to the proposed measure, leading to a number of agreements to strengthen public participation in both policy-making and decision-making.

30. Against this background, in 2006 meetings and exchanges took place with various governmental and non-governmental organizations concerned with defending the rights of persons deprived of liberty, such as representatives from the Human Rights Office of the province of Buenos Aires and the human rights offices of the provinces; the Committee Against Torture of the Buenos Aires Provincial Memory Commission; the Centre for Legal and Social Studies (CELS); the Institute for Comparative Studies in Criminal and Social Sciences (INECIP); the Xumek Association of Mendoza province; the Argentine Women's Group; the Pampas Movement for Human Rights; the Fundación de Detenidos Sociales (FUNDESCO); and the International Red Cross.

31. On 4 May 2007, the Federal Council of Human Rights met to specifically to discuss the draft law. That meeting offered a further opportunity to collate important opinions and information on shared experience that enhanced the draft legislation.

*/ The annexes to the present report may be consulted in the secretariat files.

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

1/ Among such judgements are: Daniel Enrique Maldonado et al./aggravated armed robbery

together with aggravated homicide - Case N+ 1174C- CSJN- handed down on 7 December 2005, and G.F.D et al./case file of 6 December 2006, Federal National Criminal and Correctional Chamber, 1st Chamber.