



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

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**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Combined fourth to sixth periodic reports due in 2003, 2007  
and 2011 submitted in reply to the list of issues  
(CAT/C/PRY/Q/4-6) transmitted to the State party under the  
optional reporting procedure (A/62/44, paras. 23 and 24)**

**Paraguay\* , \*\* , \*\*\***

[19 October 2010]

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- \* The third periodic report of Paraguay (CAT/C/49/Add.1) was considered by the Committee at its 418th, 421st and 425th meetings, held on 5, 8 and 10 May 2000 (CAT/C/SR.418, 421 and 425). The Committee's conclusions and recommendations are presented in A/55/44, paragraphs 146–151.
  - \*\* 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.
  - \*\*\* The annexes to the present report may be consulted in the files of the Committee's secretariat.

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## **I. Introduction**

1. This report was prepared by the Human Rights Department of the Ministry of Defence, which, with the support of the Human Rights Directorate of the Ministry of Foreign Affairs, processed the information received from various national agencies involved in human rights.
2. The Military Command, the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Justice and Labour, the Secretariat for Women, the Secretariat for Paraguayan Returnees and Refugees, the Supreme Court of Justice, the Public Prosecution Service (*Ministerio Público*) and the National Congress contributed to the report. Input was also received from the Ombudsman's Office.
3. The report presents the main accomplishments recorded by Paraguay in its efforts to prevent torture, in light of the list of issues submitted to the State party (CAT/C/PRY/Q/4-6).

## **II. Replies to the list of issues submitted to the State party**

### **A. Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations**

#### **1. Articles 1 and 4**

##### **Reply to paragraph 1 of the list of issues**

4. Many articles of the Criminal Code (Act No. 1160/97) were amended by Act No. 3440/08, but article 309, which defines torture as a criminal offence, was not one of them.
5. A bill to amend articles 236 and 309 of the Criminal Code so that torture is defined as an offence in terms that comply with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on Forced Disappearance of Persons and other human rights instruments is under consideration. The bill aims to protect people's rights and penalize and eliminate torture, a practice which violates human rights (see annex I).
6. The bill was presented at the end of May 2009 and sent for consideration to the Senate committees on human rights; constitutional affairs; national defence and public security forces; legislation, codification, justice and labour; and equity, gender affairs and social development.

##### **Reply to paragraph 2 of the list of issues**

7. Torture has still not been defined as a criminal offence in the Military Criminal Code (Act No. 843/80). There are plans to set up a commission to review the Military Criminal Code and remedy this omission.
8. The commission will have the power to amend the Military Criminal Code to incorporate a definition of torture as a criminal offence that is in accordance with article 1 of the Convention against Torture and to establish penalties consistent with the grave nature of this offence. It will be possible to report on the criminalization of acts related to torture,

such as enforced disappearances and extrajudicial executions, once the review process is under way.

9. The Armed Forces have indicated that military personnel are now able to enforce the law and prevent torture and ill-treatment. The efforts of various State agencies and civil society organizations involved in human rights protection have been instrumental in this regard.

10. As to enforced disappearances, article 5 of the Constitution states: “Genocide and torture, as well as enforced disappearances, kidnapping and murder for political reasons, shall not be subject to prescription.”

11. Article 236 of the Criminal Code establishes the enforced disappearance of persons as a criminal offence as follows:

Enforced disappearance:

1. Anyone who for political reasons engages in the punishable acts set forth in articles 105, 111, paragraph 4, 112, 120 and 124, paragraph 2, to terrorize the population shall be punished with a prison term of no less than 5 years.

2. A public official who conceals or fails to provide data on the whereabouts of a person or a corpse shall be punished with a prison term of up to 5 years or a fine. This shall apply even when the offender’s status as a public official is not legally established.

12. It is important to note that Paraguay ratified, in May 2010 and by means of Act No. 3941/10, the International Convention for the Protection of All Persons from Enforced Disappearance, and that, in accordance with the ranking established in the Constitution, duly ratified and exchanged international instruments have higher status than domestic laws, which means that ratification guarantees protection against this kind of offence.

## 2. Article 2

### Reply to paragraph 3 of the list of issues

13. The legal safeguards against torture, which exist from the moment of arrest, are clearly established in the Code of Criminal Procedure, article 240 of which states that “in all cases, detainees shall, within 24 hours, appear before a judge 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”.

14. Article 75 of the Code of Criminal Procedure lists the rights of the accused. The judges of the courts responsible for procedural safeguards ensure that those rights are respected, as set forth in the Code, from the very start of the detention, while the special human rights units of the Public Prosecution Service intervene subsequently if a serious complaint is made about a violation of the legal safeguards of the accused.

15. The role of the courts responsible for procedural safeguards is precisely to enforce the safeguards established in the Constitution and thus protect human rights. These courts exist in all parts of the country; there are 12 in Asunción alone.

16. With regard to the use of constitutional remedies, such as the safeguards of habeas corpus and *amparo*, the Constitutional Guarantees Office has been created. This is an “administrative office that reports directly to the Supreme Court of Justice, in accordance with the corresponding decisions and resolutions ...” within the framework of Act No.

1.500/99, which establishes the regulations for the implementation of the constitutional guarantee of habeas corpus, and Decision No. 83/98.<sup>1</sup>

17. It should be noted that the Criminal Division of the Supreme Court currently finds itself in an unusual political position, since it is missing one member. This situation could slow down the processing of habeas corpus applications, although the Criminal Division is doing its utmost to avoid this.

18. So far this year, the Criminal Division of the Supreme Court has received 71 habeas corpus petitions, and has ruled on them as speedily as possible.

19. According to the report on the activities of the Constitutional Guarantees Office, between January and October 2007, the courts of first instance received approximately 173 applications for writs of habeas corpus and 485 for writs of *amparo*, with most petitions being filed in Asunción and Ciudad del Este.<sup>2</sup>

20. In 2008, approximately 1,071 *amparo* petitions and 252 habeas corpus petitions were filed in the various court districts across the country. From January to October 2009, 735 *amparo* petitions and 178 habeas corpus petitions were filed.<sup>3</sup>

21. Decision No. 154/00 established a 24-hour system for dealing with urgent cases whereby a criminal court judge is on call at all times in order to ensure that constitutional rights and procedural rules are upheld.<sup>4</sup> The service is available outside the opening times of the Constitutional Guarantees Office, which are 7 a.m. to 5 p.m.

22. Officials from the Criminal Caseload Distribution Office, which works with various agencies to distribute cases, reported in an interview that, taking habeas corpus and *amparo* petitions and juvenile delinquent cases all together, the 24-hour service handles two or three cases each weekday and between 10 and 15 each weekend.

23. In its Decision No. 222/01, the Supreme Court, in order to ensure that the need to protect human dignity and the principles of equal treatment and procedural expeditiousness are taken into account at all times, approved the criminal justice system's procedural guidelines for the monitoring and enforcement of the rights and safeguards of prisoners that are established in the Constitution, international law and ordinary law for the benefit of those convicted or in pretrial detention.<sup>5</sup>

24. Pursuant to Decision No. 222/01, the criminal enforcement courts are authorized by law to monitor the prison system by carrying out inspections, to summon prison officials and to render general and individual decisions to protect the rights and guarantees established for that system. Anyone convicted or in pretrial detention can request the protection of the courts by filing a petition.

25. The Criminal Division of the Supreme Court received 68 applications for habeas corpus in 2007 and 57 in 2008.<sup>6</sup> According to the report submitted by the Third Judicial

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<sup>1</sup> Report on activities of the Constitutional Guarantees Office of the Supreme Court of Justice.

<sup>2</sup> *Derechos Humanos en Paraguay 2007*, p. 103.

<sup>3</sup> Activities report of the Constitutional Guarantees Office of the Supreme Court of Justice, January–December 2008 and January–October 2009.

<sup>4</sup> Note issued by the Third Judicial Secretariat of the Supreme Court of Justice, presided over by Ms. Karina Penoni de Bellasai, PSJ, III, No. 1040, 11 December 2009.

<sup>5</sup> See the decision at: [www.csj.gov.py/par97017/reglamentaciones/modulos/detalle.asp?codigo\\_acord=560&tipo=Acordada](http://www.csj.gov.py/par97017/reglamentaciones/modulos/detalle.asp?codigo_acord=560&tipo=Acordada).

<sup>6</sup> Activities report for 2007, p. 43; Activities report for 2008, p. 41.

Secretariat of the Supreme Court, 71 petitions for habeas corpus and 2 for *amparo* were processed in 2009.<sup>7</sup>

26. As regards access to a State-appointed lawyer, the Public Defender Service (*Defensa Pública*) is responsible for providing free legal counsel. This service is a public agency within the judiciary that currently depends on the Supreme Court for its autonomy and its budgetary and functional self-sufficiency.<sup>8</sup>

27. The main mission of the Public Defender Service is to safeguard due process.<sup>9</sup> It is responsible for defending the interests of those who use its services and for championing respect for human rights as regards legal defence, as provided for in the Constitution,<sup>10</sup> international treaties and conventions,<sup>11</sup> other applicable laws,<sup>12</sup> decisions<sup>13</sup> and internal regulations.

28. The Public Defender Service has submitted a draft bill to Congress containing 99 articles setting out the nature, location and mission of the service.<sup>14</sup> The bill also establishes the service's autonomy, self-sufficiency and scope of responsibility, which are essential for the proper fulfilment of its obligations in accordance with the principles of the best interests of the client, confidentiality, supplementary intervention and a free service, etc. (see annex II).

29. Administrative autonomy will enable the Public Defender Service to create the internal organizational structure and appoint the staff it needs to discharge its duties efficiently.

30. Functional autonomy will mean that officials of the Public Defender Service, within its areas of competence and subject to applicable laws and regulations, will be able to

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<sup>7</sup> Document PSJ, III, No. 982, 30 November 2009, of the Third Judicial Secretariat of the Supreme Court of Justice.

<sup>8</sup> Act No. 1227/97 established programmes for fiscal 1998, as well as the post of Chief Public Defender and the subsidiary public defender services.

<sup>9</sup> In pursuit of the effective protection of human rights, at the inter-American level, the Inter-American Court of Human Rights signed an agreement with the Inter-American Association of Public Defender Services (AIDEF) so that whenever the Inter-American Court of Human Rights finds that an alleged victim of a human rights violation lacks financial resources to obtain, or does not have, legal representation during its proceedings, the Court may call upon AIDEF to appoint a defence lawyer to provide legal counsel and defence services throughout the proceedings.

<sup>10</sup> Constitution of 1992, articles 1, 11, 12, 14, 16–19, 46, 47 and 54.

<sup>11</sup> Article 8 of the American Convention on Human Rights (Pact of San José, Costa Rica), approved by the Conference of American States in November 1969 (Act No. 1/89); article 14 of the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly in December 1966 (Act No. 4/92); article 11, paragraph 1, of the Universal Declaration of Human Rights and section XXVI of the American Declaration of the Rights and Duties of Man; Advisory Opinion No. 11 of the Inter-American Court of Human Rights, of 1990, requested by the Inter-American Commission on Human Rights, which addressed the issue of real access to justice (the Court decided that two conditions precluded the equal access to justice mandated by the American Convention, and that financial insecurity led to discrimination that violated the Convention); and chapter II, section 2, of the Brasilia Rules on Access to Justice.

<sup>12</sup> Code of Criminal Procedure (Act No. 1.286/98 articles 6, 7, 30, 75, 97, 100, 103, 106–109, 366 and 491; Code on Children and Adolescents (Act No. 1680/01), articles 42, 162 and 163; the Criminal Code (Act No. 1160/97), which lists punishable offences and the corresponding penalties, as applicable to those in need of defence; and the Civil Code, as applicable to plaintiffs who need the assistance of a public defender.

<sup>13</sup> Decision No. 85/98 of the Supreme Court regulates the posts created under Act No. 1227/97.

<sup>14</sup> The bill submitted to Parliament is attached hereto.

perform their duties independently, freely and responsibly in coordination with the Supreme Court and the Public Prosecution Service.

31. Financial self-sufficiency will mean that the Public Defender Service will manage the funding allocated to it in the national budget, as well as any other funds to which it is entitled by law.

32. In Paraguay, the right to legal assistance has been established in article 12 (on detention and arrest) and article 17 (on procedural guarantees)<sup>15</sup> of the Constitution and in article 6 of the Code of Criminal Procedure (Act No. 1286/98).<sup>16</sup>

33. Generally speaking, visits by public defenders in criminal cases to detention centres, whether for adults, minors or women, are conducted periodically, 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 and the name and signature of the prisoner visited. That form is handed over to the head of the prison's legal department.

34. The manner in which complaints of ill-treatment are handled depends on the seriousness of the allegation (meeting with the head of the institution or written or oral communication with 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.

35. The Public Defender Service reported that, according to the trial records for the whole of Paraguay, the offices of public defenders for criminal matters handled 25,615 cases in 2007, 26,556 in 2008, and 27,654 in 2009.

36. There are 192 public defender posts nationwide; of these 94 are in the offices of public defenders for criminal matters and 10 in the offices of public defenders for children and adolescents. Some 41 posts are currently vacant, and 56 new posts have been requested for 2010.<sup>17</sup>

37. Article 12 of the Constitution<sup>18</sup> and article 75 of the Code of Criminal Procedure<sup>19</sup> establish that notification, at the time of arrest, of the family or a person close to the

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<sup>15</sup> Article 12 of the Constitution (on detention and arrest) states 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. Incommunicado detention, which in no case may exceed the duration prescribed by law, shall not prevent the detainee 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." Article 17 (on procedural guarantees), paragraph 6, states that "the State shall provide any such person with a defence counsel free of charge if he or she cannot afford one".

<sup>16</sup> Article 6 (on inviolability of the right to a defence) of the Code of Criminal Procedure (Act No. 1286/98) states 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 may not be waived, and any violation of that right shall entail the absolute nullity of the proceedings from the moment it occurs."

<sup>17</sup> Report submitted by the Chief Public Defender on 20 November 2009 to the Human Rights Directorate of the Supreme Court of Justice.

<sup>18</sup> Article 12 (on detention and arrest) of the Constitution states that: "No one shall be detained or arrested without a written order issued by a competent authority, except for those caught in flagrante

detainee is an inviolable right and that it is the duty of the institution making the arrest to ensure that such notification takes place.

38. Article 6 of the Code of Criminal Procedure (Act No. 1286/98) states 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 may not be waived, and any violation of that right shall entail the absolute nullity of the proceedings from the moment it occurs.” The same article nullifies any proceedings in which that right is violated.

39. Article 90 of the Code of Criminal Procedure (Act No. 1286/98) states that “the police may not take the suspect’s statement” and article 96 states that “failure to observe the rules about taking statements from suspects will prevent statements thus obtained from being used against the suspects, even when they themselves have given their consent for the rules to be broken or the statement to be used. Merely formal violations shall be corrected during the procedure itself or afterwards. In evaluating the procedure and determining whether the case should proceed, the judge shall take the nature of any procedural violations into account.” These legal provisions mean that formal violations of procedure can be rectified; they also establish that the violation of a suspect’s guarantees can result in a statement being rendered null and void. There are thus legal mechanisms in place to eliminate improper practices that might violate the rights of persons who have been detained or arrested.

40. The courts do not have a system for monitoring how individual judges handle such violations. In interviews, the judges of the courts responsible for procedural safeguards stated that there have been no cases in which an accused person has made a statement in the absence of counsel. The statements they receive have always been written ones and have not contained complaints of any such violation. Without concrete evidence that such violations occur, the courts cannot rule against them.

#### **Reply to paragraph 4 of the list of issues**

41. According to data provided by the Ombudsman’s Office on cases of torture handled by the Public Prosecution Service, the status and outcome of the investigations of the complaints of torture filed by the Truth and Justice Commission between 2004 and 2009 can be summarized as follows:

(a) In 2004, 23 complaints were filed, of which 4 were dismissed. The investigations into the others have been suspended;

(b) In 2005, 48 complaints were filed, of which 5 were dismissed. The investigations into the others have been suspended;

(c) In 2006, 25 complaints were filed. In two cases the statute of limitations had expired. The investigations into the others have been suspended;

(d) In 2007, 32 complaints were filed, of which 2 were dismissed. The investigations into the others have been suspended;

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delicto in relation to a crime punishable with a prison sentence. All detainees have the right ... (2) to have their family or the persons of their choice immediately informed of their detention.”

<sup>19</sup> Article 75 (on the rights of the accused) of the Code of Criminal Procedure (Act No. 1286/98) states that: “Accused persons are guaranteed the necessary safeguards to ensure a proper defence and are informed immediately and in a comprehensible manner by the national police, the Public Prosecution Service and judges of their right to: ... (3) designate the person, association or entity who is to be notified of their arrest and for that notification to take place immediately.”



(e) In 2008, 47 complaints were filed, of which 1 was dismissed. The investigations into the others are under way.

42. The status of some of these cases, as reported by the Ombudsman's Office, is presented in annex III.

43. Other complaints were filed as called for in the final report of the Truth and Justice Commission and with the backing of the Directorate-General for Truth, Justice and Reparation, an agency of the Ombudsman's Office. In 2009, immediately after this new agency had been established, its legal affairs unit worked closely with the human rights office of the Committee of Churches to file new complaints involving various offences. In December 2009 and January 2011, 10 new complaints were filed (see annex IV).

#### **Reply to paragraph 6 of the list of issues**

44. The Constitution of 1992 established the Ombudsman's Office as a functionally and administratively independent and autonomous institution and simultaneously established the post of Ombudsman, a parliamentary commissioner whose role is to defend human rights, channel the complaints of the people and protect community interests.<sup>20</sup>

45. The Ombudsman is appointed by a two-thirds majority of the Chamber of Deputies, from a list of candidates proposed by the Senate. The Ombudsman remains in office for five years, which coincide with the term of Congress, and may be re-elected. While in office, the Ombudsman may not be part of any branch of government or engage in party politics.<sup>21</sup>

46. Pursuant to Act No. 631/1995 on the Ombudsman's Office, the Ombudsman shall be replaced during any temporary or definitive absence by the Deputy Ombudsman, who shall be appointed in the same way as the Ombudsman (art. 6).

47. The duties and powers of the Ombudsman are set out in the Constitution<sup>22</sup> and Act No. 631/1995 on the Ombudsman's Office.<sup>23</sup>

48. The rights defended by the Ombudsman's Office are all those included and recognized in the Constitution, international treaties and Paraguayan law.

49. Act No. 1626/2000 on the civil service establishes the legal status of the officials of the Ombudsman's Office.

50. As described above, the system for appointing the Ombudsman is participatory inasmuch as the appointment must be approved by Congress.

51. In the appointment process of 2009, Congress drew up the list of candidates on the basis of public hearings that allowed all organizations and individuals concerned to express their opinion about who should be considered for the post of Ombudsman.

52. The functional autonomy of the Ombudsman's Office is established and guaranteed by the Constitution. Over the years, the Ombudsman's Office has made headway in the defence of the human rights of all the inhabitants of Paraguay. The institution still needs to be strengthened, however.

<sup>20</sup> Constitution of Paraguay, articles 276 and 277.

<sup>21</sup> Ibid., article 278.

<sup>22</sup> Ibid., article 279.

<sup>23</sup> Act No. 631/1995, art. 10.

53. The functional and financial autonomy of the Ombudsman's Office is guaranteed by Act No. 1535/1999 on the financial administration of the State, which establishes its budgetary autonomy.
54. The use of resources by the Ombudsman's Office, and by other agencies that receive State funding, is overseen by the Office of the Comptroller-General of the Republic.
55. Currently the Ombudsman's Office has 21 branches in the city of Asunción and 24 outside the capital.
56. None of the branches have their own facilities. They all work out of offices provided by municipalities, governors, parishes or individuals who wish to help. Thanks to this support, the Ombudsman's Office has been able to expand its presence outside the capital.
57. The activities of the Ombudsman's Office are publicized on a website which describes its functions and activities in detail. Citizens are also kept informed of its activities through other mass media.

### 3. Article 3

#### **Reply to paragraphs 7 and 8 of the list of issues**

58. In cases of expulsion, return or extradition, article 5 of the Constitution establishes that: "No one shall be subjected to torture or to other cruel, inhuman or degrading punishment or treatment. Genocide and torture, as well as enforced disappearances, kidnapping and murder for political reasons, shall not be subject to prescription." Article 6, in accordance with the aforementioned article, requires the State to promote a better quality of life by means of policies and plans.
59. Similarly, the Constitution guarantees rights such as habeas corpus (whether it be preventive, remedial or generic) and establishes (art. 137) that international instruments ratified by law take precedence over domestic legislation. For that reason, the judge responsible for ordering an extradition must ensure compliance with international instruments and obtain all necessary data before proceeding with the extradition. Any decision that runs counter to the provisions of the Constitution is invalid.
60. Should the judge have reasonable grounds for believing that an international instrument or treaty has been violated, he or she has the power to refuse extradition, but must justify the refusal in the relevant decision. Similarly, the judiciary, as one of the three branches of government, works with departments of the executive (Ministry of the Interior, Ministry of Foreign Affairs) to collect the necessary data in order to determine whether extradition should be granted in each case.
61. The judge decides whether or not the extradition should be granted on the basis of the reports submitted by the competent authorities of the other signatory State to the extradition agreement, in accordance with the provisions of that agreement, other multilateral agreements, domestic legislation and the Constitution.
62. In accordance with the general principle that all decisions may be appealed, any person may appeal against the decision taken by the judicial authorities by following the relevant procedures.
63. In criminal proceedings, extradition is governed by the following provisions of the Code of Criminal Procedure:
- Article 146. Letters of request. Requests made of foreign judges and authorities shall be communicated by letter of request and shall be processed in accordance with current international law, domestic laws and international practices. However, urgent communications may be transmitted to any foreign judicial or administrative

authority in advance of a request being made or of a reply to a request being received. The provisions relating to letters of request contained in the Code of Criminal Procedure shall be applied where appropriate.

Article 147. Extradition. The extradition of an accused or convicted person shall be subject to current international law, domestic laws or international practices, or to rules on mutual assistance in the absence of applicable norms. [Statistical data are provided in annex IV.]

64. Furthermore, article 8 of Title II, Exclusion Clauses (sole chapter), [of Paraguay's refugee law, Act No. 1.938/2002] states that:

This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of the 1951 Convention relating to the Status of Refugees and the present law.

65. In 2008, the Supreme Court of Justice established the Directorate of International Affairs, which is responsible for receiving and processing letters of request and all requests for jurisdictional assistance submitted by the competent authorities at both the national and international level.

66. Under the decision establishing it,<sup>24</sup> the Directorate provides advice on international relations and judicial cooperation so as to assist in the continuous training and adaptation required in its area of competence and ensure the ongoing modernization and strengthening of the Paraguayan judiciary.

67. As to the training received by officials who deal with the return, expulsion or extradition of foreign nationals with respect to article 3 of the Convention, no such training has been formally provided for justice officials. However, some of them have received training abroad at either the individual or institutional level.

68. The Secretariat for Paraguayan Returnees and Refugees is the State institution responsible for the repatriation of Paraguayans who live abroad and for liaising with them. The Secretariat facilitates the return of Paraguayan nationals expelled from other States and takes measures to help reintegrate recent returnees into Paraguayan society.

69. The Secretariat has reported human rights violations against Paraguayans arising from the enforcement of migration laws in various countries to both the national and international authorities and has assisted in the safe return of vulnerable Paraguayans. The Secretariat does not deal directly with foreign nationals, with the exception of family members of returnees (who receive the necessary legal support), as this would be outside its sphere of competence.

70. In addition to organizing national forums on the situation of Latin American migrants, the Secretariat has coordinated with the Ministry of Foreign Affairs in organizing outreach days for Paraguayans resident in Argentina, Brazil, Uruguay, the United States and Spain in an effort to get their papers in order.

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<sup>24</sup> Decision No. 533 of 2008.

#### 4. Article 4

##### Reply to paragraph 9 of the list of issues

71. As mentioned previously, article 5 of the Constitution establishes that the crime of torture is imprescriptible.

72. In one case (against Basilio Pavón, Merardo Palacios, Osvaldo Vera and Walter Bower for the detention and torture of police officers Alfredo Cáceres, Jorge López and Lorenzo Genes), the public prosecutor, Mr. Fabián Centurión, entered a plea of unconstitutionality in respect of article 25, paragraph 3, and articles 136 and 137 of the Criminal Code, on the basis that the punishable offence under investigation was classed as a “crime against humanity” under international norms and that such crimes were imprescriptible. The Constitutional Division of the Supreme Court of Justice, in its Judgement No. 195 of 5 May 2008, stated that: “... in cases of ‘crimes against humanity’ on which the international community has already ruled, a State party cannot, under any circumstances, overlook the motives or legal grounds of a plea entered in relation to this type of punishable offence, or contrast the affirmation under examination with the intention of article 5 of the Constitution, which provides for the protection of victims of terrible and reprehensible crimes, a situation based on the position of the international community, which exempts both the substantive and procedural regulations in criminal matters and limits the imprescriptibility of criminal action and of the penalties incurred by such crimes solely and exclusively to ‘genocide and torture, in addition to enforced disappearance, kidnapping and murder for political reasons’”.<sup>25</sup>

73. On the question of whether the statute of limitations applies to criminal action or to the penalties incurred by such crimes, the Constitutional Division determined that no statute of limitations applied in either case.<sup>26</sup>

74. By establishing the imprescriptibility of torture, the Supreme Court of Justice has ensured a high standard of human rights protection and has reaffirmed the principle that the violation of fundamental human rights must not go unpunished.

##### Reply to paragraph 10 of the list of issues

75. The Convention has been directly invoked in a number of judicial decisions, the most recent and noteworthy being: Judgement No. 195 of 5 May 2008, in the case of the “Plea of unconstitutionality in the trial of Basilio Pavón, Merardo Palacios, Osvaldo Vera and Walter Bower for inflicting physical injury while performing a public function” (2003, No. 5182); and Judgement No. 960 of 31 December 2009, in the case of the “Application for preventive detention for the purpose of extraditing Argentine national Eduardo Abelarlo Britos” (No. 1184/09).<sup>27</sup>

#### 5. Article 10

##### Reply to paragraphs 12 and 13 of the list of issues

76. The training provided by the Ministry of Defence and the Armed Forces is intended to prevent acts of torture by non-commissioned officers of the Armed Forces and focuses on awareness-raising, the dissemination of information and education. The aim is to develop human rights programmes for prevention and awareness-raising in the areas of

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<sup>25</sup> A copy of Judgement No. 195 is provided in annex V.

<sup>26</sup> *Derechos Humanos en Paraguay 2008*, Paraguayan Human Rights Coordinating Committee.

<sup>27</sup> See [www.csj.gov.py/jurisprudencia/cache/0266d2b1b1310dbd85e9b4a0fec558b3.htm](http://www.csj.gov.py/jurisprudencia/cache/0266d2b1b1310dbd85e9b4a0fec558b3.htm).

education and training within the Armed Forces through learning institutions, training centres, training courses, courses for promotion candidates and advanced training courses.

77. The Directorate of Civil Affairs, Human Rights and International Humanitarian Law was established within the Armed Forces. General Order No. 237/02 issued by the Armed Forces Chief of Staff approved a standard human rights and international humanitarian law training programme for use within the Armed Forces.

78. Furthermore, Special Order No. 105/06 issued by the Military Command stipulated that signs be placed on public display in all barracks for the attention of young men beginning their military service, informing them of the name and address of the relevant office of the Public Prosecution Service and other authorities responsible for receiving and transmitting complaints of ill-treatment, harassment, acts of torture, servitude and other violations of the soldier's human rights.

79. A teaching aid called "The soldier's guide" has been developed. The guide sets out the legal principles and provisions that promote the dissemination of and respect for these norms and is distributed among the military units of the Armed Forces. An additional teaching aid called "Human rights: a duty for all" has also been distributed in private educational institutions.

80. General Order No. 112 of 28 June 2007 issued by the Armed Forces Chief of Staff approved the "Manual of humanitarian norms", which covers human rights and international humanitarian law. This teaching aid sets out the legal principles and provisions of both branches of law for circulation within the Armed Forces.

81. Human rights and international humanitarian law have been incorporated in the curriculum at the army, navy and air force training colleges. In this connection, awareness and information campaigns on human rights and international humanitarian law for military personnel have been launched.

Table I

**Number of military personnel having completed a course in human rights and international humanitarian law (statistics for the period 2003–2010)**

<i>Human rights and international humanitarian law course</i>	<i>Senior non-commissioned officers</i>	<i>Junior non-commissioned officers</i>	<i>Non-commissioned officers</i>	<i>Cadets</i>	<i>Total</i>
ECEME	100				<b>100</b>
ECEMFAER	25				<b>25</b>
ECEMA	25				<b>25</b>
EPOE		50			<b>50</b>
CECOPAZ	2	20	100		<b>122</b>
Promotion		40	60		<b>100</b>
ACADEMIL				300	<b>300</b>
LICEMIL				150	<b>150</b>
COMISOE			70		<b>70</b>
EPOA		18			<b>18</b>
APSOA			15		<b>15</b>
Coastguard		20			<b>20</b>
Apprentice sailors				200	<b>200</b>
Strategy		25			<b>25</b>

<i>Human rights and international humanitarian law course</i>	<i>Senior non-commissioned officers</i>	<i>Junior non-commissioned officers</i>	<i>Non-commissioned officers</i>	<i>Cadets</i>	<i>Total</i>
EPOFAER		25			<b>25</b>
EFSOFAER			140		<b>140</b>
Conscripts				2 171	<b>2 371</b>
<b>Total</b>	<b>152</b>	<b>198</b>	<b>385</b>	<b>2 371</b>	<b>3 106</b>

*Source:* Armed Forces, Directorate of Civil Affairs, Human Rights and International Humanitarian Law (2010).

82. The programmes have yielded satisfactory results, as no complaints regarding acts of torture have been filed against military personnel engaged in supporting the national police.

83. At its training centre, the Public Prosecution Service provides in-service training to prosecutors from specialized human rights units. The training addresses issues raised by the Convention against Torture and other international human rights instruments. Respect for human rights features prominently in the Public Prosecution Service's training policy.

84. Activities organized by the centre include workshops on framing policies for processing complaints of human rights violations received by the Public Prosecution Service (2002) and on the dissemination of information on the rights of victims and the accused (2004), along with the distribution and display of posters in both Spanish and Guaraní in prosecutors' offices in and outside the capital.

85. The "Practical guide to investigating cases of torture" (2006) was drafted and published in response to the need for effective prosecution in cases of torture and to provide the prosecution service with a tool giving access to a comprehensive legal framework and to facilitate the investigation of cases. The guide seeks to ensure that the rights of victims are upheld and to contribute to the training of prosecutors, justice officials and others working in the field of human rights.

86. Should acts related to torture come to light, the guide explains how the prosecutor should conduct the investigation, including how to deal with and talk to victims, identify witnesses, consult a forensic doctor, request reports and develop an overall strategy for the investigation.

87. The guide is meant for prosecutors and is utilized as a learning aid by the Public Prosecution Service's training centre.

88. In the period from 2006 to 2007, regular workshops on using the guide were organized. They were attended by 117 prosecutors from both ordinary crime units and specialized human rights units, as well as around 100 officials from various parts of the Public Prosecution Service.

89. Similarly, prosecutors from specialized and non-specialized crime units, assistant prosecutors and technical and support staff from all over the country are currently receiving training in interviewing techniques. The training is aimed at teaching participants how to conduct interviews in a systematic way for the purpose of obtaining information from witnesses, victims and anyone else who may be able to assist in the criminal investigation.

90. The practical guide to investigating cases of torture is currently being revised in order to align its contents with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

91. In an effort to harmonize policy within the Public Prosecution Service, the training centre organized a round table for human rights staff from the service, as well as a technical team to oversee the current process of revision, adaptation and publication of the second edition of the manual.

92. The Ministry of the Interior reports that the national police provides human rights training; a general description is available of the relevant parts of the curricula of the various police academies.

93. The General José Eduvigis Díaz police academy provides officers in their second year with a total of 128 hours of human rights lectures (16 hours of lectures a week).

94. 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.

95. The Sargento Ayudante José Merlo Saravia police training college for non-commissioned officers 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.

96. The School for Police Administration and Policy, which offers training and promotion courses for assistant commissioners, provides human rights training in the second cycle, based on a total of 32 hours of lectures (2 hours a week).

97. 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	Articles 2, 11, 4, 10, 14, 15, 17 (including paragraph 1), 18 (including paragraphs 1 and 3), 21, 22, 36
	Police procedure	Articles 2, 10, 11, 12, 13, 23
	Principles and ethics of policing	Articles 1, 2, 10, 11
	Physical education	Article 1
	Applied national legislation, parts I and II, first course	All articles
	Police investigations	Articles 5, 7, 11, 15
	Physical education	Article 1

*Source:* Ministry of the Interior (2010).

98. 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.

99. An agreement has been concluded between the Ministry of the Interior, the Office of the National Chief of Police 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. To date, 77 commissioned officers and 10 non-commissioned officers have graduated.

100. 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. In 2010, the Human Rights Directorate of the Ministry of the Interior trained approximately 80 police officers serving in district police stations.

101. While no study has been carried out to measure the impact of the training provided, the fact that only a small number of complaints of police misconduct have been filed to date attests the positive impact of these initiatives.

102. As to whether there exists a protocol for interrogating detainees, in accordance with Act No. 1.286/98 on the Code of Criminal Procedure and article 23 of the Code of Criminal Procedure, only police officers and prosecutors may carry out interrogations.

## 6. Article 11

### Reply to paragraph 14 of the list of issues

103. The Constitution defines the Ombudsman as a parliamentary commissioner whose functions consist in “safeguarding human rights, channelling complaints from members of the public and protecting community interests”.

104. The functions and powers of the Ombudsman include: “reporting human rights violations committed by persons performing official duties and private individuals to the Public Prosecution Service; entering pleas for habeas corpus and requesting *amparo*, without prejudice to the laws on which individuals can call; acting ex officio or on the application of a party in order to safeguard human rights”. Article 279, paragraph 1, of the Constitution establishes that the Ombudsman shall “receive and investigate reports, complaints and claims concerning violations of the human rights recognized by the Constitution, international treaties and the law, even when such violations were committed by persons performing official duties”.

105. With regard to the official bodies or mechanisms responsible for visiting prisons, the Ombudsman’s Office, pursuant to its task of protecting and promoting human rights, has carried out several visits to police stations and prisons in the country and has been invited to set up inter-agency commissions to monitor places of deprivation of liberty and make recommendations to safeguard detainees’ human rights. These commissions include the following.

106. The Inter-Agency Commission on Visits to Prisons was established in 2004 by the Senate Committee on Human Rights and is composed of representatives of the following institutions: the Supreme Court of Justice, the Ministry of Justice and Labour, the Public Prosecution Service, the Public Defender Service, the Ombudsman’s Office, NGOs such as Raíces, the Paraguayan Human Rights Coordinating Committee, the Institute for Comparative Studies in Criminal and Social Sciences, and the trade union for prison



officers. The Commission is chaired by the president of the Senate Committee on Human Rights.

107. Among the detention centres visited by the Commission were: Casa del Buen Pastor, Emboscada prison, Tacumbú national prison, Itauguá educational facility, Virgen de Fátima educational facility, Esperanza educational facility, Virgen de Caacupé educational facility, Villarrica regional prison, Coronel Oviedo regional prison, San Juan Bautista Misiones regional facility, Encarnación regional prison, Ciudad del Este regional prison, Juana María de Lara women's correctional facility, San Pedro regional prison, Pedro Juan Caballero regional prison and Concepción regional prison.

108. Annual visits are carried out so that recommendations can be made for improving the country's prison system.

109. The Inter-Agency Commission on Visits to Juvenile Detention Centres consists of representatives of the Ombudsman's Office, the Ministry of the Interior, the United Nations Children's Fund (UNICEF), the Human Rights Directorate of the Supreme Court, the Human Rights Directorate of the Public Prosecution Service, the Office of the Public Defender, the Ministry of Justice and Labour, the National Secretariat for Children and Adolescents and the NGO "Rondas".

110. Following these annual visits, recommendations are made for improving the country's system of juvenile detention.

111. By virtue of Decree No. 4674 of July 2010, the Executive initiated a process of prison reform and established a national commission, which included justice officials, to review the current prison system. The official bodies and mechanisms responsible for conducting visits to prisons, police stations and other places where persons deprived of their liberty may be held include the following:

- (a) The Inter-Agency Commission on Visits to Prisons;
- (b) The parliamentary committee on human rights;
- (c) The Human Rights Commission of the Prosecutor-General's Office (*Fiscalía General*) and the Ombudsman's Office;
- (d) The Criminal Division of the Supreme Court of Justice (judges, defenders).

#### **Reply to paragraph 15 of the list of issues**

112. As to police oversight mechanisms, any citizen who has knowledge of police misconduct can file a complaint with the Citizens Complaint Centre (free phone number) of the Ministry of the Interior. When a complaint is filed, an administrative inquiry is opened by the Directorate of Police Justice.

113. The Human Rights Directorate of the Ministry of the Interior is responsible for receiving and transmitting reports of police misconduct. When these are received, they are transmitted to both the Directorate of Police Justice and the Public Prosecution Service so that the appropriate criminal proceedings may be instituted.

114. The Department of Internal Affairs is responsible for investigating reports of police misconduct that fall within its remit. It subsequently transmits its findings to the Directorate of Police Justice, to carry out an inquiry and determine administrative responsibility, and to the Public Prosecution Service, to conduct the necessary judicial investigations.

115. The Directorate of Police Justice, established under the National Police Organization Act, is responsible for conducting the preliminary proceedings against police personnel, on the basis of the outcome of investigations by the Department of Internal Affairs or reports submitted by the Ministry of the Interior, the National Chief of Police or trustworthy third

parties. Since March 2010, the Directorate has had an organizational and functional structure and a clearly defined procedure that meet the requirements of due process and the principles of speed and efficiency.

116. After the preliminary proceedings have 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 Chief of Police.

117. As of 2009, the aforementioned police departments have undertaken to improve oversight and provide additional human, material, regulatory and operational resources for both the Department of Internal Affairs and the Directorate of Police Justice. Since March 2010, both institutions have had an organizational and functional structure and clearly defined procedures that meet the requirements of due process and the principles of speed and efficiency. Accountability has been established as a mandatory aspect of policing. As a result, in 2009 proceedings were instituted against 37 police officers for causing bodily harm in the course of their duties; 34 of them were punished.

118. The Armed Forces have on occasion backed up the national police when the latter has had to deal with low levels of violence arising from internal disturbances or other violent situations in the country.

119. Military personnel do not question or guard detainees; these tasks are the sole responsibility of the prosecution service (questioning) and the national police (guarding detainees). However, there is a mechanism in place to control and monitor the conduct of law enforcement officers (military and police personnel) that involves the relevant prosecution service in all proceedings to ensure that the proceedings take place in accordance with the law and international treaties.

120. Access to, possession of and use of a firearm by military personnel on active service or on mission is recorded in a "weapons control" log kept by the Ordnance Section. Once the mission or active service has been completed, the firearm and the total quantity of ammunition returned is logged in. Any irregularities are brought to the attention of a superior officer in a written report.

121. There is an official weapons register in the firearms log kept by the Ordnance Section. No reports have been prepared on the aforementioned official register.

#### **Reply to paragraph 16 of the list of issues**

122. By virtue of Decision No. 176/10, the national police established a register to safeguard and uphold the human rights of persons deprived of their liberty. The decision provides for:

(a) The 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 (Public Prosecution Service);

(b) The 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;

(c) The 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 detainees.

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

#### **Reply to paragraph 17 of the list of issues**

124. In accordance with Decision No. 176/10, paragraph 2, “the 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” is compulsory.

125. 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 outside the capital). In addition, some police departments employ full-time doctors or paramedics to provide primary care.

### **7. Articles 12 and 13**

#### **Reply to paragraph 18 of the list of issues**

126. Coordinated by the Deputy Prosecutor-General with special responsibility for human rights, work is under way to develop a system for reporting on investigations into allegations of torture and other punishable offences committed in the exercise of public duties, to serve as a basis for determining the corresponding administrative measures.

127. The Office of the National Chief of Police has initiated disciplinary proceedings against 117 police officers suspected of offences including physical abuse, bodily injury and serious bodily injury. As a result of the investigations, 106 officers have been suspended, 4 dismissed and 7 cleared.

Table III

#### **Disciplinary proceedings against police officers for causing bodily injury in the exercise of public duties between 2005 and 2009**

<i>Reason for proceedings</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>
Physical abuse	3		4	6	3	<b>16</b>
Bodily injury	17	15	16	16	28	<b>89</b>
Serious bodily injury	1	3	2		6	<b>12</b>
<b>Total</b>	<b>21</b>	<b>18</b>	<b>22</b>	<b>19</b>	<b>37</b>	<b>117</b>

*Source:* Ministry of the Interior (2010).

Table IV

#### **Disciplinary proceedings against police officers for causing bodily injury in the exercise of public duties between 2005 and 2009, by outcome**

<i>Outcome of proceedings</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>
Dismissal		2			2	<b>4</b>
23 days' suspension					2	<b>2</b>

<i>Outcome of proceedings</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Total</i>
20 days' suspension		2	3	4		<b>9</b>
15 days' suspension	12	6	6	2	5	<b>31</b>
10 days' suspension				3	6	<b>9</b>
8 days' suspension	7	6	10	7	15	<b>45</b>
Acquittal		1	2	1	3	<b>7</b>
<b>Total</b>	<b>21</b>	<b>18</b>	<b>22</b>	<b>19</b>	<b>37</b>	<b>117</b>

*Source:* Ministry of the Interior (2010).

128. The Supreme Court of Military Justice indicated that, having searched the records and case files that the various courts have submitted to its Archives, Library and Statistics Unit for complaints of torture and other cruel, inhuman or degrading treatment lodged between 2004 and 2009, it has found no record of any such incident being reported. Since there are no complaints of human rights violations within the Paraguayan Armed Forces on record, no such cases can be included in the State party's report on the implementation of the Convention against Torture.

129. The Ministry of Justice and Labour indicated that nine cases of torture within the prison service were reported in 2009. After thorough investigation, only one of the nine cases of alleged torture was proven. The officer responsible has been separated from service.

#### **Reply to paragraph 20 of the list of issues**

130. The complaints procedure open to members of the Armed Forces entails filing a report with a superior officer, the legal advice office of the Armed Forces or the Ombudsman (when the latter visits the barracks).

131. To guarantee that victims are protected against ill-treatment or intimidation, the officer alleged to have committed the offence is removed from duty while investigations to determine responsibility are carried out. The Directorate-General of Legal Affairs should be able to answer the question concerning the number of complaints of alleged torture or ill-treatment lodged, provided it keeps the relevant records.

### **8. Article 14**

#### **Reply to paragraphs 21 and 22 of the list of issues**

132. Applications for compensation submitted by victims of the dictatorship pursuant to Act No. 838/96, on payment of compensation to victims of human rights violations during the dictatorship of 1954 to 1989, are processed by the Ombudsman's Office.

133. Article 3 of Act No. 838/96 states that: "In order to substantiate their claims, victims must apply to the Ombudsman's Office, which shall evaluate the evidence presented, following referral to the Attorney General of the Republic (*Procurador General de la República*) for 30 days, and shall rule on the claims' admissibility and the corresponding compensation due."

134. The deadlines for submitting compensation claims established in the aforementioned Act have been subject to various amendments. Legislation modifying Act No. 838/96 includes the following:

(a) Act No. 1935/02, partially amending article 1 of Act No. 838/96 on payment of compensation to victims of human rights violations during the dictatorship of 1954 to 1989, of 2002, which extends the deadline for submission by three years;

(b) Act No. 2494/04, amending article 1 of Act No. 1935/02 on payment of compensation to victims of human rights violations during the dictatorship of 1954 to 1989, of 2004, which extends the deadline by a further two years;

(c) Act No. 3075/06, amending article 1 of Act No. 2494/04 on payment of compensation to victims of human rights violations during the dictatorship of 1954 to 1989, approved on 21 September 2006;

(d) Act No. 3603/08, amending Act No. 838/96 on payment of compensation to victims of human rights violations during the dictatorship of 1954 to 1989, approved on 10 September 2006. The main amendments introduced by Act No. 3603/08 were an increase in the amount of compensation payable to victims and the extension of the right to claim compensation to victims' children.

135. According to the database maintained by the Ombudsman's Office, the number of victims compensated pursuant to Act No. 838/96 to date is as follows:

(a) In 2002, 92 persons: most received 1,500 (minimum) days' wages, although some received less than 1,500 while others received the maximum amount of 2,500;

(b) In 2003, 278 persons: most received 1,500 days' wages, although some received the maximum amount of 2,500 and others received less than 1,500;

(c) In 2004, 279 persons: most received the maximum amount of 2,500 days' wages, although some received 1,500 and the rest received less than 1,500. In addition, an amount equivalent to 3,000 days' wages was paid to the families of persons who disappeared during the dictatorship;

(d) In 2005, 423 persons: most received 2,500 days' wages, although some received less and the families of disappeared persons received 3,000 days' wages;

(e) In 2006, 357 persons: most received the maximum amount of 2,500 days' wages, although some received 1,500 and others less. A minority of recipients received an amount equivalent to 3,000 days' wages;

(f) In 2007, 466 persons: most received 2,500 days' wages, while the rest received less than 2,500;

(g) In 2008, 606 persons: some received 2,500 days' wages, others 1,000 and a minority 1,500;

(h) In 2009, 576 persons: some received 2,500 days' wages and others 1,000. The highest amount received in the year was 3,000 days' wages;

(i) In 2010, 364 persons: some received 2,500 days' wages and others 1,000.

136. It should be emphasized that the 3,441 compensation payments awarded by the Paraguayan Government are administrative awards, not judicial ones, and that the applicants therefore retain the right to initiate judicial proceedings for the purpose of claiming compensation for damage and injury.

137. Of the claims settled to date, 90 per cent related to acts of torture and 10 per cent to other offences such as summary execution or political imprisonment.

138. The compensation awarded to victims of the dictatorship is passed on to their beneficiaries if the victims are no longer living. The children of victims are also entitled to apply for compensation under Act No. 3606/08 directly.

Table V

**Pending compensation claims from victims of the dictatorship**

Pending victim compensation claims (December 2009) in offices in Asunción	14 910
Pending victim compensation claims (earlier submissions) in offices in Asunción	4 484
Pending victim compensation claims (December 2009) in provincial offices	566
<b>Total</b>	<b>19 960</b>

*Source:* Ombudsman's Office (2010).

**9. Article 15****Reply to paragraph 23 of the list of issues**

139. Articles 23 and 90 of the Code of Criminal Procedure prohibit police officers from taking statements from accused persons in the course of investigations, stipulating that statements may be taken by prosecutors either in their offices or at a police station. Police officers are not permitted to take part in or be present at these interviews, except where a police presence is required for security reasons. For this reason, confessions obtained from accused persons cannot be used directly in evidence, especially where there are indications that they have been obtained under physical or mental duress and this can be demonstrated in court.

140. With regard to convictions obtained on the basis of confessions extorted by means of torture, article 148, paragraph 3, of the Code of Criminal Procedure establishes that appeals on behalf of the defendant may be lodged against any enforceable judgement at any time, when the contested sentence is based on documentary evidence or testimony that is declared to be false in a subsequent enforceable judgement, or is manifestly false even where no subsequent proceedings take place.

**10. Article 16****Reply to paragraph 24 of the list of issues**

141. There are 15 detention facilities in Paraguay – 11 prisons, 2 correctional facilities for women and 2 prison farms, as detailed below.

Table VI

**Detention facilities**

	<i>Detention facility</i>	<i>Department</i>
1	National prison	Central
2	Casa del Buen Pastor	Central
3	Esperanza prison	Central
4	Concepción regional prison	Concepción
5	Emboscada regional prison	Cordillera
6	Encarnación regional prison	Encarnación
7	Misiones regional prison	Misiones
8	Coronel Oviedo regional prison	Caaguazú

	<i>Detention facility</i>	<i>Department</i>
9	San Pedro regional prison	San Pedro
10	Villarrica regional prison	Guaira
11	Pedro Juan Caballero regional prison	Amambay
12	Cuidad del Este regional prison	Alto Paraná
13	Juana María de Lara correctional facility (Cuidad del Este)	Alto Paraná
14	Ita Pora prison farm (Emboscada)	Cordillera
15	Ko'e Pyahu Tacumbu prison farm	Central

*Source:* Ministry of Justice and Labour (2010).

Table VII  
**Capacity in Paraguay's prisons and correctional facilities, and population at 21 May 2010**

	<i>Detention facility</i>	<i>Capacity</i>	<i>Population</i>
1	National prison	2 202	3 161
2	Casa del Buen Pastor	200	287
3	Esperanza prison	288	43
4	Concepción regional prison	500	470
5	Emboscada regional prison	135	43
6	Encarnación regional prison	262	465
7	Misiones regional prison	90	168
8	Coronel Oviedo regional prison	596	383
9	San Pedro regional prison	228	112
10	Villarrica regional prison	180	173
11	Pedro Juan Caballero regional prison	295	215
12	Cuidad del Este regional prison	300	662
13	Juana María de Lara correctional facility (Cuidad del Este)	50	46
14	Ita Pora prison farm (Emboscada)	12	5
15	Ko'e Pyahu Tacumbu prison farm	20	8

*Source:* Ministry of Justice and Labour (2010).

Table VIII  
**Prison population by sex and legal status (convicted/remand prisoners)**

		<i>Adult males</i>		<i>Adult females</i>	
		<i>Remand</i>	<i>Convicted</i>	<i>Remand</i>	<i>Convicted</i>
1	National prison	2 326	835	0	0
2	Esperanza	0	285	0	0
3	Emboscada	0	43	0	0
4	Encarnación	299	141	14	11

		<i>Adult males</i>		<i>Adult females</i>	
		<i>Remand</i>	<i>Convicted</i>	<i>Remand</i>	<i>Convicted</i>
5	Misiones	71	93	2	2
6	Concepción	147	122	6	6
7	Coronel Oviedo	383	50	8	6
8	San Pedro	62	45	3	2
9	Villarrica	107	60	4	2
10	Pedro Juan Caballero	158	53	3	1
11	Ciudad del Este	586	76	0	0
12	Casa del Buen Pastor	0	0	136	72
13	Juana María de Lara	0	0	40	6
14	Ita Pora prison farm (Emboscada)	0	5	0	0
15	Ko'e Pyahu Tacumbu prison farm	0	8	0	0
<b>Total</b>		<b>4 139</b>	<b>1 816</b>	<b>216</b>	<b>108</b>

*Source:* Ministry of Justice and Labour (2010).

#### **Reply to paragraph 26 of the list of issues**

##### *Women*

142. There are two correctional facilities in Paraguay used solely for female prisoners:

(a) The Casa del Buen Pastor correctional facility for women, which has 203 inmates;

(b) The Juana María de Lara correctional facility for women in Ciudad del Este, which has 50 inmates. Although Paraguay's other prisons — i.e. the regional prisons in Encarnación, Misiones, Concepción, Coronel Oviedo, San Pedro, Villarrica and Pedro Juan Caballero — are not used exclusively for women, a separate wing is set aside for them in order to protect and guarantee their rights.

##### *Indigenous persons*

143. To guarantee and protect the rights of indigenous persons, the National Institute of Indigenous Affairs is informed whenever a member of an indigenous group is admitted to prison so that assistance can be provided through institutional programmes and policies and any form of discrimination against the indigenous person can be prevented.

#### **Reply to paragraph 27 of the list of issues**

144. The following measures have been adopted to protect and guarantee the rights of prisoners suffering from mental illness:

(a) Support is provided by appropriate medical professionals (psychiatrists);

(b) Controlled medication is administered;

(c) When an inmate needs to be hospitalized, the necessary formalities are carried out to obtain a transfer order from the competent judicial authority.



145. Tacumbú National Prison has a separate psychiatric wing for inmates suffering from mental illness. There are no separate wings in Paraguay's other prisons because they have few prisoners with mental illness, but all inmates receive the medical treatment they need.

### **Reply to paragraph 28 of the list of issues**

#### *Sexual violence*

146. The Secretariat for Women, which is in the Office of the President, worked with the Public Prosecution Service on the Spanish-led EUROsociAL Justice programme for 2006, organizing workshops on gender-based violence and sexual assault for people working in these fields, as well as workshops in which forensic experts taught participants how to use sampling kits in cases of sexual violence. Its other achievements include setting up a Public Prosecution Service complaints office in the medical emergency centre in Asunción so that victims of sexual abuse, sexual coercion and domestic violence are able to undergo a medical examination and file a complaint at the same time and in the same place.

#### *Progress since 2008*

147. An important advance in protection, prevention and the drive to eliminate violence of all forms was the signing in November 2008 of an inter-agency cooperation agreement in which the Ministry of the Interior, the Ministry of Public Health and Social Welfare, the Secretariat for Children and Adolescents and the Secretariat for Women undertook to work together to develop mechanisms to guarantee, defend, protect and promote the human rights of women, children and young persons by coordinating their activities and adjusting their procedures to make them truly effective in implementing international and national instruments, in line with the competencies, methodologies and procedures of each institution. An inter-agency commission has been established to oversee the agreement's implementation.

148. Under the agreement, special support units for women, child and adolescent victims of violence have been set up in three police stations in the metropolitan area (the fifteenth, sixth and seventh precincts), plus another in the city of Encarnación.

149. The plan is to set up similar units in the departments of Guairá and Alto Paraná. The units have handled 266 cases to date.

150. Another of the inter-agency commission's achievements has been to introduce in all health posts nationwide the Ministry of Public Health and Social Welfare's protocol on care for persons affected by violence and the Public Prosecution Service's protocol on comprehensive expert investigation of sexual offences.

#### *Sexual harassment*

151. A campaign entitled "*Tu acosas, Yo acuso*" ("Harass me and I'll accuse you") involving training and awareness-raising workshops for public officials, secondary-school students and trade unionists was launched in 2006. Educational materials were distributed and information about the campaign objectives was disseminated through the media.

152. As a first step towards addressing the problems faced by women in public service, where sexual harassment and wage inequality are continuing obstacles, the Secretariat for Women organized a panel debate on sexual harassment in public service in conjunction with the Secretariat of the Civil Service and with the support of the Spanish Agency for International Development Cooperation (AECID). The debate addressed the root causes of the problem, emphasizing that the big challenge was to discuss it freely and openly and to seek alternative rules and regulations, besides highlighting the importance of actually lodging a complaint.

*Shelter*

153. With support from AECID, the Secretariat for Women is building a shelter for female victims of domestic violence and organizing training for officials involved in the application of Act No. 1600 on domestic violence. The shelter will have capacity for 50 women and will provide medical, gynaecological, dental, paediatric and other forms of care, as well as psychological and legal counselling and support tailored to each particular case.

154. A tri-national support centre for emigrant women affected by violence has been opened in the Casa del Emigrante (Emigrants' House) in Foz de Iguazú. The centre's main aim is to assist women affected by violence of any kind (domestic or sexual violence, human trafficking, sexual harassment, bullying) in the triple-border region where Argentina, Paraguay and Brazil meet.

*Women deprived of their liberty*

155. Responding to a complaint received on 18 November 2009 about inhumane conditions inside a punishment cell in the Casa del Buen Pastor correctional facility for women, the Legal Advice Unit of the Secretariat for Women called a meeting and subsequently inspected the facility together with the Deputy Minister of Justice and Human Rights, who works at the Ministry of Justice and Labour.

156. The inspection team discovered a block containing three solitary confinement cells to which, according to the social worker from the Secretariat for Women, women were taken as punishment for "bad behaviour". The cells were quite small and although each contained a toilet, the cisterns were in the corridor. Two of the cells had showers but a lack of fittings meant the mattresses got soaked every time the showers were used.

157. The punishment cell referred to as "Pío Pío" was located in the rear courtyard of the facility, behind the building on Calle Mariscal López formerly used as a children's shelter. The cell was divided into three areas, with security at a maximum in the entrance area to prevent detainees from escaping. Inside was a filthy, unventilated room with little natural or artificial light in which, owing to the limited space, occupants could do nothing but stand up or sit down.

158. The Secretariat for Women asked the Minister of Justice to see to it that the punishment cell was demolished and that the solitary confinement cells, if they must be maintained, were fitted to a standard sufficient to provide decent living quarters for human beings, in this case women, who, despite being deprived of their liberty, had the right to be treated with respect.

159. A subsequent visit confirmed that the punishment cell had been demolished. According to the director of the facility, the demolition took place on Monday, 23 November 2009, the first weekday after the inspection, as promised by the Deputy Minister.

**Reply to paragraph 29 of the list of issues***Prisons*

160. Measures adopted to protect children's rights include a legal provision allowing mothers deprived of their liberty to keep young children with them. A special block called the "*Amanecer*" (Daybreak) block, in which remand and convicted female prisoners can live with their children up to 5 years of age, has been established for this purpose.

161. The Amanecer block has adequate space, light, ventilation and sanitary facilities, which is beneficial to the physical and psychological well-being of the children and their

mothers. To safeguard the moral well-being of the children living there, the building is designed to resemble a home rather than a cell block. To better illustrate this point, a copy of the regulations in place in the Amanecer block of the Casa del Buen Pastor correctional facility for women is attached to this document. With regard to measures adopted to prohibit corporal punishment, article 13 of the internal regulations governing conditions of detention for mothers with young children in the Casa del Buen Pastor establishes that: "Female prisoners who contravene the facility's disciplinary provisions, such that they endanger their children or others living in the block, shall be liable to judicial intervention by the competent authorities, who shall remove their children from the facility and rehouse them in other establishments selected by the authorities." Thus, as this legal provision demonstrates, measures are in place to protect children living with their mothers in prison.

#### *Children's shelters*

162. With regard to the measures to prohibit corporal punishment recommended by the Committee on the Rights of the Child in its concluding observations on Paraguay's second periodic report,<sup>28</sup> the system of prevention adopted in children's shelters operated by the Ministry of Justice and Labour is described below.

#### *Compulsory psychological testing for applicants for positions in children's shelters*

163. These tests are an extremely important means of determining the skills and abilities of persons applying for positions in State childcare institutions.

164. The main aim of the tests is to evaluate applicants' childcare skills, their sense of responsibility, their ability to resolve conflicts and pre-empt risk, and, above all, their likely propensity to use violence as a disciplinary measure.

#### *Training for permanent employees and contract workers*

165. Training is provided in the form of courses, workshops and talks given by professionals from various disciplines (lawyers, psychologists, social workers, etc.) who work in the public sector or in NGOs with which the authorities have concluded strategic alliances.

166. The main aim of events of this kind is to emphasize that corporal punishment is inadmissible and to foster the use of other correctional techniques involving a proportionate use of discipline that encourage children to behave in the manner desired by defining, teaching and rewarding good behaviour.

#### *Teaching children about their rights*

167. Children's shelter staff organize meetings with children and teenagers to supplement the human rights instruction given in schools. At these meetings, they aim to make the children and teenagers aware that they have the same basic human rights as any adult. These rights include the right to be protected against violence in any form, including beatings and humiliation.

#### **Reply to paragraph 31 of the list of issues**

168. Executive Decree No. 5093/05 established the Inter-Agency Committee to Prevent and Combat Human Trafficking in Paraguay, and Decision No. 968/09 of the Ministry of

<sup>28</sup> CRC/C/15/Add.166, para. 32.

Foreign Affairs sets out the regulations governing the Committee's organization and functioning.

*Public-sector institutions involved*

169. Under Executive Decree No. 5093/05, the following public-sector entities are represented on the Inter-Agency Committee: the Ministry of Foreign Affairs (Coordination Office), the Ministry of the Interior, the Ministry of Education and Worship, the Ministry of Industry and Trade, and the Ministry of Justice and Labour. Also included are the secretariats attached to the Office of the President: the National Secretariat for Children and Adolescents, the Secretariat for Women, the Secretariat for Social Action, the Secretariat for Paraguayan Returnees and Refugees, and the National Secretariat for Tourism.

170. Participants in the Inter-Agency Committee also include Itaipu Binacional, the national police, the Directorate-General for Migration and the Directorate-General of Statistics, Surveys and Censuses. Under Executive Decree No. 5093/05, the Ministry of Foreign Affairs has been responsible for coordination, which, as was previously mentioned, is handled by the Directorate for Paraguayan Communities Abroad on behalf of the Ministry.

*Role of the Ministry of Foreign Affairs*

171. The Inter-Agency Committee's Coordination Office, under the aegis of the Ministry of Foreign Affairs, has certainly allocated human resources to the undertaking. The Directorate for Paraguayan Communities Abroad provides staffing at various levels and a budget for office space, stationery, electricity, and computer and telephone equipment. The organization of meetings, the preparation of meeting reports and the drafting, printing and storage of Committee documents, along with the provision of secretariat services to carry out and follow up on decisions, make a significant contribution to the Committee's work.

172. To this must be added the substantial contribution of the staff of the foreign diplomatic and consular service each time a case of human trafficking is brought to their attention, whether through complaints from locals in the area under their jurisdiction or complaints originating in Paraguay itself, whether these have been submitted directly to the Ministry of Foreign Affairs or to the Prosecutor-General's Office, the Secretariat for Children and Adolescents, the Secretariat for Women or the Secretariat for Paraguayan Returnees and Refugees.

173. Recently, with direct and sustained guidance from the Directorate for Paraguayan Communities Abroad — from receipt of the complaint until repatriation of the victims — male and female minors from Argentina, Bolivia, Brazil, Japan, Korea and Spain, among other countries, have been rescued.

174. Other cases of alleged human trafficking affecting Paraguayans outside the country have been handled on an emergency basis by trained consular staff in Paraguay's diplomatic offices in Buenos Aires and Rome. In addition, education and training were recently provided to employees of all consular offices at meetings organized by hemisphere.

175. The Inter-Agency Committee has drawn up protocols on topics such as support for victims of human trafficking; joint support for victims of human trafficking (Argentina, Brazil, Paraguay); key actors in prevention, support and law enforcement; and information management.

176. The Secretariat for Children and Adolescents has, by Decision No. 15/08, created a special interdisciplinary unit to tackle trafficking in and sexual exploitation of children and adolescents. This unit is in transition and is being strengthened, so it is continually

reviewing its working tools and methods. With the support of the Case Referral Centre, which deals with children and adolescents whose rights have been infringed in various ways, it offers technical and material assistance to victims of trafficking and sexual exploitation.

*Types of cases handled*

177. Of the cases handled in 2009, approximately 16 per cent could be linked to trafficking for the purpose of sexual exploitation and 66 per cent to trafficking for the purpose of sports-related labour exploitation.

*Distribution by sex*

178. While in 2009 and early 2010 many identified cases of trafficking of persons of Paraguayan origin involved teenage girls and women, one case uncovered in the country involved a group of teenage boys of Asian origin, and therefore the statistics showed an upward trend for males.

179. While there were some pre-adolescent victims, the average age was 16 years.

180. Training has been provided for officials of the National Secretariat for Children and Adolescents who provide direct support in the special unit of the Case Referral Centre, and for educators working in the street or in the Adoption Centre.

181. Training has also been provided for members of the Inter-Agency Committee and justice officials (judges, criminal and juvenile lawyers, prosecutors), members of municipal advisory services on the rights of children and adolescents, national police officers trained to handle trafficking cases, immigration officials, officials of the Ministry of Public Health and Social Welfare, educators and other interested parties.

182. The National Secretariat for Children and Adolescents signed a cooperation agreement with the alliance formed by the NGOs Base Educativa y Comunitaria de Apoyo (BECA) (Community Educational Support Foundation) and Centro de Educación, Capacitación y Tecnología Campesina (CECTEC) (Centre for Rural Education, Training and Technology). These two organizations are implementing the “Pepó Jerá” project for the progressive eradication of sexual exploitation and trafficking for sexual purposes of children and adolescents in Encarnación, which includes the establishment and operation of an open day-care centre for victims of trafficking and sexual exploitation in that city.

183. This project includes direct support for adolescent victims from the moment they are approached on the street and taken into the centre, where they are given food, health care, with an emphasis on sexual and reproductive issues, and psychological support. The project focuses on the restitution of the young person’s rights, including from a gender perspective, and on awareness-raising and prevention with regard to human trafficking and sexual exploitation in communities near Encarnación. The National Secretariat for Children and Adolescents has pledged to provide technical support to the Pepó Jerá project and assure coordination with the region’s governmental institutions.

*Regional coordination*

184. In the framework of these projects, in November 2009 and March 2010 the Paraguayan and Argentine federal and provincial authorities held regional coordination meetings.

185. Participants included trafficking units of the national police, the Public Prosecution Service, the Ministry of Foreign Affairs (Coordination Office), the judiciary, the Public Defender Service and the Secretariat for Children and Adolescents, as well as representatives of the Pepó Jerá project. Participants from Argentina included

representatives of the Directorate of Human Trafficking and Sexual Exploitation of the Ministry of Social Development, the Ministry of Human Rights and the Secretariat for Children, Adolescents and the Family of the province of Misiones. The outcome included the coordination of efforts to support victims from both countries and the establishment of communication channels for joint action.

186. Meanwhile, the MERCOSUR countries are implementing a regional strategy to combat trafficking in children and adolescents, with the aim of establishing a regional network to combat trafficking of children and adolescents for purposes of sexual exploitation.

187. The strategy is being implemented in 15 border municipalities of Argentina, Brazil, Paraguay and Uruguay through cooperation between twin cities.

188. Beneficiaries of the project are at-risk children and adolescents and their families living in the cities selected following cooperation between governmental and non-governmental institutions that offer prevention, support, defence and accountability services relating to children's and adolescents' rights.

#### *Challenges*

189. At the moment, the Human Trafficking and Sexual Exploitation Unit of the National Secretariat for Children and Adolescents is going through a period of institutional consolidation. Although it was created some years ago, it does not have its own budget, which would allow it to meet its needs in an optimal manner. It is currently seeking to create, with national and international assistance, a team to support victims of trafficking and sexual exploitation, taking a rights- and gender-based approach, meeting their material needs and providing the services required for the effective restitution of the rights that have been violated.

#### *Coordination with civil society*

190. It is necessary to highlight the good work and coordination of the public sector and civil-society organizations. NGOs participating in the Inter-Agency Committee have done work in the areas of dissemination, prevention, awareness-raising and victim support.

#### *Support from international organizations*

191. The International Labour Organization (ILO), the International Organization for Migration (IOM), United Nations offices, through the United Nations Development Programme (UNDP) and UNICEF, and the Inter-American Development Bank have played a key role in the establishment and work of the Inter-Agency Committee. Under the Committee's draft rules of procedure, such entities can participate as members.

#### *Activities carried out and activities planned for 2010: information campaigns*

192. Through awareness-raising and prevention campaigns, the topic is now high on the agenda in all areas of government and civic life. It is worth mentioning the latest campaign, carried out in December 2009: "Human trafficking = Modern slavery, *eñantendeporâke* [watch out]!". In addition, the following steps have been taken:

(a) Border security has been stepped up, with the establishment of new border-crossing points in blind spots and at previously unmanned crossing points that can be used for the trafficking or smuggling of children and adults;

(b) Officials have been trained to detect cases of trafficking or smuggling of persons, especially children; three cases were detected at the Encarnación-Posadas bridge

by officials of the Directorate-General for Migration, which reports to the national police, and were referred to the Public Prosecution Service;

(c) Administrative officials were trained to accord more decent and humane treatment to migrants, especially children and women, who are the most vulnerable to all types of exploitation and abuse;

(d) It was made compulsory (under Decision No. 090/10) to indicate the passenger's seat number on boarding and arrival cards filled out by passengers of the airlines operating in Paraguay, in accordance with a commitment made by the Directorate-General for Migration to the Inter-Agency Committee to Prevent and Combat Human Trafficking;

(e) Officials of the Directorate-General for Migration received training in how to spot forged documents at the Regional Training Center for Latin America in Lima and in Foz do Iguacu, Brazil, in October 2009.

193. Under the aegis of MERCOSUR, the Comprehensive Programme for Victims of Human Trafficking in the Triple-Border Region between Argentina, Brazil and Paraguay was launched in August 2009 with the technical and financial support of project managers from the IOM Mission with Regional Functions in Buenos Aires and with the support of the IOM representative in Asunción.

194. The coordination of activities enabled a large team to be assembled and the programme to be fully rolled out in the three border cities. The target is to assist 80 victims of human trafficking in the three countries. As of November 2009, 25 per cent of that number had been assisted. Participating institutions have begun to provide comprehensive assistance, giving priority to cases involving minors.

195. Under the support programme for efforts to combat trafficking in persons, especially women and girls, and with support from the Inter-American Development Bank, a register of trafficking victims in Paraguay has been established. A statistical study has been done by the Directorate-General of Statistics, Surveys and Censuses under the Government's Planning Secretariat.

196. The Inter-Agency Committee is developing a national policy to combat human trafficking in Paraguay with technical cooperation from UNICEF and the MDG Achievement Fund. The strategic lines of action focus on prevention; protection and comprehensive care for victims; investigation, prosecution, trials and punishment; local, national and international cooperation; and monitoring.

#### *Website*

197. For dissemination and awareness-raising, as well as for monitoring and for general information purposes, at this point it is essential for the Inter-Agency Committee to have a website. The initial design will be basic, with the hope that in the near future it will be more professional. The site can be hosted on the server of the Ministry of Foreign Affairs until such time as resources become available for a separate site.

#### *Synergy between the public sector and civil society*

198. One of the most significant achievements observed by the Coordination Office is the synergy between the government sector and civil society. This is noteworthy because more than once it has been speculated that the two sectors might be incompatible. Needless to say, this approach should be consolidated and expanded as much as possible.

*Dissemination and awareness-raising*

199. Information campaigns on the role of transnational organized crime in human trafficking should be designed to increase awareness among the general population. This in turn must be a first step towards a stronger commitment and enhanced social participation so as to prevent and combat human trafficking more effectively.

*Ongoing training*

200. Ongoing training of officials who handle trafficking issues is another key element in combating trafficking.

201. The Ministry of Foreign Affairs, through its Directorate-General for the Diplomatic and Consular Academy and the Directorate for Paraguayan Communities Abroad, in collaboration with the Department of Public Security of the Organization of American States, organized a seminar on human trafficking, aimed at career diplomats and consular officials. Employees of other public-sector entities and representatives of civil society also participated.

*Private sector*

202. As regards the private sector, and especially the hospitality industry and travel and employment agencies, cooperation programmes should be developed between the public and private sectors and civil society to increase knowledge about human trafficking; its relationship to the private-sector activities mentioned above; early detection; approaches to the problem and to dealing with victims; and communication with public-sector authorities.

*Principle of shared responsibility*

203. As was mentioned earlier, the only way to combat transnational organized crime in the area of human trafficking is through international cooperation under the principle of shared responsibility. This does not mean evading national responsibility but, on the contrary, acknowledging it and offering Paraguay's participation alongside that of neighbouring countries in a concerted effort to combat transnational organized crime.

204. Improved international coordination is also linked to the participation of international organizations in the work of the Inter-Agency Committee. The necessary steps should be taken to ensure regular and sustained participation by representatives of international organizations with offices or representatives in Paraguay.

*Initiative on human resources and budget issues*

205. The Government's decision to set up the Inter-Agency Committee on 15 April 2005 was a good move in itself and a clear demonstration of Paraguay's political will to combat human trafficking under the principle of shared responsibility.

206. All the entities of the Inter-Agency Committee need to review their budgets, which are of fundamental importance for tackling the various tasks falling to public-sector entities and for enabling the Public Prosecution Service and the national police to use specialized investigation techniques.

207. Since 2005 the Secretariat for Women has had a referral centre for victims of human trafficking, which in 2009 became the Directorate for Prevention and Support for Victims of Human Trafficking (Decision No. 145/09, 19 August 2009), thus initiating the process of institutionalization, with the inclusion of an initial budget in the National Budget Act for fiscal year 2010.



208. The functions of the Directorate are to develop prevention strategies, to channel the complaints of trafficking victims appropriately and to offer comprehensive support to victims, liaising with the institutions that comprise the Inter-Agency Committee to Prevent and Combat Human Trafficking.

209. The referral centre offers a comprehensive service, including psychological, social and legal assistance, to women victims, and operates a social reintegration programme, which includes taking them in, sheltering them and, later, helping them resume their education (formal or informal) and set up microenterprises.

210. Early support was received from the IOM Assistance to Victims of Trafficking programme, which in 2009 provided support for the creation of three microenterprises at the reintegration stage.

211. Since the establishment of the referral centre, a total of 109 cases involving 152 women and girls have been handled.

Table IX

**Cases of human trafficking, 2005–2010**

<i>Number of cases</i>	<i>Number of women</i>	<i>Adult women</i>	<i>Girls</i>	<i>Total</i>
109	152	126	80	<b>206</b>

*Source:* Secretariat for Women (2010).

212. The Secretariat for Women also has Paraguay's first and only temporary shelter for trafficking victims, which was opened in December 2007 with funding support from the embassy of the United States of America in Paraguay that lasted until September 2009. From that date until March 2010, support came from UNDP. Since April 2010, financing for the shelter has been included in the national budget.

213. This covers the cost of the shelter's rent, basic services, food purchases and staff salaries, as well as the full-time services of two female police guards.

214. The shelter is located in the Micro Centro complex in Asunción and has facilities for 12 victims. It can, if necessary, accommodate up to 20.

215. The length of adult victims' stay depends on their wishes. On the basis of court orders, adolescent victims also use the shelter, in the framework of inter-institutional collaboration with the National Secretariat for Children and Adolescents.

Table X

**Female victims of human trafficking, 2005–2010**

<i>Total number</i>	<i>Adults</i>	<i>Girls</i>
<b>86</b>	40	46

*Source:* Secretariat for Women (2010).

216. Under the current administration, 86 female victims of human trafficking have been admitted, 48 per cent of them adults and 52 per cent girls.

217. In 2005, the Government established the Inter-Agency Committee to Prevent and Combat Human Trafficking (Decree No. 5.093/5), coordinated by the Ministry of Foreign Affairs.

218. Article 129 of the Code of Criminal Procedure was amended, and sexual and labour exploitation were categorized as forms of human trafficking:

Article 129 (c). Trafficking in persons for the purpose of exploiting the person and their labour.

1. Anyone who, taking advantage of the situation of another person who is under constraint or vulnerable because he or she is in a foreign country, forces that person into slavery, servitude, forced labour or similar conditions or forces the person to perform or continue to perform work under conditions that are disproportionately worse than those of other persons performing identical or similar work, shall be punished with up to 8 years' imprisonment. The same punishment shall apply to anyone who forces a person under the age of 18 into slavery, servitude, forced labour or similar conditions or forces the person to perform or continue to perform the type of work mentioned in paragraph 1.

2. A penalty of up to 12 years' imprisonment shall be imposed on anyone who, by means of force, threats of significant harm or deceit:

(1) Forces another person into slavery, servitude, forced labour or similar conditions or forces that person to perform or continue to perform the type of work mentioned in paragraph 1 (1).

(2) Captures another person with the intention of forcing that person into slavery, servitude, forced labour or similar conditions or forcing the person to perform or continue to perform the type of work mentioned in paragraph 1 (1).

(3) Captures another person with the intention of facilitating the non-consensual extraction of the person's organs.

3. The provisions of article 129 (b), paragraphs 3 and 4, shall also apply. The consent of the victim to any form of exploitation shall not be taken into account when any of the means mentioned in this article have been used.

219. In 2009, the Secretariat for Women, under the support programme for efforts to combat trafficking in persons, especially women and girls, implemented with support from the Inter-American Development Bank, submitted for examination to the legislation commission of the Inter-Agency Committee a special draft bill to prevent, repress and punish trafficking in persons, especially women and children, and to protect and support victims.

220. Under the same programme, four departmental inter-agency committees were formally established in the departments of Alto Paraná, Itapúa, San Pedro and Ñeembucú (with committees to be established in the other departments too) to prevent and combat human trafficking.

#### **Reply to paragraph 32 of the list of issues**

221. The significant advances made between 2005 and 2008 mainly involve gender mainstreaming in State institutions, which is necessary for the formulation and implementation of public policies under international treaties and national laws. Gender is now an important cross-cutting issue for State institutions in Paraguay. Women's rights are promoted in many ways in and outside the capital; new gender units have been set up and many of the existing ones have been strengthened; budgetary resources have been allotted to many of them and political statements refer to the need to incorporate women's interests and expectations.

222. The Domestic Violence Act (No. 1600/00) is a civil remedy that establishes emergency protection measures for anyone suffering physical, psychological or sexual injury or abuse. The magistrates' courts responsible for such protection take action to

exclude aggressors from the home; to prohibit aggressors from approaching victims; where it is the victim who leaves the family home, to permit removal of their belongings and those of their minor children; to enable victims to return to their home; and other similar provisions. The Act does not provide for fines. These measures do not preclude the possibility of recourse to the criminal courts.

#### *Measures adopted*

223. Proposed amendments to the Criminal Code and the Code of Criminal Procedure were submitted to the National Commission for the Reform of the Criminal and Prison System. The Secretariat for Women supported proposals submitted by the Paraguayan Women's Coordination Unit, and both the head of the Secretariat and the technical team lobbied the President and members of the Commission to have the proposals incorporated. Proposed amendments to Act No. 1600/00 were also submitted to the Senate Committee on Equity, Gender and Social Development in the course of 2005.

224. Since late 2009, the Senate Committee on Equity, Gender and Social Development, the Secretariat for Women and the United Nations Development Fund for Women (UNIFEM) have together been organizing the drafting of a comprehensive law on violence against women.

225. This is the starting point for a process of discussing and formulating a new proposal (not a revision) for such a law. The specific objectives are to establish special task forces to prepare a comprehensive law on violence against women and promote the critical and active participation of organizations and key individuals belonging to the women's movement in the discussion process; and to gather suggestions as to how to organize an inclusive debate on the problem of male gender violence, which is considered an expression of unequal relations that restrict women's rights and their opportunities for reaching their full potential.

#### *Results achieved*

226. Act No. 3440 (Criminal Code) was promulgated on 16 July 2008. Its article 229, referring to domestic violence, provides that: "Anyone who, in the family context, habitually practises physical violence against or inflicts severe mental suffering on another person with whom he is living shall be liable to a prison sentence of up to two years, or a fine." Thus, domestic violence is maintained as a punishable act, and a prison sentence as well as a fine can be imposed. Another step forward is the inclusion of mental suffering as a manifestation of violence. The categorization of this punishable offence in the Code is still regarded as inadequate in that the conduct has to be habitual and the drafting is in the masculine gender. Article 128 was also amended to refer, inter alia, to sexual coercion and rape.

227. It was possible to include an explicit reference to rape, on the grounds that any vagueness would hinder implementation of the Act, but the sentence may still be reduced if the victim and the perpetrator had a sexual relationship, and some vague definitions were maintained, including the definition of the sexual act as being intended to arouse or satisfy libidinous impulses, which complicates the task of producing proof.

228. In December 2008, the Senate Committee on Equity, Gender and Social Development and the Secretariat for Women invited leading individuals and institutions representing the State, civil society and international aid agencies to form a working group to jointly draft a bill to prevent, punish and eradicate violence against women. The goal of the initiative was to join forces to produce a draft that incorporated existing initiatives by State entities (the Secretariat for Women, the Senate) and civil society.

229. In connection with the submission of the sixth periodic report to the Committee on the Elimination of Discrimination against Women, copies of Supreme Court decisions were presented to show that the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) had been invoked in court cases under Paraguayan positive law. However, they cannot yet be said to be invoked routinely. One of the greatest challenges with regard to the Convention concerns its application in the administration of justice in Paraguay.

230. In 2006, the Inter-Agency Commission on the Plan for the Prevention and Punishment of Violence against Women facilitated the conclusion of an agreement between the Supreme Court and the Secretariat for Women on the use by the magistrates' courts nationwide of a form on which violent incidents are recorded and on the exchange of information on domestic violence. Forms were distributed to the statistical data-processing section and officials of the judiciary's planning service. The Ministry of the Interior, the national police and the Ministry of Public Health signed an agreement to improve internal regulations and procedures to deal with domestic violence.

231. In 2009, the Inter-Agency Committee to Combat Violence against Women, Children and Adolescents was set up to provide quality care and personalized follow-up of cases (Ministry of the Interior/National Police/Secretariat for Women/Secretariat for Children and Adolescents/Ministry of Public Health and Social Welfare).

232. The Asunción Declaration signed at the Meeting of Ibero-American Women Judges in 2007 pledged to establish a "justice and gender monitoring centre" under the provisions of the Convention of Belém do Pará.

233. In a meeting with a representative of the Supreme Court, it was announced that a person was being recruited to work at the monitoring centre and that a workplan for the centre already existed.

234. In 2009, the Office for Women was established as an organ of the judiciary, and the Justice and Gender Monitoring Centre was created. Mention should be made of the coordination between the work of international partners (the United Nations Population Fund (UNFPA), UNIFEM and UNDP), civil society (the Latin American and Caribbean Committee for the Defense of Women's Rights, or CLADEM) and the State (judicial branch) under the MAJUVI project (on monitoring and training for improved access to justice by women victims of violence). This project has created important alliances in the judicial field and has extended training to the interior of the country. All of its activities contribute to the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, the Committee's general recommendation No. 19 and the Convention of Belém do Pará.

235. As part of the campaign to eliminate violence against women, Itaipu Binacional has agreed to cooperate in assisting victims of domestic violence and human trafficking under the 2010 workplan. In addition, a project for establishing referral centres in departments situated along Paraguay's borders was presented to the Spanish Agency for International Development Cooperation. The latter is assisting in the institutional strengthening of the Secretariat for Women, particularly with the aim of combating domestic violence, and is contributing to national and local projects with rural and indigenous women.

236. Itaipu Binacional is backing the implementation of the Third National Plan for Equal Opportunities for Men and Women for 2008–2017, through inter-institutional cooperation among the parties. One of the first achievements has been to strengthen the gender component in the work of Itaipu Binacional, which seeks, among other things, to offer support in action area VI, "A life free of violence", to programmes and projects designed to eradicate and prevent violence against women and to help women suffering from it.

237. A considerable quantity of materials and information have been published and disseminated during the reporting period, including “Design of an alternative comprehensive prevention model for dealing with domestic violence” by the Secretariat for Women and the Inter-American Development Bank, which contains a proposal for intervention, prevention and treatment of domestic violence based on social networks, and “Manual for dealing with cases of domestic violence”, adapted to meet the requirements of the Domestic Violence Act (No. 1600) with the help of the tripartite board for follow-up to the Beijing Platform for Action (United Nations/Paraguayan Women’s Coordination Unit/Secretariat for Women). These materials were distributed to key players in the area of regulatory enforcement, institutional professionals and departmental secretariats for women.

238. In 2009, a manual of procedures for forensic examination of victims, sampling and case referral was issued, as were the regulations for the pilot reception and comprehensive care centre for women victims of domestic violence and their dependants.

*Awareness-raising among public officials*

239. The 911 alarm call system of the national police has assigned the number 1600 to deal with cases of domestic violence, which are recorded separately from other cases of violence. Discussion groups have been organized on the use of the domestic violence forms in magistrates’ courts and the establishment of local networks for dealing with violence against women, in the Guairá, Itapúa and Central departments.

240. A total of 885 officials involved in implementing Act No. 1600/00 have been trained (justices of the peace and health officials in Guairá, Caaguazú, Alto Paraná, Itapúa, Concepción and Ñeembucú; police officers in the Central and metropolitan area; students at the Police Training Institute; staff of departmental secretariats for women around the country), as well as 545 persons (parent community leaders in Asunción, San Lorenzo, Área Refugio, Villa Esperanza, Nuevo Hogar and Coronel Oviedo; public officials and trade unionists in Asunción, students at colleges and universities in Asunción, Chaco, and educators at Yaguarón and Asunción); 190 police officers, 40 telephone operators for the 911 emergency line, 253 urban police candidates, 30 care workers, and 538 students, parents and women in various communities. In 2009, a total of 356 officials and 445 individuals were trained in various departments around the country.

241. One of the major procedural obstacles to efforts to protect victims is the use of conciliation as a means of conflict resolution. The position of the Secretariat for Women is that no kind of mediation or conciliation should be used in cases of violence against women. Another obstacle is the constant turnover of officials and the consequent need for further training, particularly of police and health workers.

*Cooperation with civil society*

242. Jointly-run training courses for officials. With the help of the Kuña Aty foundation, training has been provided for officials in four departments of the country — Central, Misiones, Paraguari and Villa Hayes — while a “Model for dealing with victims of violence” has been developed for those in other parts of the country.

243. The Secretariat for Women has offered assistance in cases which it deems emblematic because of the serious human rights violations involved (sexual abuse, abduction of women, domestic violence, human trafficking and sexual harassment), and which have been referred to complaints mechanisms. The Secretariat has had to make considerable efforts to ensure the full exercise of the victims’ rights. The departmental secretariats for women have had the same experience and have had to coordinate local and regional networks to protect the victims.

**Reply to paragraph 33 of the list of issues**

244. With regard to the Government's implementation of the recommendations made by the Truth and Justice Commission, on 28 August 2008, the Commission submitted its final report to the three branches of government as stipulated in Act No. 2222/03, which established the Commission. Act No. 2931/06 extended its mandate to August 2008.

245. Upon submission of the final report by the Truth and Justice Commission in August 2008, the Ombudsman's Office established the Directorate-General for Truth, Justice and Reparation by Decision No. 179/09 of 23 January 2009, in light of the need to take measures to implement the recommendations formulated in the aforementioned report, disseminate the contents of the report and follow up on the recommendations implemented, in an effort to strengthen the rule of law with full respect for human rights and to preserve historical memory so that no such human rights violations ever again take place in Paraguay.

246. The objectives of the Directorate-General for Truth, Justice and Reparation of the Ombudsman's Office are to continue the work of the Truth and Justice Commission, contribute to wider dissemination of the Commission's final report, and seek effective implementation of the Commission's conclusions and recommendations. One of its key tasks is to search for, locate and provide legal and historical clarification about victims of forced disappearance or extrajudicial execution.

247. Since its establishment, the Directorate-General has continued to follow up on the recommendations made by the Truth and Justice Commission in its final report, and on the multiple activities being carried out to promote human rights.

248. The Directorate-General has followed up on complaints lodged during the mandate of the Truth and Justice Commission concerning cases of torture and other cruel, inhuman or degrading treatment or punishment, along with other types of human rights violations committed during the 1954–1989 military dictatorship. Included below are the cover sheets of the complaints, their status, a brief account of the criminal proceedings initiated following submission of the report, and the steps taken to implement the recommendations of the Truth and Justice Commission.

*Some compensation measures for victims*

249. At the time of the presentation of the final report, the President of the Republic, Mr. Fernando Lugo, apologized to the victims of the dictatorship and their families on behalf of the State of Paraguay.

250. The Directorate-General for Truth, Justice and Reparation was established by Decision No. 179/09 of the Ombudsman to continue the work of the Truth and Justice Commission and to follow up on the implementation of the Commission's recommendations.

251. Presidential Decree No. 1875/09 declared the final report of the Truth and Justice Commission to be of national interest, and article 2 of the decree requires all institutions of the executive branch to collaborate with the Directorate-General for Truth, Justice and Reparation in the discharge of its functions and the implementation of the final report.

252. A multidisciplinary and inter-agency team was established comprising staff of the Public Prosecution Service, the Criminal Investigation Police of the Ministry of the Interior and the Ombudsman's Office to continue the work begun by the Truth and Justice Commission on the exhumation, pardon and identification of persons who disappeared or were extrajudicially executed for political reasons.

253. An agreement is being prepared between the Directorate-General for Truth, Justice and Reparation and the Ministry of Public Health and Social Welfare with the help of the Argentine Forensic Anthropology Team, in order to obtain a genetic profile of the population of Paraguay, which could help in identifying the remains of disappeared persons, and to provide psychological and medical support, including medicines, to the victims of the dictatorship and their families.

254. There is also an agreement between the Directorate-General for Truth, Justice and Reparation and the Ministry of the Interior which is intended to provide support, including technical support, for investigations that involve searching for, exhuming and identifying the victims of forced disappearances and extrajudicial executions; recovering, digitizing and preserving archives of the repression; and installing and declaring places of repression as historical sites.

255. Four ceremonies were held in different parts of the country in remembrance of those who were executed or disappeared; these were organized by the Directorate-General for Truth, Justice and Reparation in collaboration with human rights organizations and victims' organizations. The first ceremony, called the "First Concert for Life and Memory", was held in the capital on 9 December 2009 in front of the headquarters of the special branch of the national police, with the support of State organizations. The second was held in Caaguazú on 9 March in the presence of the President of the Republic, Fernando Lugo Méndez, who presented certificates of recognition to the founders of the Christian Agrarian Leagues, while the third was held on 19 April in San Juan Bautista, Misiones, in a former detention centre that was once run by the national police of the Ministry of the Interior. Various ministers, senators and police officers participated as a way of making amends for what took place in the region. The fourth and final ceremony took place on 29 April in the town of Simbrón, Paraguarí, in remembrance of the detention and disappearance of four peasant leaders of the Agrarian Leagues in the area.

256. The Directorate-General for Truth, Justice and Reparation is organizing an international seminar for State officials on public policies on truth, justice and memory, to be held from 1 to 4 June 2010 with the participation of human rights organizations and organizations for victims and their families, in an effort to encourage the implementation of the recommendations and obtain information on progress made by State institutions, and to draw up a joint work plan for implementing the recommendations and appointing a follow-up commission.

257. On 30 August, the International Day of the Disappeared, two years after the submission of the report, the Directorate-General for Truth, Justice and Reparation will hold a memorial celebration to honour the disappeared and will publish a report evaluating the implementation of the recommendations following meetings with the former members of the Truth and Justice Commission, based on the results of the First International Seminar on Reparations Policy: Truth, Justice and Memory.

258. The report on the visit by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has been published on the Ministry of Foreign Affairs website. The present report is also available on the same website, on the State reports page in the human rights section.

#### **Reply to paragraph 35 of the list of issues**

259. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was ratified and adopted by Act No. 1897/02 prohibiting the recruitment of persons under 18 years of age. Paraguay had entered a reservation to allow the voluntary recruitment of young people from 16 years of age, which

was withdrawn in 2006. Thus, the recruitment of persons under 18 years of age, whether voluntary or forced, is currently prohibited.

260. Act No. 3369/07 repeals article 19 and amends article 5 of Act No. 569/75 on compulsory military service, which stipulates that military service may not under any circumstances be performed before reaching 18 years of age.

261. Act No. 569/75 sets the age for compulsory military service at 18, while allowing for conscientious objection as a constitutional right.

262. An inter-agency human rights commission has been established to monitor the implementation of Act No. 1897/02, whereby the Optional Protocol was ratified and which addresses ill-treatment and torture in the Armed Forces. The commission's mandate includes monitoring and visiting barracks to verify that the recruits are housed in adequate conditions and that they have all reached the age of majority.

#### *Combating the recruitment of minors*

263. The ratification of the Optional Protocol was crucial to putting a stop to the recruitment of children to the Armed Forces and the national police, and ensuring that they can no longer be enlisted in the forces of the police or the army, either as volunteers or as conscripts.

264. The greatest difficulty encountered in the implementation of the protocol is that it is often the families themselves who enlist their children in the Armed Forces by lying about their age or falsifying the documents required to establish their age for the purpose of recruitment to the army.

265. The coalition to end the use of child soldiers in Paraguay, with the support of UNICEF, helped achieve the withdrawal of the reservation regarding voluntary recruitment that Paraguay had entered upon ratification of the protocol.

266. The coalition provided documentation and information to the population and to national and international authorities to promote the practical and legislative changes that would make it possible to prohibit the enlistment of children. Complaints showed that in some rural areas the unlawful recruitment of adolescents continued, either as a means of survival owing to the lack of resources within the family, as a punishment, or as a gateway to education.

267. With regard to administrative measures taken in 2006, the President signed a declaration stipulating that in order to perform military service, whether compulsory or voluntary, an individual must be 18 years of age or older. Also, the Commander-in-Chief of the Armed Forces issued Special Order No. 42 to highlight the prohibition on the recruitment of persons under 18 years of age and the military, criminal and administrative responsibility incurred by members of the Armed Forces who did not comply with the aforementioned order.

#### **Reply to paragraph 36 of the list of issues**

268. A bill on a mechanism to prevent torture and other cruel, inhuman or degrading treatment or punishment is currently being considered by the Senate. This bill regulates Act No. 2754/2005, adopting the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and establishes a mechanism to monitor public and private places or institutions without prior notice, a court order or a search warrant. The bill was used as the basis for similar legislation in other countries, such as Honduras, where such a mechanism has already been adopted. A copy of the bill is annexed to the present report in annex III.



**Reply to paragraph 37 of the list of issues**

269. The Government submitted a complete report on these measures to the Subcommittee on Prevention of Torture early in 2010. A copy of the report can be found in annex V.

**Reply to paragraph 38 of the list of issues**

270. Article 202 of the Constitution stipulates that Parliament has two functions: to legislate and to exercise oversight in respect of other State institutions. It is not within its mandate to adopt administrative measures of any kind, only legislative ones. Regarding the impact on human rights legal guarantees, given that the law classifying certain acts as terrorism has only recently been adopted, the Human Rights Commission has not yet registered any complaints of human rights violations resulting from the implementation of that law.

271. The current legislation on terrorism includes the following:

(a) Act No. 4024 of 23 June 2010, punishing acts of terrorism, association for purposes of terrorism and the financing of terrorism;

(b) Act No. 3677 of 30 December 2008, adopting the International Convention for the Suppression of Acts of Nuclear Terrorism;

(c) Act No. 2381 of 6 May 2004, adopting the International Convention for the Suppression of the Financing of Terrorism;

(d) Act No. 2378 of 30 April 2004, adopting the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion That Are of International Significance;

(e) Act No. 2378 of 30 April 2004, adopting the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion That Are of International Significance;

(f) Act No. 2302 of 7 November 2003, adopting the Inter-American Convention against Terrorism.

272. Bills before the Senate:

(a) A bill on termination of ownership of ill-gotten gains acquired through drug-trafficking, kidnapping, terrorism and related activities, submitted by Senator Nelson Argaña Contreras, was sent to the Committee on Constitutional Affairs, the Committee on National Defence and Public Security Forces, and the Committee on Legislation, Codification, Justice and Labour for consideration. The Committee on Constitutional Affairs rejected the bill on 24 September 2007;

(b) A bill punishing acts of terrorism, association for purposes of terrorism and the financing of terrorism, submitted by Senator Alberto Grillón, was sent to the Committee on Constitutional Affairs, the Committee on National Defence and Public Security Forces, and the Committee on Legislation, Codification, Justice and Labour. According to the Senate database, no rulings have been issued yet.

**Reply to paragraph 39 of the list of issues**

273. *The Indigenous Community Yakye Axa v. Paraguay*. A report dated 26 May 2010 outlines the actions taken by Paraguay regarding the operative paragraphs yet to be implemented of the judgement handed down by the Inter-American Court of Human Rights on 17 June 2005.

274. The Inter-Agency Commission on the Enforcement of International Judgements, which is responsible for taking the necessary measures to enforce the relevant judgements of the Inter-American Court of Human Rights and recommendations of the Inter-American Commission on Human Rights, has discussed the visits to the lands that the State has offered to formally hand over to the Yakye Axa community. The minutes of the meeting are annexed to this report.

275. Likewise, the Inter-Agency Executive Committee, which is made up of ministers, was convened to consider the three operative paragraphs regarding:

- (a) Decision 1: Acquisition of alternative lands for the Yakye Axa indigenous community;
- (b) Decision 2: Budget estimates;
- (c) Decision 3: Appointment of a committee to administer the Community Development Fund.

276. In operative paragraph 6 of the judgement, the Inter-American Court of Human Rights stipulates that “the State must identify the traditional territory of the members of the Yakye Axa indigenous community and transfer it to them for no compensation”. The latest report on compliance with the judgement was submitted on 18 June 2010. The Government is still awaiting observations from the representatives, who were granted an extension until 30 August.

277. A meeting of the Executive Committee (of ministers) of the Inter-agency Commission on the Enforcement of International Judgements was held to identify the alternative lands to be offered to the Yakye Axa indigenous community.

278. The ministers signed an agreement on 7 June 2010 approving the purchase of alternative lands belonging to the Pastore family and La Pastoril SA.

279. The funds to be used for the purchase are included in the budget of the Institute of Rural and Land Development for the current fiscal year. The National Institute of Indigenous Affairs will help with the formalities required for the handover. Unfortunately, for reasons beyond the Government’s control, the aforementioned land is not currently available for purchase.

280. The progress achieved includes the following:

- (a) Acceptance by the community of the proposal to grant alternative lands, and approval of the offer regarding the purchase the State will make on behalf of the community;
- (b) Systematic medical and health care provided by the Concepción health authority, under a special programme run by the Ministry of Public Health and Social Welfare;
- (c) Reading of the relevant parts of the court judgement on the National Radio of Paraguay and *Radio Pa'i Puku*;
- (d) Full settlement of the late interest accrued for overdue payment of compensation (payment has been made through the National Institute of Indigenous Affairs);
- (e) Basic assistance (food, water, health and education) provided to the community under the National Programme to Support Indigenous Peoples, primarily through the National Emergency Secretariat;
- (f) Earmarking of a part of the national budget for teachers serving in the community school.

281. *The Sawhoyamaxa Indigenous Community v. Paraguay*. With regard to the progress achieved in complying with the judgement handed down on 29 March 2006 by the Inter-American Court of Human Rights, Paraguay has taken the following action regarding the operative paragraphs yet to be implemented.

282. According to the Inter-American Commission on Human Rights, the obligations still pending are as follows:

- (a) Return the traditional lands to the members of the Sawhoyamaxa indigenous community (operative paragraph 6 of the judgement);
- (b) Implement a community development fund (operative paragraph 7);
- (c) Pay the outstanding sums (operative paragraph 8);
- (d) Deliver the basic supplies and services necessary for the survival of the members of the community (operative paragraph 9);
- (e) Establish a registration and documentation programme (operative paragraph 11);
- (f) Adopt legislative, administrative or other measures necessary to establish a mechanism to claim restitution of the ancestral lands of the members of indigenous communities that effectively enforces their rights over their traditional lands (operative paragraph 12); and
- (g) Publish the relevant parts of the judgement in a daily national newspaper and in radio broadcasts.

283. On 5 May 2010, the Inter-American Court of Human Rights requested an updated report from the Government of Paraguay. The report is currently being drafted and will be submitted in June 2011.

284. The Inter-Agency Commission responsible for enforcing the judgements of the Inter-American Court of Human Rights and the recommendations of the Inter-American Commission on Human Rights has analysed the issues involved in offering alternative lands and is now awaiting a decision from the Inter-Agency Executive Committee.

285. The latest report on compliance with the Inter-American Court of Human Rights judgement was submitted on 18 June 2010. The Government is still awaiting observations from the representatives, who were granted an extension until 30 August.

286. The main achievements in the case are as follows:

- (a) Agreement on the part of the community to negotiate the transfer of alternative lands;
- (b) Reading of the relevant parts of the judgement on National Radio broadcasts;
- (c) Systematic medical and health care provided through the Ministry of Public Health and Social Welfare;
- (d) Payment of compensation (since the payments are made through the National Institute of Indigenous Affairs, the payments are included in its budget for the fiscal year 2011);
- (e) Basic assistance (food, water, health and education) provided to the community under the National Programme to Support Indigenous Peoples, particularly through the National Emergency Secretariat.

**B. General information on the national human rights situation and on the exercise of human rights at the national level****1. Reply to paragraph 40 of the list of issues**

287. The legislative measures include the following:

(a) Act No. 2754/2005, adopting the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Act No. 1886/2002, recognizing the competence referred to in articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(c) Act No. 56/1989, adopting and ratifying the Inter-American Convention to Prevent and Punish Torture, signed in Cartagena de Indias, Colombia, on 9 December 1985;

(d) Title II (on rights, duties and guarantees), chapter I (on life and the environment), section I (on life), of the Constitution;

(e) Also, the aforementioned bill on a national mechanism for the prevention of torture is still under review.

**2. Reply to paragraph 41 of the list of issues**

288. In an effort to modernize the State, the Office of the Deputy Minister for Justice and Human Rights was established by Decree No. 1730/2009, reorganizing the Ministry of Justice and Labour. The Ministry includes a directorate-general for human rights that is responsible for organizing and coordinating the Human Rights Network of the Executive Branch established by Decree No. 2290/09.

289. The objective of the Human Rights Network of the Executive Branch is to coordinate and organize policies, plans and programmes designed by the executive branch with the aim of improving mechanisms to promote, protect and give effect to human rights, thereby giving greater visibility to rights-focused activities. The network also handles other activities such as: preparing a national human rights plan; drafting an annual general report on different topics concerning human rights in Paraguay, based on reports from the institutions that make up the network; promoting a culture of respect for and observance of human rights; monitoring the implementation of international human rights treaties and conventions, adapting Government actions to international standards; collaborating in the drafting of reports to regional and international human rights bodies; establishing a permanent human rights monitoring centre; drafting and promoting bills to bring laws into line with international instruments ratified by Paraguay; and coordinating action with departmental and local authorities to give effect to human rights. The network comprises 20 institutions of the executive branch and is also supported by the Human Rights Directorate of the judicial branch.

290. The Human Rights Network has drawn up a plan of action for 2010–2011 which sets forth the Government's determination to fulfil its obligations in this sphere by ensuring full respect for fundamental human rights. The plan is the outcome of inter-institutional cooperation which has resulted in the definition of priorities for action set by the representatives of the various institutions that make up the network. Technical support was provided by the Office of the United Nations High Commissioner for Human Rights, in response to a request made by the President of the Republic when he took office.

291. The Special Rapporteur on the right to education, Vernón Muñoz, visited the country in 2009, and the Special Rapporteur on freedom of religion or belief is expected to

visit in 2010. Special rapporteurs and other United Nations special procedures mandate holders visiting Paraguay are assisted by the Ministry of Foreign Affairs, the body responsible for foreign policy in the field of human rights.

292. The Ministry of Foreign Affairs, through its Human Rights Directorate, is the body responsible for implementing foreign policy in the field of human rights, in addition to coordinating with other Government institutions that deal with human rights issues, in order to: define and implement the country's foreign policy on human rights and international humanitarian law; coordinate, organize and manage the visits by special rapporteurs and other United Nations special procedures mandate holders visiting Paraguay; make proposals to sign, ratify and accede to international human rights instruments; promote Government participation in the negotiation of new instruments and coordinate the analysis and submission of reports the Government is required to submit under international human rights instruments to which Paraguay is party.

293. By Decision No. 759/00, the judicial branch established a human rights office as a specialized administrative body known as the Human Rights Unit, whose functions were to monitor, inform, investigate, analyse and disseminate. Act No. 31/02 on the plenary session of the Supreme Court, which approved the Human Rights Unit's strategic plan for 2002–2005, subsequently broadened those functions to include technical assistance, and the coordination and promotion of training. In 2006, the Human Rights Unit became the Human Rights Directorate.

294. One of the Human Rights Directorate's priorities is to promote and protect human rights within the judicial branch, through joint efforts with various Government and non-governmental bodies, focusing its work primarily on the administration of justice in the following areas: childhood and adolescence; gender; indigenous issues; international cases; economic, social and cultural rights; and persons in vulnerable situations.

295. The Directorate has developed various materials to publicize human rights issues, with the aim of encouraging courts to take account of human rights issues in their judgements and spreading awareness of those issues among the general public.

296. The Human Rights Directorate of the Public Prosecution Service is responsible for providing technical support in human rights to public prosecutors nationwide. Decision No. 1106/01 stipulates that public prosecutors have sole authority to deal with human rights offences.

297. The thrust of the Public Prosecution Service's policy is to prevent human rights offences, with a focus on offences such as torture, inflicting physical injury while performing a public function, using force to obtain statements, hostage-taking, prosecution of innocent persons, genocide and war crimes.

298. The Directorate for Crime Victims provides comprehensive support focused on victims' psychological, social and legal needs. It is also responsible for implementing a victim and witness protection system.

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