



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

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**Subcommittee on Prevention of Torture**

**Report on the visit of the Subcommittee on  
Prevention of Torture and Other Cruel, Inhuman  
or Degrading Treatment or Punishment to Mexico**

**Addendum**

**Second response of Mexico to the recommendations  
and requests for information made by the Subcommittee  
in its report on its first periodic visit to Mexico  
(CAT/OP/MEX/1)\*, \*\***

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\* The present document was not edited before being sent to the United Nations translation services.

\*\* On 29 August 2012 the State party announced its decision to make public its second replies to the recommendations and requests for information made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in its report on its first periodic visit to Mexico. The present document is being issued in accordance with article 16, paragraph 2, of the Optional Protocol.

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## I. Introduction

1. On 11 April 2005 the Mexican Government ratified the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Optional Protocol), which establishes a system of regular visits to places of detention undertaken by the Subcommittee on Prevention of Torture and by national preventive mechanisms in order to prevent torture and other similar treatment.

2. The Mexican Government, recognizing the important role played by the Subcommittee in preventing and eradicating practices which violate the dignity of persons under any form of detention and appreciating the value of collaboration with that mechanism for improving the conditions of and at the country's detention facilities, agreed to the conduct of a visit by the mechanism in August 2008.

3. During its mission to Mexico the Subcommittee visited a total of 17 places of detention (12 police stations and courthouses with jails, one military prison, two centres for juvenile offenders and two psychiatric hospitals) located in the Federal District and states of Jalisco, Mexico, Nuevo León and Oaxaca.

4. In June 2009 the Subcommittee transmitted to the Mexican Government the observations on its visit, including 122 recommendations to the State, which fall under the following headings: training of public servants; implementation of legislative reforms; formulation and implementation of public policies; strengthening of mechanisms for access to justice; improvement of conditions at places of detention; provision of and increase in resources for prison administration; promotion of cooperation between the Mexican Government and international human rights protection mechanisms; and general issues.

5. On 13 April 2009 the Mexican Government set up a working group on implementation of the Subcommittee's recommendations arising from its visit to Mexico, comprising the state and federal authorities which had taken part in the Subcommittee's visit, for the purpose of providing assistance in the implementation of the Subcommittee's recommendations through an action plan involving efforts at the federal and state levels by the different government bodies.

6. The measures included in this plan are linked to the strategies and action areas of the National Human Rights Programme 2008–2012 covering the following topics: dissemination, training and development, measures of control, investigation, conditions of detention, reform of the criminal justice system and compliance with recommendations by governmental human rights agencies.

7. In March 2011 the Mexican Government submitted its first report on compliance with the Subcommittee's recommendations. On that occasion the Government reported on specific steps taken to implement each of the Subcommittee's recommendations, including, in particular, the following:

- The adoption by the Ministry of Defence of the new form which medical personnel assigned to military prisons are required to use for new admissions and which provides for the recording of any history of recent exposure to acts of violence and for an evaluation of the consistency between a history of violence, current health status/symptoms and objective findings;
- The appointment of additional administrative officers at the juvenile detention and rehabilitation centre in the **state of Nuevo León** in September 2009, following which a plan for restructuring the centre was put forward. This plan envisages, inter alia, an increase in the provision of guidance and support for detainees by the specialized units, the enhancement of detainees' living conditions, the organization

of training activities for the centre's administrative and custodial personnel and also the drafting of internal regulations for the centre;

- The **Federal District** government, following its revision and updating of manuals and protocols on visits and procedures, including methodologies for the use of progress indicators in the area of torture prevention, has introduced arrangements for female inmates living with their children in prison, initiated the establishment of monitoring procedures or mechanisms for following up complaints of torture, promoted training and specialized instruction programmes for prison security personnel on topics that include a human rights policy element, devised broad-based awareness campaigns on torture prevention and information campaigns on how and where to report cases of torture, undertaken initiatives with a view to improving prison record systems, including the documentation of physical examinations of inmates, and improved physical conditions in prisons;
- Training projects have been undertaken by the government of **Mexico state** on implementing the Istanbul Protocol at places of detention and on facilitating channels of communication with parents of juvenile offenders held at the Quinta del Bosque centre. With regard to indigenous peoples' right to the services of an interpreter during judicial, police and administrative procedures, the state government has strengthened the Public Defence Institute in order to provide better support for indigenous persons in criminal proceedings. The state government has also provided regular training and refresher courses for managerial, administrative and technical personnel and security and custody officers at detention facilities, the number of public servants trained in 2008 totalling 1,305 and in 2009 1,956;
- The pursuit of measures by the **Jalisco state** government to improve state social rehabilitation centres, including the strengthening of medical services provided at such facilities and the organization of training initiatives on human rights and torture prevention for administrative and custodial personnel at the centres.

8. This second report aims to provide further details of progress achieved in torture prevention during the period from March 2011 to the present date, including aspects where challenges are to be overcome.

9. The report incorporates the most important developments in this area at the federal government level, providing information from the Office of the Attorney-General of the Republic, the Ministry of Public Security and the Ministry of Defence, among other institutions. It also contains information on the states visited by the Subcommittee in 2008 (the Federal District and states of Jalisco, Mexico, Nuevo León and Oaxaca).

10. The main national advances include the promulgation of the human rights constitutional reforms, the implementation of the reform of the criminal justice system, the adoption of the draft Victims Act by the Congress of the Union, the building of new prisons and the improvement of existing ones, and the provision of training for public servants on torture prevention.

11. Particularly noteworthy is the Senate's adoption of amendments to the Federal Act on the Prevention and Punishment of Torture of 11 April 2012, whereby the title of the Act was changed in order to incorporate other cruel, inhuman or degrading treatment and punishment. The concept of torture has thus been brought into line with the definition appearing in article 2 of the Inter-American Convention to Prevent and Punish Torture, except that, unlike in the wording of the Convention, the adjective "severe" qualifying acts of torture performed has been retained in the amended text.

12. The Act also incorporates ongoing initiatives and programmes on training with respect to the promotion and observance of human rights and the lawful conduct of law enforcement bodies.
13. Through these reforms the Mexican Government is complying with relevant recommendations of international mechanisms, in particular those related to harmonizing the definition of torture, as well as enhancing the work of the National Human Rights Commission.
14. One of the major challenges facing the Mexican Government is to reform the prison service, rectifying structural shortcomings with regard to facilities, infrastructure, systems and staffing of places of detention.
15. Mexico's federal prison system dates back to the establishment, in 1905, of the Islas Marías penal colony to accommodate the most dangerous offenders. For 86 years it was the only federal penitentiary. In December 2006 the current administration took over a federal prison service with antiquated systems and premises.
16. A first step towards restructuring the prison system was the federal penitentiary strategy. Introduced in 2007, this strategy was based on four key areas: expanding federal prison capacity and the capacity of the Islas Marías complex; transferring state penitentiaries to the federal prison system and introducing a public-private investment arrangement for building new federal prisons under service procurement contracts.
17. Eight additional federal penitentiaries are currently being constructed under this arrangement, which will make it possible to increase the prison infrastructure by more than 20,000 places. This will provide some 20,000 spaces for federal offenders to be placed in federal custody with advanced intelligence mechanisms for prison surveillance.
18. The federal prison system is now able to accommodate prisoners sentenced under state (non-federal) jurisdiction whose dangerousness requires maximum security and for the first time has special premises for women prisoners.
19. Two facilities having the latest equipment for prisoner screening, supervision and surveillance as well as personnel trained in operational and custodial techniques were opened on 28 February 2012 at the north-western federal penitentiary complex.
20. The increase in prison capacity by the Federal Government has been accompanied by a policy of providing financial assistance and support to state authorities for the purpose of developing their infrastructure in the area of public and prison security.
21. Mexico's prison structure comprises 429 places of detention spread across the national territory, with a capacity to house 176,911 prisoners, but there is an excess population of 45,386 inmates, representing 25.65 per cent overcapacity.
22. At the beginning of the current administration there were 210,140 prisoners within the country's entire prison system, of whom 49,217 had been convicted of crimes under federal jurisdiction. At that time, only 3,164 were serving their sentences in federal penitentiaries, equivalent to 6.4 per cent of all federal prisoners in Mexico.
23. The entire prison system currently houses 230,943 inmates, of whom 47,816 were convicted of federal crimes. A total of 18,263 convicted offenders are held in federal penitentiaries, equivalent to 38 per cent of all federal prisoners in the country, meaning a sixfold increase in federal prison capacity in just five years.
24. The states having the largest numbers of state and federal offenders in custody nationwide are the **Federal District** and the **states of Baja California, Jalisco, Mexico and Sonora**, together accounting for 50 per cent of all prisoners.

25. To date, extension and modernization work has been carried out at the federal prison facilities of El Altiplano in **Mexico state**, El Salto in Jalisco, Matamoros in Tamaulipas, Tepic in Nayarit, Cuautla in Morelos and Islas Marías.

26. The Congress of the Union is analysing the Public Security Act, which lays down security levels, types of security and operational methods for every penitentiary, including with respect to internal security. It also provides for the rights of inmates with links and adopts a surveillance authority approach to the prevention of criminal activities inside prisons.

27. The Mexican Government considers that, despite the progress made, greater efforts are required in the area of training to achieve the full implementation of existing international norms and standards for the prevention and eradication of torture and other cruel, inhuman or degrading treatment or punishment and for the punishment, in accordance with that legal framework, of those guilty of such conduct in the national territory.

28. As the Subcommittee is aware, Mexico is a federation composed of 32 autonomous states. As such, the Government continues to face the huge challenge of harmonizing across the entire country the standards for preventing, eradicating and penalizing this deplorable practice in accordance with those established by the international system. Other challenges are set out in the final chapter of the present report.

## **II. Legislative and regulatory developments in the area of torture prevention**

### **A. Federal legislation**

#### **1. Human rights constitutional reforms**

29. On 10 June 2011, amendments to 11 articles of the Constitution of Mexico dealing with human rights (1, 3, 11, 15, 18, 29, 33, 89, 97, 102 and 105) were published in the Official Gazette of the Federation with a view, inter alia, to eradicating the practice of torture in the country.

30. These amendments:

- Establish a new ranking for human rights treaties within the Mexican legal system by laying down that all persons shall enjoy the human rights recognized in the Constitution and in treaties to which Mexico is a party (art. 1);
- Incorporate the *pro homine* principle, which requires judges to interpret human rights norms in the broadest possible manner for the benefit of the individual (art. 1);
- Incorporate the four human rights principles of universality, interdependence, indivisibility and progressiveness, which have to be followed by legislators and judicial and administrative authorities (art. 1);
- Include the prohibition of discrimination on grounds of sexual orientation in the list of prohibited categories already appearing in article 1;
- Provide for the observance of human rights as a principle of the education provided by the State (art. 3);
- Establish the right of every person to seek asylum for political reasons or to apply for refugee status on humanitarian grounds (art. 11);

- Incorporate the prohibition of the conclusion of treaties which impair human rights (art. 15);
- Stipulate that the organization of the prison system must be based on respect for human rights (art. 18);
- List, with regard to the suspension of guarantees, those rights which may not be restricted, in conformity with the American Convention on Human Rights and the International Covenant on Civil and Political Rights, among other international instruments (art. 29);
- Provide for an administrative procedure to regulate cases of possible expulsion of aliens pursuant to the law and also the place and duration of detention (art. 33);
- Expressly lay down that the principle of respect for and protection and promotion of human rights shall be observed in the area of foreign policy (art. 89);
- Vest the National Human Rights Commission with the power to investigate serious human rights violations, this power having previously been conferred on the Supreme Court under article 97 of the Constitution (articles 97 and 102);
- Stipulate that authorities which do not accept recommendations issued by human rights agencies shall publish the reasons for their refusal; specify that the state legislatures shall guarantee that those agencies shall have budgetary and administrative autonomy, separate legal status and their own assets; and propose that the election of the heads of the National Human Rights Commission and human rights agencies and their advisory boards be conducted by public consultation and referendum (art. 102); and
- Include cases relating to all treaties, and not solely those concerning human rights, in the list of unconstitutionality actions which may be filed with the Supreme Court by the National Human Rights Commission (art. 105).

31. A major aspect of the reforms can be seen in the third paragraph of article 1, which establishes the obligation of the State not only to prevent, investigate and punish human rights violations but also to provide redress for the harm thereby caused, as well as the obligation of all authorities — at all levels and in the three branches of government — to promote, respect, protect and guarantee human rights, including the prevention of torture.

32. The transitional articles included in the reforms are concerned with the promulgation of four laws implementing the new provisions of articles 1, 11, 29 and 33 of the Constitution and amendments relating to governmental human rights agencies, as set out below, with the stipulation of a time limit of one year from enactment of the decree:

- The Reparations Act: The amendment to article 1 of the Constitution refers to the obligation of the State “to prevent, investigate and punish human rights violations and grant redress therefor under the terms of the law”. Transitional article 2 lays down that an act on reparations shall be promulgated within a maximum period of one year;
- The Asylum Act: The amendment to article 11 of the Constitution states: “[...] Every individual shall, in the event of persecution for political reasons, have the right to seek asylum. Refugee status shall be granted on humanitarian grounds. The law shall regulate cases of admissibility and exceptions in relation thereto.” Transitional article 3 stipulates that the act referred to must be promulgated within a maximum period of one year;
- The Act Regulating the Suspension of the Exercise of Rights and Guarantees: The amendment to article 29 of the Constitution states: “In the event of invasion, serious



disturbance of the public peace or any other occurrence which places society in grave danger or conflict, only the President of the United Mexican States shall, in agreement with the heads of the state departments and the Office of the Attorney-General of the Republic and with the approval of the Congress of the Union or, if in recess, the Standing Committee, be empowered to restrict or suspend throughout the country or in a specific location the exercise of any rights or guarantees which obstruct the rapid and expeditious handling of the situation [...].” Transitional article 4 stipulates that an act implementing article 29 of the Constitution in regard to suspension of the exercise of rights and guarantees has to be promulgated within a maximum period of one year;

- The Act Regulating the Expulsion of Aliens: The amendment to article 33 of the Constitution states: “[...] The Executive of the Union shall be empowered, following a hearing, to expel foreign nationals from the national territory pursuant to the law, which shall regulate the administrative procedure and the place and duration of detention.” Transitional article 5 stipulates that the act implementing article 33 of the Constitution in regard to expulsion of aliens shall be promulgated within a maximum period of one year. Until that act is promulgated, this article will continue to apply under the terms of the text currently in force;
- Carrying out necessary adjustments to the state legislatures for the purpose of granting autonomy to state human rights agencies;
- Carrying out necessary adjustments to the National Human Rights Commission Act concerning investigative powers.

## **2. Reform of the criminal justice system**

33. The reform, which was published in the Official Gazette of the Federation on 18 June 2008, is intended to speed up the administration of justice through oral proceedings and establishes a system where the rights of both victims and suspects are respected, which will result in the strengthening of due process. The main provisions in the area of human rights include the following:

- The transition from the formal accusatory or mixed criminal justice system to the oral accusatorial model based on adversarial, consolidated, single and direct public proceedings;
- The establishment of the principle of presumption of innocence for every accused person, which was already provided for;
- The recognition of the right of every accused person to make a statement or remain silent and the prohibition of incommunicado detention, intimidation and torture;
- The denial of the probative value of any confession made without the presence of defence counsel and of any evidence obtained in violation of fundamental rights;
- The establishment of a reasonable trial time limit of four months in the case of crimes for which the penalty does not exceed two years or of one year if the penalty exceeds that term;
- The institution of the right of the accused to an adequate defence by a lawyer of his or her choice or by a public defender, who, where applicable, is appointed by the judge, and the recognition of the inalienable right to a defence and the obligation of the State to provide such defence;
- The recognition of the right of the accused to be tried in public;

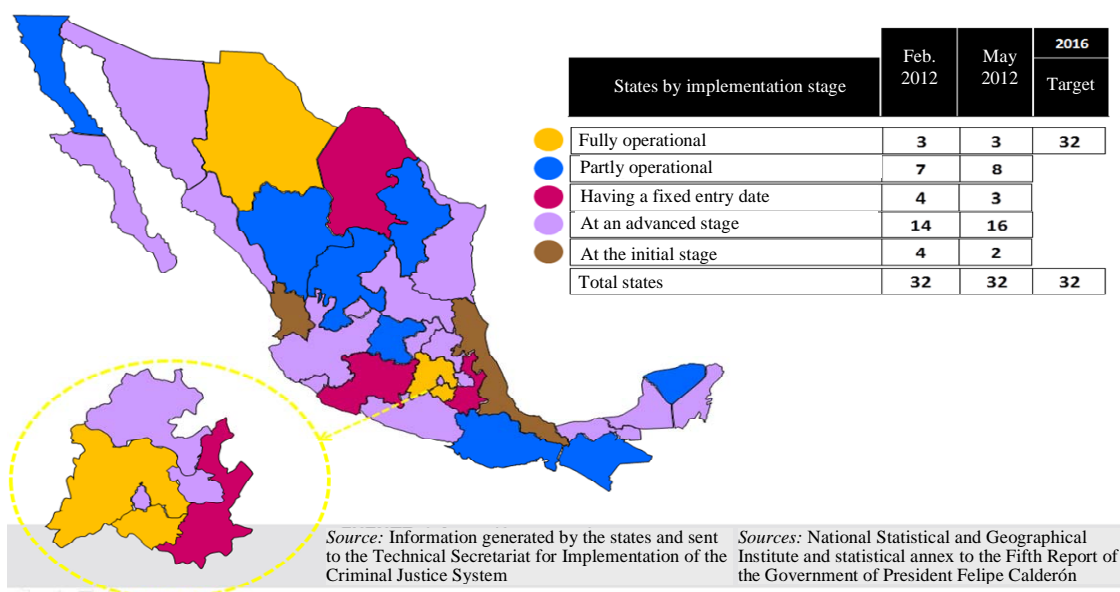
- The establishment of limitations on pretrial detention, which may be ordered only if other preventive measures are insufficient to guarantee the accused's appearance in court, the conduct of the investigation or the protection of the victim, witnesses and the public or to safeguard legal rights or if there is a well-founded risk that the person charged may evade justice or if the accused is being prosecuted for or has previously been convicted of a wilful offence. The judge shall order pretrial detention ex officio in cases of organized crime, intentional homicide or kidnapping, among other serious offences;
  - The restriction of preventive custody (*arraigo*) to organized crime offences where such measure is ordered by a judicial authority subject to statutorily established time limits, which may not be extended indefinitely, and only if demonstrated to be necessary for the success of the investigation, the safeguarding of legal rights or the protection of persons or if there is a well-founded risk that the suspect may evade justice;
  - The creation of supervisory courts, whose role is to rule directly and as quickly as possible on applications made by the public prosecution service for the adoption of precautionary or preventive measures or investigative procedures, in all cases respecting the rights of the parties. Supervisory courts will also check to ensure that the conduct of the prosecuting authority conforms to the law. There must in all cases be an authoritative record of every communication existing between the courts and the prosecution service;
  - The definition of flagrante delicto and the establishment of the requirement that the authority make an immediate record of arrests. Through the security and justice reforms it will no longer be possible in secondary legislation to retain the concept of equipollent flagrancy, which has been criticized on account of its abuse;
  - The requirement that search warrants be requested from the judicial authority by the public prosecution service;
  - The regulation of private conversations, with the stipulation that recordings between individuals shall constitute valid evidence;
  - The incorporation of alternative dispute resolution mechanisms, including in criminal matters;
  - The provision of redress in criminal matters;
  - The transformation of the social rehabilitation system, whereby the prison system will be organized on the basis of employment, employment training, education, health and sport. With the reform of the system of penalty enforcement the role of sentence enforcement judge will be instituted for the purpose of ensuring the observance of due process and the human rights of convicted offenders;
  - The establishment of the principle of proportionality of the punishment to the crime and to the legal right affected.
34. Under the terms of the reform the country's state authorities have a eight-year time limit for its implementation.

*Progress by states in the implementation of the criminal justice system*

35. At the state level, legislative reforms, beginning with the introduction of the new accusatorial criminal justice system in Mexico, were carried out between 2004<sup>1</sup> and May 2012 by 11 of the 32 federal entities, of which three now operate the accusatorial model throughout their territories and the remaining eight do so partially, i.e. either in part of their territory or on the basis of a list of offences.

36. Also, three states now have a code of criminal procedure and a fixed and definite date for entry into force of the accusatorial system, while sixteen are at an advanced stage of planning their reforms, with only two states still at the initial stage of planning the regulatory and organizational changes to give effect to the constitutional mandate.

(a) by states

*Progress by states, by implementation stage, as at May 2012*

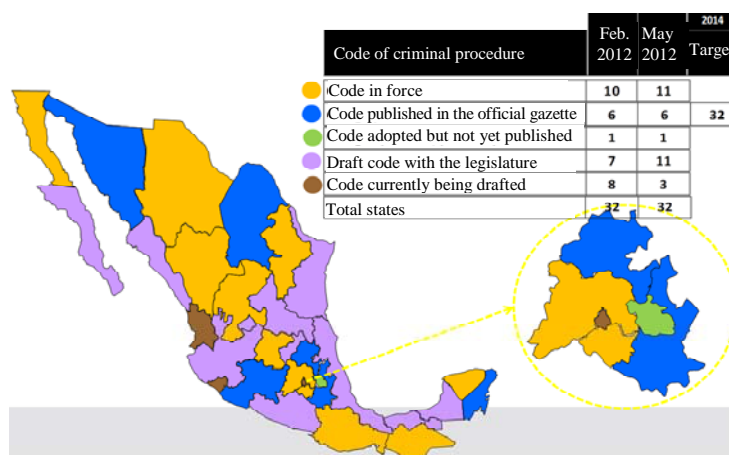
Implementation stage	State
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Fully operational	<ol style="list-style-type: none"> <li>1. Chihuahua: Implementation commenced on 1 January 2007 in the district of Morelos and was completed on 1 January 2008.</li> <li>2. Mexico state: Implementation commenced on 1 October 2009 in Toluca and was completed on 1 October 2011 in Ecatepec.</li> <li>3. Morelos: Implementation commenced on 30 October 2008 in Cuernavaca and was completed on 1 January 2012 following an originally proposed date of 7 February 2011.</li> </ol>
Partly operational	<ol style="list-style-type: none"> <li>1. Baja California: Implementation commenced on 11 August 2011 in Mexicali, the next stage being scheduled for 3 May 2012 in Ensenada (consideration is being given to postponing this stage and commencing with mediation).</li> </ol>

<sup>1</sup> Four states had made amendments to their own legal systems prior to promulgation of the criminal justice system reform on 18 June 2008.

<i>Implementation stage</i>	<i>State</i>
	<p>2. Chiapas: Implementation was phased by crime group and region, commencing on 21 May 2012 in the judicial districts of Tuxtla, Cintalapa and Chiapas for non-serious crimes, with completion due in 2016 for all serious crimes.</p> <p>3. Durango: Implementation commenced on 14 December 2009 in Victoria, Durango. The congressional decision fixing the next date of entry into force is still awaited.</p> <p>4. Guanajuato: Implementation commenced in Guanajuato on 1 September 2011, the next stage being scheduled for 1 January 2013 in Salamanca.</p> <p>5. Nuevo León: Implementation commenced on 1 January 2012 by crime group and is scheduled for completion on 1 January 2016 for all crimes.</p> <p>6. Oaxaca: Implementation commenced on 9 September 2007 in Istmo and in 2008 in the region of Mixteca and is now commencing in Costa, the target date for full implementation in the state being 2012.</p> <p>7. Yucatán: Implementation commenced on 15 November 2011 in Valladolid and Umán, with completion scheduled for 1 September 2013 in Mérida.</p> <p>8. Zacatecas: Implementation commenced in the capital on 5 January 2009 and was scheduled for completion on 4 January 2010, this date being amended to 7 January 2013.</p>
Having a fixed date for entry into force	<p>1. Coahuila: Implementation will commence on 1 June 2013 in the district to be specified by the council of the judiciary.</p> <p>2. Michoacán: Implementation will commence on 21 February 2013 in Morelia and is scheduled for completion on 22 October 2015.</p> <p>3. Puebla: Implementation will commence on 15 January 2013 in the eastern district and is scheduled for completion on 17 June 2016 in the central district.</p>
At an advanced stage	<p>1. Aguascalientes</p> <p>2. Baja California Sur</p> <p>3. Campeche</p> <p>4. Colima</p> <p>5. Federal District</p> <p>6. Guerrero</p> <p>7. Hidalgo</p> <p>8. Jalisco</p> <p>9. Querétaro</p> <p>10. Quintana Roo</p> <p>11. San Luis Potosí</p> <p>12. Sinaloa</p> <p>13. Sonora</p> <p>14. Tabasco</p> <p>15. Tamaulipas</p> <p>16. Tlaxcala</p>
At the initial stage	<p>1. Nayarit</p> <p>2. Veracruz</p>

- Advanced stage
    - Preliminary drafts or legislative bills on the basic operating rules required have been prepared;
    - Major steps have been taken in the areas of regulation, training, institutional restructuring, dissemination and transparency;
  - Initial stage
    - A political agreement and a political body or organ exist;
    - There is a nominal implementation body or an administrative structure and budget;
    - Preliminary steps have been taken in the areas of regulation and training;
    - Significant progress has not, however, been made in regard to basic rules, planning and training.
- (b) Regulation: code of criminal procedure



*Progress by states, by stage of reform to their codes of criminal procedure, as at May 2012*

Status of regulation	State
Code in force	1. Baja California
	2. Chiapas
	3. Chihuahua
	4. Durango
	5. Mexico state
	6. Guanajuato
	7. Morelos
	8. Nuevo León
	9. Oaxaca
	10. Yucatán (both codes exist in conjunction)
	11. Zacatecas

<i>Status of regulation</i>	<i>State</i>
Code published in the official gazette	<ol style="list-style-type: none"> <li>1. Coahuila</li> <li>2. Hidalgo</li> <li>3. Michoacán</li> <li>4. Puebla</li> <li>5. Quintana Roo</li> <li>6. Sonora</li> <li>7. Yucatán (both codes exist in conjunction)</li> </ol>
Code adopted but not yet published	Tlaxcala
Draft code with the legislature	<ol style="list-style-type: none"> <li>1. Aguascalientes</li> <li>2. Baja California Sur</li> <li>3. Campeche</li> <li>4. Guerrero</li> <li>5. Jalisco</li> <li>6. Querétaro</li> <li>7. San Luis Potosí</li> <li>8. Sinaloa</li> <li>9. Tabasco</li> <li>10. Tamaulipas</li> <li>11. Veracruz</li> </ol>
Code currently being drafted	<ol style="list-style-type: none"> <li>1. Colima</li> <li>2. Federal District</li> <li>3. Nayarit</li> </ol>

37. Below is a breakdown of the progress made by each of the country's states:

- (1) Aguascalientes
  - It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its Penalty Enforcement Act has been adopted and published;
  - It has a reform implementation body but it does not have an administrative structure;
  - It has made major progress in the areas of training and dissemination.
- (2) Baja California
  - The new criminal justice system entered into force on 3 May 2012 in Mexicali and, although its entry into force in Ensenada was originally planned for 3 May 2012, that stage has been delayed and should be

completed on 11 August 2014. Entry into force has also been delayed in the municipalities of Tijuana, Playas de Rosarito and Tecate and is scheduled for 11 August 2015;

- Its new Code of Criminal Procedure and Penalty Enforcement Act are in force;
- Its organizational and substantive regulations are complete;
- It has an implementation body with a technical and administrative structure to coordinate the introduction of the new justice system;
- The strategic areas where most progress has been made are training, dissemination, infrastructure, information technology and institutional restructuring.

(3) Baja California Sur

- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
- A draft procedural code is now with the state legislature but has not yet been adopted;
- Its Penalty Enforcement Act has been adopted and published;
- It has a reform implementation body but it does not have an administrative structure;
- Progress in other strategic areas includes training and dissemination activities.

(4) Campeche

- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
- A draft procedural code is now with the state legislature but has not yet been adopted;
- Its Penalty Enforcement Act has been adopted and published;
- It has an implementation body with a technical and administrative structure to coordinate the introduction of the new justice system;
- It has also made progress in the strategic areas of training, dissemination and infrastructure.

(5) Chiapas

- The security and criminal justice system is being implemented in phases by crime group and region;
- For the purposes of this phased implementation, the territory of Chiapas has been divided as follows:
  - Region 1: judicial districts of Tuxtla, Cintalapa and Chiapas;
  - Region 2: judicial districts of Tapachula, San Cristóbal de Las Casas and Comitán de Domínguez;
  - Region 3: judicial districts of Villaflores, Tonalá, Pichucalco, Acapetahua, Catazajá-Palenque, Ocosingo, Yajalón, Huixtla,

Motozintla, Copainalá, Simojovel, Bochil, Venustiano Carranza, Salto de Agua and Benemérito de las Américas;

- On 21 May 2012 the new accusatorial criminal justice system entered into force in region 1 with full coverage of non-serious crimes. Implementation in regions 2 and 3 will commence with full coverage of non-serious crimes between 2013 and the first quarter of 2016;
- In the second quarter of 2016 the justice system will be implemented with the inclusion of all serious crimes in regions 1, 2 and 3 simultaneously;
- Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
- It has a reform implementation body but it does not have an administrative structure;
- It has also made progress in the strategic areas of training, dissemination, infrastructure and institutional restructuring. Particular mention should be made of the staff funding survey on sentence enforcement judges.

(6) Chihuahua

- The new criminal justice system is now in force throughout the state of Chihuahua. Its initial stage of implementation commenced on 1 January 2007, when the system entered into force in the judicial district of Morelos (including the municipality of Chihuahua). One year later the new system was implemented in the judicial district of Bravos (including the municipality of Ciudad Juárez) and on 1 July 2008 the remainder of the 12 judicial districts decided to begin implementation in the municipal capitals, given that the personnel with most training are located in those areas;
- Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
- It has a comprehensive legislative package and also an implementation body with a technical and administrative structure to coordinate the introduction of the new justice system;
- It has also made progress in the strategic areas of training, dissemination, infrastructure, equipment, information technology and institutional restructuring.

(7) Coahuila

- The new justice system will become operational on 1 June 2013 in the districts to be specified by the state council of the judiciary;
- Its draft Criminal Penalty Enforcement Act is under discussion in the state congress;
- It has a reform implementation body but it does not have an administrative structure;
- With regard to other strategic areas, it has carried out training activities.

(8) Colima

- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;



- Its draft Criminal Penalty Enforcement Act is under discussion in the state congress;
- It has a reform implementation body but it does not have an administrative structure;
- It has also made progress in the strategic areas of training and dissemination.

## (9) Federal District

- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
- The procedural code is still being drafted;
- Its Criminal Penalty Enforcement Act is now in force;
- It has a reform implementation body with an administrative structure;
- It has also made progress in the strategic areas of training, dissemination, restructuring and infrastructure.

## (10) Durango

- On 14 December 2009 the new criminal justice system entered into force in the district with most court cases, whose chief city is Durango, which includes the municipalities of Durango, Mezquital and part of San Dimas. It will subsequently be implemented in the district whose chief city is Gómez Palacio and in phases in the remainder of the state;
- Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
- It has an implementation body with a technical and administrative structure to coordinate the introduction of the new justice system;
- It has also made major progress in the strategic areas of dissemination, restructuring, equipment, infrastructure and information technology.

## (11) Mexico state

- The new criminal justice system is now operational throughout the state, having entered into force in stages, as follows:

	<i>Area</i>	<i>Date</i>
Stage 1	Tenanago, Toluca, Lerma and Tenancingo	1 September 2009
Stage 2	Chalco, Otumba and Texcoco	1 April 2010
Stage 3	Nezahualcoyótl, El Oro, Ixtlahuaca, Sultepec and Temascaltepec	1 November 2010
Stage 4	Tlalnepantla, Cuautitlán and Zumpango	1 April 2011
Stage 5	Ecatepec de Morelos, Jilotepec and Valle de Bravo	1 November 2011

- Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
- Its comprehensive legislative package has been adopted;

- It has a reform implementation body but it does not have an administrative structure;
  - It has also made progress in the strategic areas of training, dissemination, restructuring, equipment, infrastructure and information technology.
- (12) Guanajuato
- On 1 September 2011 the accusatorial criminal justice system entered into force in the city of Guanajuato. The next stage is scheduled for 1 January 2013 in Salamanca and so on during the two ensuing years in the two remaining regions;
  - Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
  - It has an implementation body with a technical and administrative structure to coordinate the introduction of the new justice system;
  - It has also made progress in the strategic areas of training, dissemination, restructuring and infrastructure.
- (13) Guerrero
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its Penalty Enforcement Act has been adopted and published;
  - It has a reform implementation body but it does not have an administrative structure;
  - It has also made progress in the strategic areas of training, dissemination and infrastructure.
- (14) Hidalgo
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - Its Code has now been published in the official gazette;
  - Its Criminal Penalty Enforcement Act is now in force;
  - It has a reform implementation body but it does not have an administrative structure;
  - It has also made progress in the strategic areas of training, dissemination, regulation, infrastructure and equipment.
- (15) Jalisco
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its draft Criminal Penalty Enforcement Act is under discussion in the state congress;

- It has a reform implementation body but it does not have an administrative structure;
  - It has also made progress in the strategic areas of training and infrastructure.
- (16) Michoacán
- The new criminal justice system will enter into operation in Morelia on 21 February 2013, with completion scheduled for 22 October 2015;
  - Its Code of Criminal Procedure has now been published in the official gazette;
  - Its Criminal Penalty Enforcement Act is in force;
  - It has a reform implementation body with a technical and administrative structure;
  - It has also made progress in the strategic areas of training and dissemination.
- (17) Morelos
- The new criminal justice system is now in operation throughout the state:
    - Region 1: 30 September 2008;
    - Region 2: 6 July 2009;
    - Region 3: 14 February 2011;
  - Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
  - It has an implementation body with a technical and administrative structure;
  - It has also made progress in the strategic areas of training, dissemination, equipment, infrastructure and restructuring.
- (18) Nayarit
- It is at the initial stage of implementation and shows very little progress in instituting the new criminal justice system;
  - Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
  - It has a reform implementation body but it does not have an administrative structure;
  - With regard to other strategic areas, it has carried out training and dissemination activities.
- (19) Nuevo León
- The new criminal justice system entered into operation on 1 January 2012 for one group of non-serious crimes, with completion scheduled for 1 January 2016 for all crimes;
  - Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
  - It has an implementation body with a technical and administrative structure;
  - It has also made progress in the strategic areas of infrastructure, dissemination, training and restructuring.

- (20) Oaxaca
- The new criminal justice system entered into operation on 9 September 2007 in the region of Tehuantepec and in 2008 in Mixteca;
  - A phased implementation was originally planned in six annual stages, commencing in 2007. Implementation was postponed on several occasions, finally being scheduled for 9 May 2012 for the Costa region and so on until 2015;
  - Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
  - It has a reform implementation body with an administrative structure;
  - This body is subordinate to the coordinating council for implementation of the accusatorial system in the state of Oaxaca;
  - It has also made progress in the strategic areas of training, dissemination, restructuring, infrastructure, equipment and information technology.
- (21) Puebla
- On 15 January 2013 the new criminal justice system will enter into force in the eastern district, with completion scheduled for 17 June 2016 in the central district;
  - Its Code of Criminal Procedure has now been published in the official gazette and it has a Criminal Penalty Enforcement Act;
  - It has an implementation body with a technical and administrative structure;
  - It has also made progress in the strategic areas of training, dissemination, infrastructure and institutional restructuring.
- (22) Querétaro
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its Penalty Enforcement Act has been adopted and published;
  - It has a reform implementation body but it does not have an administrative structure;
  - It has also made progress in the strategic areas of training, dissemination and organizational analysis.
- (23) Quintana Roo
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - It has now published its Code of Criminal Procedure in the official gazette and it has a Criminal Penalty Enforcement Act;
  - It has a reform implementation body but it does not have an administrative structure.
- (24) San Luis Potosí

- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its Penalty Enforcement Act has been adopted and published;
  - It has a reform implementation body but it does not have an administrative structure.
- (25) Sinaloa
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its draft Criminal Penalty Enforcement Act is under discussion in the state congress;
  - It has an implementation body with a technical and administrative structure.
- (26) Sonora
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - It has now published its Code of Criminal Procedure in the official gazette and it has a Criminal Penalty Enforcement Act;
  - It has a reform implementation body but it does not have an administrative structure.
- (27) Tabasco
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its Penalty Enforcement Act has been adopted and published;
  - It has a reform implementation body but it does not have an administrative structure;
  - It has also made progress in the strategic areas of training, dissemination and infrastructure.
- (28) Tamaulipas
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its Penalty Enforcement Act has been adopted and published;
  - It has an implementation body with a technical and administrative structure;
  - It has also made progress in the strategic areas of training, dissemination and infrastructure.

- (29) Tlaxcala
- It is at an advanced stage of implementation but has not yet fixed the date for entry into force of the new criminal justice system;
  - Its Code of Criminal Procedure and Criminal Penalty Enforcement Act have been adopted;
  - It has an implementation body with a technical and administrative structure;
  - It has also made progress in the strategic areas of training, dissemination, restructuring and infrastructure.
- (30) Veracruz
- It is at the initial stage of implementation and has made very little progress in instituting the new criminal justice system;
  - A draft procedural code is now with the state legislature but has not yet been adopted;
  - Its Penalty Enforcement Act has been adopted and published;
  - It has a reform implementation body but it does not have an administrative structure;
  - With regard to other strategic areas, it has carried out training, dissemination and infrastructure activities.
- (31) Yucatán
- The new criminal justice system entered into operation on 15 November 2011 in Valladolid and Umán, with completion scheduled for 1 September 2013 in Mérida;
  - Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
  - It has an implementation body with a technical and administrative structure;
  - It has also made progress in the strategic areas of training, dissemination, restructuring and infrastructure.
- (32) Zacatecas
- The new criminal justice system became operational on 5 January 2009 in the city of Zacatecas. After its implementation had been postponed on more than one occasion, it was decided that the new system would enter into operation on the following dates in the regions indicated below:
    - Region 2: 1 July 2012;
    - Region 3: 7 January 2013;
  - Its new Code of Criminal Procedure and Penalty Enforcement Act are now in force;
  - It has an implementation body with a technical and administrative structure to coordinate the introduction of the new justice system;
  - It has also made progress in the strategic areas of training, dissemination, restructuring, equipment and infrastructure.

### 3. Preventive custody

38. As a consequence of the amendments to articles 16, 17, 18, 19, 20, 21 and 22 of the Constitution under the reform of 18 June 2008, the criminal justice system has undergone a radical transformation given that the changes introduced were of such magnitude as to have a direct impact on the structure, budget and organization of the judiciary of the Federation.

39. The Council of the Federal Judiciary, under the powers vested in it by the Federal Constitution and the Federal Judiciary Organization Act, accordingly took the first step towards implementing the reform by establishing, under General Decisions Nos. 75/2008 and 25/2009, seven federal criminal courts having special jurisdiction in matters relating to searches, preventive custody and interception of communications, whose competence is restricted to hearing and ruling on applications filed by the authority for the adoption of precautionary measures or other investigative procedures which are subject to judicial control, without prejudice to the gradual widening of its powers in accordance with its sphere of competence as laid down in the Constitution and secondary legislation.

40. In its first report, the Mexican Government provided the Subcommittee with extensive details concerning the extent of the practice of preventive custody and related controls. Preventive custody is a precautionary procedure in criminal matters which is intended to ensure the effectiveness of justice administration and is requested at the investigation stage to prevent persons accused of an offence from evading justice. Because of its material consequences and its restrictions on freedom of movement and personal liberty, preventive custody is an exceptional measure whose application is limited to specific cases whose characteristics require that it be used to safeguard values which are of utmost public interest.

41. Mexico's criminal justice system has incorporated in its laws and procedures the due process requirements laid down in international human rights law, with preventive custody being retained as an exceptional measure restricted by the Constitution and applicable legislation.

42. Preventive custody in Mexico is thus a constitutional measure which is employed in exceptional cases and is at all times subject to judicial control. A prerequisite for its implementation is the guarantee that persons held in preventive custody may at any time communicate with their defence counsel and relatives and that such custody will take place at premises previously and expressly designed for that purpose.

43. It is accordingly asserted that preventive custody under Mexico's substantive law is a judicial practice of a precautionary and temporary nature which may not be prolonged indefinitely and which is applicable in cases involving serious offences or organized crime provided that such a measure is necessary for the success of the investigation, the protection of persons or the safeguarding of legal rights or where there is a well-founded risk that the person charged may evade justice.

44. It is a procedure of limited and strict application which is adopted if the federal prosecutor is unable to conduct an organized crime investigation within 48 hours of arrest (or 96 hours in cases involving serious offences, where this time limit is doubled) and is carried out for the purpose of obtaining evidence in order to ensure the successful outcome of an investigation.

45. Under the terms of the Constitution, the duration of preventive custody may not exceed 40 days in cases involving serious offences, although this period may be extended in cases involving organized crime if the prosecuting authority demonstrates that the reasons which gave rise to the measure still exist, in which event the total duration of such custody may not exceed 80 days.

46. In the application of the practice of preventive custody there must be no incommunicado detention, intimidation or torture; suspects must be informed of the charges against them and the rights available to them; and full access to a lawyer must be guaranteed in order to ensure an adequate defence, in addition to the guarantees established in article 20 of the Constitution, which reproduces provisions contained in articles 9, 10 and 14 of the International Covenant on Civil and Political Rights.

47. Preventive custody generally takes place at the federal investigation centre. Exceptionally, the federal prosecutor will seek authorization to have it carried out at other premises in the light of special circumstances. Authorization is granted only if such premises meet sufficient security and logistical conditions necessary for the due implementation of this precautionary measure.

48. Pursuant to the mandate set out in the National Human Rights Programme 2008–2012, in particular with regard to the action area on promoting the use of preventive custody in accordance with the strictest legal standards, the Mexican Government has put in place a mechanism to ensure continuous monitoring of the application of this practice and, where appropriate, its adjustment in order to rectify any shortcomings which might arise. Suspects may during preventive custody approach the judicial authority at any time to question the legality of the conditions to which they are subjected and the duration of their custody.

49. The constitutional reforms also included the creation of supervisory courts as an independent and specialized federal judicial authority responsible for dealing promptly with preventive custody applications. The functions of supervisory courts (also referred to as district courts with special jurisdiction for matters relating to preventive custody, searches and telephone interception) include ensuring that the rights of suspects and victims in legal proceedings are not infringed and checking the lawfulness of the conduct of all parties involved in the proceedings.

50. Mexican law on preventive custody can thus be regarded as having evolved over the past 10 years. Judicial control has been strengthened, procedural remedies for accused persons have been established and access to timely and expert legal defence is guaranteed. In this regard, the Office of the Assistant Attorney-General for Human Rights, Victim Support and Community Services has set up at the federal level a human rights protection unit within the federal investigation centre. This unit entered into operation on 23 January 2012.

51. According to the statistics communicated by the Office of the Assistant Attorney-General for Organized Crime Investigations, the following persons were placed in preventive custody in connection with inquiries conducted by investigative units in the period from December 2006 to December 2011:

#### **Persons held in preventive custody at the federal level**

	<i>December 2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Persons held	42	703	1 111	1 517	1 679	1 391

#### **Cases which gave rise to criminal proceedings**

	<i>December 2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Persons held and remanded	13	440	923	1 307	1 467	1 251



**Cases in which formal detention orders were issued**

	<i>December 2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Persons held, remanded and formally detained	11	386	823	1 256	1 250	

**Cases in which release orders were issued**

	<i>December 2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Persons released	2	47	67	34	97	109

52. The degree of effectiveness of investigations conducted by the federal prosecutor during the period of preventive custody can be seen from the above figures relating to the issuance of formal detention orders, which is an indication of the reduction in the likelihood that a crime suspect may evade justice.

53. Set out below are details of the records of the Council of the Judiciary concerning preventive custody applications at the federal level for the period from 1 March 2012 to 21 May 2012.

**Preventive custody applications submitted: 1,608****Females: 118      Males: 1,490**

<i>Ruling</i>	<i>Number of cases</i>
Allowed	1 370
Refused	191
Invalid	13
Other	34

**Indirect *amparo* petitions against preventive custody orders****Females: 1,931      Cases determined**

<i>Ruling</i>	<i>Number of cases</i>
Granted	65
Not granted	125
Dismissed	1 695
Consolidated	21
Barred	1
No jurisdiction	24

**Males: 7,711      Cases determined**

<i>Ruling</i>	<i>Number of cases</i>
Granted	247
Not granted	676
Dismissed	6,551
Consolidated	118

<i>Ruling</i>	<i>Number of cases</i>
Barred	1
No jurisdiction	118

No recommendations have been formulated, issued and addressed by the National Human Rights Commission to the Office of the Attorney-General of the Republic concerning preventive custody.

#### **4. Federal Act on the Prevention, Punishment and Eradication of Torture**

54. On 11 April 2012 the Senate approved amendments to the Federal Act on the Prevention, Punishment and Eradication of Torture in order to prohibit cruel, inhuman or degrading treatment of persons arrested, detained or imprisoned. The Senate's ruling, which was unanimous, has been referred to the Chamber of Deputies for its consideration.

55. This Act authorizes the National Human Rights Commission to carry out visits and supervision with a view to reporting and preventing acts of torture in the country's prison and social rehabilitation system and in the justice administration bodies of the federal executive.

56. As indicated in the ruling, the aim is to penalize public servants who inflict severe physical or mental pain or suffering on individuals for criminal investigation purposes, as a means of intimidation, as a personal punishment or as a preventive measure or for any other ends, bearing in mind that torture is defined as the use of methods upon an individual for the purpose of destroying the personality or diminishing the physical or mental capacities of the victim, even if they do not cause physical pain or mental anguish.

57. With regard to penalties, the ruling establishes a sentence of imprisonment from 7 to 16 years and a fine equivalent to between 500 and 1,000 days as well as permanent disqualification from holding any public commission, office or post. Such penalties will be imposed on public servants who induce or use a third person to inflict severe pain or suffering, whether physical or mental, on an individual.

58. The same penalties will be imposed on any third person who at the instigation or inducement of or with the consent, whether express or implied, of a public servant inflicts severe pain or suffering, whether physical or mental, on a detainee for any purpose.

#### **5. Federal Act on the Prison System and the Enforcement of Penalties**

59. On 16 April 2012 the Chamber of Deputies adopted in plenary session the Federal Act on the Prison System and the Enforcement of Penalties, whose purpose is to lay down the legal framework of the federal prison system, the administration of pretrial detention and punitive incarceration and also measures of special supervision. This statutory instrument establishes the role of sentence enforcement judge and entrusts the executive with the administration of prisons.

60. The Act accordingly provides for the incorporation of an article 50 *quater* in the Federal Judiciary Organization Act stipulating that federal enforcement judges will deal with matters relating to the modification and length of sentences and the conduct of procedures for the granting of redress.

61. It also establishes new prison security and custody levels, in particular maximum and super-maximum levels 5 and 6 for the incarceration of kidnappers and members of organized criminal groups.

62. The Act sets forth five key areas of social rehabilitation: (i) employment; (ii) employment training; (iii) education; (iv) health and (v) sport. In addition, it contains guidelines for the objective assessment of inmates, involving expert appraisals by medical, mental health, educational and occupational specialists for the purpose of reviewing their behaviour and the serving of their sentence.

63. It is intended that the concept of prisons will be modernized by this Act, given that over 229,000 inmates will benefit. This reform is in line with the mandate set out in the constitutional reforms of 18 June 2008, which directs that a new criminal justice system be instituted with a view to establishing the oral accusatory and adversarial model.

## **6. Draft Victims Act**

64. On 30 April 2012 the Chamber of Deputies unanimously adopted a ruling to put into effect the Victims Act, which had been approved by the Senate on 24 April of that year. The draft text has been submitted to the executive with a view to its promulgation and publication in the Official Gazette of the Federation.

65. The purpose of this legislative bill is to recognize and guarantee the rights of victims of crime and human rights violations, in particular their right to assistance, care, support, truth, justice and comprehensive redress, on the basis of international standards relating to protection, support and full reparation, and to promote the widest possible protection of the individual.

66. The bill implements three articles of the Constitution: article 1, which lays down the obligation of the three levels of government and branches of the State to promote, uphold, protect and guarantee human rights and to prevent, investigate and punish violations of those rights and grant redress for such violations, and its transitional article 2, which provides for the creation of a law on reparations; article 17, which, pursuant to the criminal justice reform of 2008, establishes procedural rights and constitutional principles concerning redress, including class actions; and article 20, section C, which recognizes the general principles of protection and observance of victims' rights and the provision of redress in the event of their violation.

67. The most important aspects of the adopted ruling are as follows:

- It requires the Mexican Government to ensure the protection of persons who are victims of crime or human rights violations. In particular, it aims to provide for the restoration of violated rights, guarantees of due diligence and non-recurrence and all other rights established in the Constitution and in international treaties to which Mexico is a party;
- It recognizes victims of crime and human rights violations as direct victims and their immediate family and dependants as indirect victims;
- It recognizes victims as rights-holders and establishes the following rights as guiding principles: respect for the dignity of victims, non-revictimization, good faith (whereby a victim's statement is deemed truthful), due diligence and a differentiated and specialized approach. In addition to these principles, the Act establishes a number of victims' rights, such as their right to aid, assistance and support, their right to access to justice, their rights in criminal proceedings and their right to the truth and to comprehensive redress;
- As regards the right to truth, it lays down that victims, their relatives and society in general are entitled to be informed of the nature of the acts which constituted the crime or human rights violation, the identity of those responsible and the circumstances which gave rise to its perpetration and to be afforded the right of access to justice in conditions of equality;

- It establishes a standard declaration form and the obligation of every authority to receive a victim's statement, enabling victims to present their statement to any federal, state or municipal authority, including embassies, consulates, health or education institutions, the National Scheme for the Comprehensive Development of the Family, municipal legal officers and also shelters or refuges;
- It creates the National Victim Support System as the highest body in this sphere, whose functions will be to formulate, regulate and oversee guidelines, plans, programmes, projects, schemes and other public policies implemented for the purposes of providing protection, aid, assistance, support and comprehensive redress and guaranteeing the right of access to justice and the truth. The System will be composed of representatives of all public agencies and institutions in the three levels of government. It will have an executive commission, composed of nine commissioners proposed by the federal executive and elected by the Senate, to encourage the representation and participation of victims and civil society within the System;
- It provides for the setting up of the national registry of victims, which will log victims' registrations and records. Their entry in the registry will be based on a report, complaint or allegation, which may be made by the actual victim, the authority, a governmental human rights agency or a third party having knowledge of the facts;
- It provides for the establishment of an aid, assistance and comprehensive redress fund administered by a public trust. The purpose of the fund will be to compensate victims and its resources will be provided by, inter alia, federal expenditure budget allocations; property confiscated in criminal proceedings; sureties and guarantees; fines and pecuniary penalties; donations and contributions by third parties; proceeds from public auctions; and amounts recovered by the State in civil proceedings;
- It establishes various measures for the provision of comprehensive victim support:
  - Immediate humanitarian aid measures, including action in the areas of health care, accommodation, food, transport and welfare;
  - Assistance and support measures aimed at restoring to victims the full exercise of their rights through action in the areas of education, economic provision and social development and also assistance and support in the pursuit and administration of justice;
  - Comprehensive redress measures, including restoration of rights, reinstatement, compensation, satisfaction, collective reparations and guarantees of non-recurrence. These aspects have been recognized in the case law of the inter-American human rights system;
- With respect to the responsibilities of public servants, it establishes, inter alia, their obligation to ensure that international human rights norms and instruments are observed and applied;
- It authorizes the public prosecution service to apply for the adoption of preventive or protective measures required for the protection of victims, their relatives and/or property whenever necessary. It also authorizes the judiciary to order precautionary measures for the safeguarding of victims and their legal rights;
- It reaffirms the constitutional powers of the National Human Rights Commission, as established in article 102, to investigate human rights violations and refer allegations of such violations to the public prosecution service. It also establishes its power to make recommendations concerning victim redress.

68. The ruling includes an amendment to article 73 of the Constitution in order to empower the Congress of the Union to enact laws on the provision of support to victims and the protection of their rights with a view to developing uniform standards in this regard and also coordination between the authorities.

## **7. Social Support Agency for Victims of Crime**

69. On 6 September 2011 the decree establishing the Social Support Agency for Victims of Crime as a decentralized body of the federal public administration was published in the Official Gazette of the Federation.

70. The purposes of the Agency are to provide timely and comprehensive support to victims of crime, either directly or in coordination with specialized institutions, in accordance with the applicable regulations, to contribute to the effective performance of the functions of the authorities responsible for such matters, and to formulate and execute policies, programmes and schemes of inter-institutional cooperation and coordination for the provision of support to victims of crime.

71. Article 3 of the decree establishing the Agency sets out the following duties:

- Assisting victims of crime through counselling and the provision, either directly or in coordination with specialized institutions, of multidisciplinary and specialist services required by them in order to offer timely, appropriate and comprehensive support;
- Providing, either directly or in coordination with competent specialized institutions, support services to victims of crime, including:
  - Medical care;
  - Specialized psychological care;
  - Legal advice and guidance; and
  - Assistance in the search for missing persons;
- Checking the conduct of specialized institutions to ensure the provision of timely and appropriate support to victims of crime and taking relevant follow-up measures;
- In the case of crimes under state (non-federal) jurisdiction, offering guidance to victims of crime and, where appropriate, referring them to the competent state or municipal bodies;
- Setting up units or centres across the national territory for the effective provision of support to victims of crime;
- Providing cost-free legal defence to victims of crime in accordance with the conditions and standards to be adopted by the governing board, applicable rules and budget estimates approved for that purpose;
- Planning, programming, coordinating and overseeing support services for victims of crime, either directly or in coordination with competent specialized institutions;
- Facilitating access by victims of crime to financial assistance or support from competent authorities as provided for under the programmes, including funeral expenses, grants, compensatory payments and medical insurance, or, where appropriate, furnishing such assistance or support directly to victims of federal crimes;
- Coordinating and concluding cooperation agreements with public or private institutions for the provision of support to victims of crime;

- Gathering and collating information on victims of crime and on the support received by them;
- Promoting research and preparing and publicizing surveys and studies on the situation of victims of crime, and recommending measures and amendments to the legal framework in order to ensure their recognition and effective and timely support;
- Developing and proposing the implementation of models and protocols on the provision of support to victims of crime and furnishing related specialist advice;
- Generating, compiling, processing and collating information from mechanisms and programmes for the provision of support for victims of crime.

## **B. State legislation**

72. The crime of torture is established in all the states, either in specific laws or in criminal codes, as well as in the related federal act.

73. The 15 states which have specific legislation on torture are:

- Aguascalientes (14 May 1995);
- Campeche (28 October 1993);
- Coahuila (27 July 1993);
- Colima (13 May 1995);
- Chiapas (9 February 1994);
- Mexico state (25 February 1994);
- Jalisco (21 December 1993);
- Morelos (22 December 1993);
- Nayarit (27 August 2005);
- Oaxaca (20 November 1993);
- Quintana Roo (13 November 1992);
- Tlaxcala (11 December 2003);
- Veracruz (17 April 1999);
- Yucatán (1 December 2003);
- Guerrero (26 December 1990).<sup>2</sup>

The remaining 17 states define the crime of torture in their criminal code.

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<sup>2</sup> In this case the crime of torture is established in the Act Creating the Human Rights Commission and Instituting the Missing Persons Procedure, whose article 53 defines the crime of torture and whose article 54 lays down the penalty applicable in cases of commission of this unlawful act. However, this instrument is not applied in practice, the courts' argument being that they are prevented from so doing since these provisions are not included in the State Criminal Code, a situation which is to be rectified with the legislative bills currently under examination in the state congress to amend the Criminal Code and Code of Criminal Procedure.

74. Noteworthy recent legislative reforms in the Federal District include those referred to below.

### 1. Criminal Code of the Federal District

75. On 29 March 2012 the Federal District Legislative Assembly adopted in plenary session various amendments to the Criminal Code with the aim of harmonizing the definition of torture in conformity with the highest standards for the protection of rights as set forth in the Istanbul Protocol, the Inter-American Convention on Human Rights and the Human Rights Programme of the Federal District.

76. With these amendments the concept of torture has been broadened to facilitate the establishment by the public prosecution service of the perpetration of this crime, which will make it possible to punish more effectively those public servants who in the discharge of or in connection with their functions intentionally inflict pain or suffering, whether physical or mental, on an individual or use methods whose purpose is to destroy the personality or impair the physical or mental capacities of the victim, even if they do not cause physical pain or mental anguish. Sexual violence is included as a method of torture and it is stipulated that statutory limitations are not applicable to the crime of torture. The amended wording reads as follows:

### 2. Chapter II: Torture

Article 206 *bis*. A sentence of imprisonment from 3 to 12 years and a fine equivalent to between 200 and 500 days shall be imposed on any public servant of the Federal District who in the discharge of or in connection with his or her functions inflicts pain or suffering, whether physical or mental, including sexual violence, on an individual for the purpose of obtaining from that individual, or from a third person, information or a confession or of punishing that individual for an act which he or she has committed or is suspected of having committed or of intimidating or coercing that individual or others or for any other purpose.

The use upon an individual of methods whose purpose is to destroy the personality or impair the physical or mental capacities of the victim, even if they do not cause physical pain or mental anguish, shall also be understood to be torture and shall be punished by the penalties laid down in this article.

The same penalties shall be imposed on any public servant who in the discharge of or in connection with his or her functions induces or consents to the commission of torture by another or does not prevent its commission and on any person who at the instigation or with the consent of a public servant commits torture.

Torture shall not be deemed to include physical pain or suffering arising only from lawful sanctions or resulting from a legitimate act of authority.

Article 206 *ter*. With regard to the provision of redress to torture victims, the rules set out in title 3, chapter VI, of book 1 shall be observed and the payment referred to in article 48 of this Code shall be effected in a single instalment.

Article 206 *quater*. A public servant who in the discharge of his or her functions becomes aware of an act likely to constitute torture shall be obliged to report it immediately. Failure to do so shall render the public servant liable to a term of imprisonment from 3 months to 3 years and to a fine equivalent to between 15 and 60 days.

The penalty described in the preceding paragraph shall be increased by up to one half in the case of a public servant who, although able to prevent the commission of

the crime of torture by immediate intervention and without personal risk or risk to others, fails to do so.

Article 206 *quinquies*. No exceptional situations such as internal political instability, urgency in the conduct of investigations, security measures or any other circumstance shall be invoked as or constitute grounds for exemption from liability for the crime of torture; nor may an order from a superior officer or other authority be invoked as a justification of torture.

The crime of torture shall not be subject to statutory limitations.

The Federal District government's adoption of the draft submitted in April 2011 with the involvement of several civil society organizations is a major step in achieving progress in the eradication of this crime and enhancing the protection of victims.

### **3. Federal District Act on the Enforcement of Criminal Penalties and Social Rehabilitation**

77. As a consequence of the constitutional reforms, the Federal District Act on the Enforcement of Criminal Penalties and Social Rehabilitation was published on 17 June 2011, its purpose being to regulate the execution, modification and duration of sentences and security measures imposed by the judicial authority and also the organization, administration and operation of the prison service in the Federal District.

78. In this connection the role of enforcement judge is being created as the authority responsible for the commutation, amendment or extinction of sentences and security measures in accordance with the principles of the reform of the criminal justice system.

### **4. Federal District Juvenile Justice Act**

79. With regard to criminal justice for young persons, the existing Federal District Juvenile Justice Act was published on 14 November 2007 and amended on 8 February 2011, establishing mediation as an alternative mechanism in the courts and thereby aiming to expedite the resolution of cases submitted.

80. Work on drafting a juvenile justice act is currently being pursued in inter-institutional discussions within the framework of the coordinating council for implementation of the criminal justice system in the Federal District, with the involvement of the judges and legal officers concerned. The text is now undergoing examination with a view to the submission of a final draft to the coordinating council by the High Court.

81. Alternative dispute resolution mechanisms have been included in a chapter of the Federal District Act on Comprehensive Justice for Juveniles in Conflict with the Law. To that end several national laws which provide for such mechanisms were examined and a comparison was made of definitions and their consistency with regard to admissibility, procedures and effects in order to identify best practices. That task was undertaken through various working meetings with judges who deal with non-serious juvenile offences in order to gather suggestions and observations and to provide feedback on the draft.

### **5. Implementation of the constitutional reform of criminal justice in the Federal District**

82. The Federal District High Court, in coordination with the other two government organs of Mexico City, has pursued measures in each of the key areas of implementation of the criminal justice reform with regard both to adults and to juveniles, these areas being:

- Communication and dissemination;
- Information technology;



- Infrastructure;
- Alternative dispute resolution methods;
- Training;
- Institutional restructuring;
- Regulation.

83. With respect to the main measures carried out by the High Court, the following are noteworthy:

(a) The setting up of the Specialized Unit on Implementation of Constitutional Reforms in Criminal Matters as the coordinating body for all matters relating to the introduction of the new criminal justice system at the High Court, including aspects concerned with planning, infrastructure, information and communication technologies, training, institutional restructuring, reformulation of operating procedures, publicizing and dissemination as well as matters of a predominantly administrative nature;

(b) The organization of courses and the holding of forums and workshops with a view to disseminating information on the constitutional reforms and raising awareness among public servants at the High Court regarding the forthcoming changes;

(c) The provision of training for public servants assigned to the Specialized Unit in order to enhance their skills and expertise in their respective areas of responsibility so that they can appropriately undertake the design and development of procedures for implementing the constitutional reforms.

84. Training is a major factor in planning and instituting the appropriate accusatorial model for the Federal District and the commissioned public servants have accordingly attended workshops and lectures at the National Institute of Criminal Sciences and the Legal Research Institute of the National Autonomous University of Mexico with Chilean and Colombian specialists sponsored by the World Bank and at the Technical Secretariat for Implementation of the Criminal Justice System (SETEC) of the Ministry of the Interior. Also, visits have been made to courts of federal states which are already operating this system, such as Morelos, Mexico state, Oaxaca, Nuevo León and Chihuahua, with the aim of learning about their experiences and obtaining details and information concerning the models adopted.

85. During the reporting period the Specialized Unit continued working on the implementation process in three areas: (1) the role of enforcement judge; (2) the juvenile justice system and (3) the accusatorial criminal justice system. In the first six months the work focused on the first area, given that transitional article 5 of the constitutional reform decree published on 18 June 2008 stipulated that a new social rehabilitation system was to be established with the conferment of powers on the judicial authority in regard to the execution, modification and duration of sentences, specifying an implementation time limit of 3 years from publication of the reform decree, which expired on 19 June 2011.

86. As regards the introduction of sentence enforcement judges, the High Court, through the Specialized Unit, has carried out work on defining their functions, which will be restricted to those of an enforcement judge within an accusatorial model. This model establishes a specific number of judges who operate under a system of hearings to be allocated by an administrator who will be in charge of a judicial and personnel management system and be responsible for all tasks concerned with administrative matters and providing assistance to judges. Proposals were accordingly put forward in the different key areas, as outlined below.

(a) *Infrastructure*

87. In order to have an adequate infrastructure to accommodate enforcement judges, two proposals were submitted to the Federal District government through the Office of the Chief Justice of the High Court: (1) refurbishment of prisons and (2) construction of new buildings:

Refurbishment of premises

- It was proposed that adequate physical space be created at each place of detention (northern, southern and eastern prisons, Santa Martha centre and community facility for female and male youth in conflict with the law) to enable the new enforcement judge and administrative support staff to effectively and efficiently carry out their duties of overseeing and monitoring the due execution of sentences imposed, thus avoiding transfers of inmates;
- The aim is to refurbish the penal enforcement facilities at these places of detention taking into consideration the formal aspects of the new reforms (identity, projection, security and technological development). These premises are the property of the Federal District government;
- The estimated total cost of the project is 43.3 million pesos;
- The amount requested from SETEC is 3,746,000 pesos;
- The amount granted is 1,466,000 pesos;

Construction of new buildings

- This proposal relates to the construction of new buildings at each of the places of detention referred to in the preceding subsection, with an accusatorial model and a judicial administration system, taking into consideration the investment in actual constructional work, including related security requirements, as well as the new adversarial system of criminal justice;
- The estimated amount for infrastructure is 695.0 million pesos.

(b) *Institutional restructuring (planning)*

88. On the basis of an analysis of staffing for the Division of the Prison Service and an analysis of cases dealt with by enforcement panels at the lower criminal courts and juvenile courts, a proposal was submitted concerning the number of enforcement judges required in the Federal District.

89. Occupational profiles for the sentence enforcement courts which would be located at each of the prisons and at the juvenile detention centre have also been presented. Organizational and procedural manuals have been prepared to serve as a basic tool for designing, developing and implementing automated systems for the administrative work of the new courts.

90. Steps have been taken with a view to establishing the structure of the comprehensive support unit described in the Federal District Act on the Enforcement of Criminal Penalties and Social Rehabilitation published in the Official Gazette of the Federal District on 17 June of the current year, and operating guidelines for the comprehensive support unit have been prepared on the basis of the Act.

(c) *Training*

91. One of the most important aspects involved in instituting the role of enforcement judge is the training of justice personnel, which has been undertaken despite the absence of

the related legislation. Training programmes have been prepared both for candidates for the post of judge and for administrative staff due to commence their duties on 19 June of the current year.

92. The training programme designed for successful candidates in the competitive examination for the specialist post of sentence enforcement judge was drawn up and implemented in conjunction with the Institute of Legal Studies.

(d) *Dissemination*

93. In coordination with the Institute of Legal Studies of the Federal District High Court, ABC Radio has produced and broadcast on AM frequency 760 kHz, as part of the Know Your Rights project, 19 radio programmes, 11 of which dealt specifically with the role of enforcement judge. Information and dissemination projects relating to the implementation of the related reform have also been formulated with a view to the allocation of resources of the Federal District High Court for the 2011 fiscal year.

94. Work has been carried out with the Office of the Attorney-General and the Public Defence Office of the Federal District on developing a project specially designed to publicize and disseminate information on the implementation of the 2011 constitutional reforms in criminal matters, which, although not wholly concerned with the role in question, encompassed the entire accusatorial system of criminal justice. This proposal was submitted to and approved by SETEC for an amount of 1.8 million pesos and these funds, which will be chargeable to the Office of the Attorney-General of the Federal District, are to be disbursed by the Federal District Technical Secretariat as the implementing unit for the criminal justice system in the Federal District.

95. A forum on the role of enforcement judge in Mexico's new criminal justice system, organized and conducted in cooperation with the Institute of Legal Studies, took place on 18 and 19 May 2011. Also, a forum on sentence enforcement judges was held on 20 and 21 June 2011 in collaboration with the National Institute of Criminal Sciences.

## 6. Reforms in Mexico state

96. With regard to legislative work in the area of torture prevention in Mexico state, the presentation was announced on 13 February 2012 of a legislative package on human rights, including reforms in criminal matters to combat and punish torture, drawn up in conformity with the international standards set forth by the Inter-American Commission on Human Rights and in the Istanbul Protocol with the primary aim of ensuring the observance of the highest global human rights standards for the prevention and punishment of acts of cruel, inhuman or degrading treatment committed by any authority. This legislative package was published on 30 March 2012 in the official state gazette.

97. As part of the steps taken pursuant to the constitutional reform of the criminal justice system published in the Official Gazette of the Federation on 18 June 2008 to ensure due process for torture victims in order to guarantee the assessment of evidence of torture, Mexico state has commenced implementation of the oral accusatory or adversarial system of criminal justice as provided for in that reform, including the preparation of guidelines for the protection of victims during both the investigation stage and the trial, which are fully set out in article 20, section C, of the Federal Constitution. These guidelines are as follows:

“I. Provision of legal advice to the victim, notification of the rights available to the victim under the Constitution and, whenever the victim so requests, communication of information on the conduct of the criminal proceedings;

II. Cooperation with the public prosecution service to ensure that it has access during both the investigation and the trial to all evidence and facts in the victim's

possession, that relevant procedural formalities are carried out and that the victim can take part in the proceedings and lodge an appeal under the terms of the law. Should the public prosecution service deem such formalities unnecessary, it must justify and substantiate its refusal;

III. Receipt of emergency medical and psychological care from the time of commission of the offence;

IV. Granting of redress. In cases where appropriate, the public prosecution service is required to seek redress, without prejudice to the victim's entitlement to apply for redress directly, and the court may not release the offender from the obligation to provide redress if convicted. The law will establish expeditious procedures for the execution of judgements in regard to the granting of redress;

V. Non-disclosure of the victim's identity and other personal particulars in cases involving minors, rape, human trafficking, kidnapping or organized crime or cases where deemed necessary by the court for the victim's protection, with the rights of the defence being in all cases safeguarded. The public prosecution service is required to guarantee the protection of victims, witnesses and in general all trial participants. Judges must ensure that this obligation is duly complied with;

VI. Lodging of applications for the adoption of preventive or precautionary measures necessary to protect and restore victims' rights; and

VII. Filing of challenges with the judicial authority concerning omissions on the part of the public prosecution service in the investigation of crimes and against decisions not to prosecute, to defer prosecution, to discontinue criminal actions or to suspend proceedings if redress is not afforded."

98. These principles, which have been incorporated in the State Code of Criminal Procedure, must be observed by all entities to which they apply, including the public prosecution service as the body responsible for investigating acts which may constitute offences and in its capacity as a party in the criminal proceedings.

99. On 14 February 2008, Decision No. 21/2007 of the Mexico State Attorney-General was published in the state government gazette, establishing institutional guidelines to be followed by public prosecutors and clerical officers of the prosecution service, forensic medical experts, psychologists and other personnel of the State Attorney-General's Office on the use of the current medical/psychological evaluation report form for cases of possible torture or ill-treatment, whose purpose is to provide instructions for public prosecutors, forensic medical experts, psychologists and other personnel of the State Attorney-General's Office on the application of the Istanbul Protocol in regard to persons alleging such abuse and to set out the institutional guidelines governing its implementation.

100. Article 20, section B II, of the Mexican Constitution and article 153, section II, of the aforementioned procedural code stipulate that a confession made without the presence of defence counsel has no probative value.

101. With regard to legislative measures pursued by Mexico state to establish the operation of the juvenile justice system, a decree published in the Official Gazette of the Federation on 12 December 2005 amended paragraph 4, added paragraphs 5 and 6 and reordered the last two paragraphs of article 18 of the Mexican Constitution for the purpose of instituting a comprehensive justice system which would be applicable to persons aged over 12 and under 18 years charged with committing acts established as offences under the criminal law and would guarantee the fundamental rights recognized by the Federal Constitution for all individuals as well as specific rights afforded to juveniles as developing persons.

102. To give effect to the constitutional amendments of 12 December 2005, the fifty-sixth legislature of Mexico State promulgated, by Decree No. 29 published in the government gazette of 25 January 2007, the State Juvenile Justice Act, which provides for an essentially oral system of justice.

## 7. Reforms in the state of Oaxaca

103. Various modifications to the constitutional provisions on human rights were published in Oaxaca on 15 April 2011 in the official gazette of the state government. These amendments involved changes to the name and functions of the State Human Rights Commission and the establishment within the state high court of a constitutional division, whose powers include the conduct of proceedings for the protection of human rights, which may refer to acts prohibited under article 22 of the Federal Constitution and article 8, section B II, of the State Constitution concerning the prohibition of acts of torture by Mexican government institutions, including public security authorities, and also under article 170 *bis*, paragraph 2, of the State Code of Criminal Procedure in regard the to ex officio imposition of pretrial detention on persons who commit acts of torture, as provided for in article 1 and penalized under articles 2, 3 and 4 of the State Act on the Prevention and Punishment of Torture.

104. In August 2011 the state government adopted the Act Regulating the Use of Force by Personnel of Public Security Institutions of the State of Oaxaca, which reproduces the offences described in the Federal Act on the Prevention and Punishment of Torture. The Act establishes a general obligation on the part of public security institutions to pursue ongoing measures to prevent any act of torture or cruel or degrading treatment related to the use of force and to prohibit the infliction, instigation or toleration of any act of torture or other cruel, inhuman or degrading treatment or punishment. The Oaxaca Department of Public Security is preparing a manual on the implementation of this Act, for which the text of the Istanbul Protocol is being used as a basis.

105. The practice of preventive custody has been revoked under the State Criminal Code and the State Code of Criminal Procedure in March 2012. As part of this measure, article 17, section XVII, of the State Criminal Code is being deleted and article 2, section III, article 19 *bis* and article 64 of the Code of Criminal Procedure are being amended.

106. Within the Oaxaca legal system the State Attorney-General's Office is promoting the adoption of a law on victim support, assistance and protection which will cover victims of crime and use the term "victim" in a broad sense.

107. With regard to criminal justice, the accusatorial system has been instituted by the state government in the regions of Istmo de Tehuantepec and Mixteca, and the coordinating council for implementation of this system anticipates that it will be introduced in the regions of Costa from 9 May 2012, Cuenca from 9 May 2013 and Valles Centrales from 9 May 2014. In a second stage it will be introduced in the regions of Cañada, Sierra Norte and Sierra Sur if the state budgetary allocations so allow. The periods for entry into operation may change, subject to decree of the Chamber of Deputies.

108. The state government is in the process of submitting a co-funding strategy involving international actors, such as the United States Government, in order to facilitate the mechanisms for strengthening and advancing the reforms in criminal matters.

109. The Community Services Department, in coordination with the Attorney-General's Advisers Department, has carried out various activities aimed at preventing cases of torture, providing training for municipal authorities and raising public awareness.

110. Courses on human rights have been organized for public prosecutors by the Oaxaca Department for Preliminary Inquiries and Indictments through the Vocational Training and Development Institute. Also, at all prosecution divisions handling investigations involving arrests there are wallcharts setting out the guarantees afforded to detainees, in accordance with article 20, section B, of the Federal Constitution.

111. The State Attorney-General's Office is seeking to promote the enactment of a law on special protection for trial participants in fulfilment of the constitutional guarantee which requires the public prosecution service to ensure protection for such persons.

112. Although the State Attorney-General's Office does not have internal regulations, the operations of the State Investigation Agency are governed by the State Act on the Prevention and Punishment of Torture and the related Organization Act. If investigating officers are involved in acts of torture, administrative procedures will be initiated against them before the State Attorney-General's Office through the Internal Oversight and Evaluation Office, irrespective of any criminal proceedings which may be instituted.

113. In this connection, given that the observance of human rights in general implies respect for the right to personal safety and integrity, a circular (PGJE/SSP/10/2011) was issued on 11 July 2011 for the purpose of instructing all personnel to uphold the human rights both of crime victims and suspects and of all persons dealt with in the discharge of their duties. These instructions will be of major importance and are to be strictly complied with by all units comprising the Office of the State Attorney-General since any human rights violation can give rise to administrative and criminal liability.

114. The Oaxaca Human Rights Coordination Office, in conjunction with the Association for the Prevention of Torture, organized a panel discussion on the recommendations of the United Nations Subcommittee on Prevention of Torture in the state of Oaxaca, which took place on 1 and 2 February 2012.

115. The event was attended by state government personnel, academics, torture victims, representatives of civil society, the National Human Rights Commission and the Inter-American Commission on Human Rights, and one member of the Subcommittee.

116. As a result of that meeting a report was compiled on requirements for duly following up the Subcommittee's recommendations, which has led to the establishment of a standing working group on the matter. Specialist personnel have been appointed by each institution to serve on this working group, which will shortly hold its first meeting. This will be headed by the state governor and is expected to receive contributions from experts of national and international organizations and civil society and from torture victims in the state.

117. Persons charged with criminal acts and held in remand cells administered by the State Attorney-General's Office undergo medical assessments by a forensic medical expert, who certifies their physical integrity, documents any injuries present and, if they warrant hospitalization, refers the detainee to the civilian hospital. In addition, regular examinations are carried out by the Institute of Expert Services to monitor the state of health of all detainees, who are supplied with any medicinal products required by them, subject to prior diagnosis and authorization by the medical expert. They are also provided with food by the administrative unit during their time in custody.

## **8. Reforms in the state of Nuevo León**

118. The Nuevo León state government is working on reforming the Public Security Act with the addition of a section to regulate the use of force. The amendments would, *inter alia*, provide that "public servants in the police service shall on no account use excessive physical force by reason of their technical capabilities or the intensity of policing

operations, or cause physical or mental pain or suffering merely on the basis of a position of superiority when physically restraining persons to be brought under control, or subject such persons to ill-treatment, punishment or torture”.

### C. Institutional regulations at the federal level

119. With regard to progress achieved in the area of internal regulations of security institutions, the following steps have been taken by the Federal Ministry of Public Security in line with the objectives set out in the National Development Plan for 2007–2012:

- Establishment of the allocation of responsibilities and effective and efficient coordination between the Federation, Federal District, states and municipalities;
- Creation and strengthening of coordinating bodies within the National Public Security System;
- Planning of the introduction of an administrative register of arrests;
- Definition of the basic conditions governing the comprehensive law enforcement development system;
- Regulation of national data on public security; and
- Establishment of effective mechanisms for citizen participation in planning and scrutiny of public security policy.

120. The Federal Police Act of 1 June 2009, which was amended on 25 May 2011, provides for the protection and observance of human rights by stipulating as follows:

“Article 15. The conduct of members of the federal police service shall at all times conform to the principles of legality, objectivity, efficiency, professionalism, integrity and respect for human rights as recognized in the Constitution.

Article 16. The police profession ... shall be governed by the following rules:

...

XII. The procedures for selection, admission, training, instruction, skills upgrading, development, in-service tuition, retention and promotion of personnel shall be laid down in regulations issued for that purpose.

Article 17. The requirements for admission to and retention in the federal police service shall be as follows:

A. Admission:

...

VI. Successful completion of reliability screening processes;

...

XI. Fulfilment of the obligations laid down in the present law and in regulations arising herefrom;

B. Retention

...

V. Successful completion of training, skills upgrading and professional development courses;

VI. Successful completion of reliability screening processes.”

**Protocols on use of force, preservation of evidence and handover of detainees to the authorities**

121. The protocols on use of force, preservation of evidence and handover of detainees to the authorities entered into operation on 23 April 2012. These protocols specify the cases and circumstances where force is to be lawfully, appropriately, rationally and proportionally used.

122. The protocols are the outcome of an agreement signed by the Ministry of the Interior, the Ministry of Defence, the Ministry of the Navy, the Ministry of Public Security and the Office of the Attorney-General of the Republic. These directives set out specifically how and when State force may be used against alleged offenders and the conditions under which detainees must be brought before the prosecutorial and judicial authorities.

123. The protocol on use of force contains specific guidelines regulating the legitimate use of force by federal and judicial police officers and military and naval personnel in the performance of their duties in support of the civilian authorities and pursuant to the Federal Firearms and Explosives Act. It also establishes levels of use of force, stipulating, in particular, that the authorities concerned shall not employ firearms against persons escaping, absconding or attempting to abscond except in cases of aggravated aggressive resistance constituting an imminent risk of death or serious injury.

124. The protocol on arrest and handover lays down the obligation on the part of the security authorities to inform detainees of the reason for their arrest and the rights available to them, acting in full compliance with the law. It sets out the rules whereby the officers responsible have to notify the public prosecution service of arrests carried out by them in connection with the commission of offences or administrative breaches, including the prompt handover of the person arrested and the preparation of a standard police report.

125. Provisions are also set out regarding the treatment of items of evidence found in order to ensure that judges are in possession of sufficient proofs when imposing penalties. The signatory institutions are thus afforded a legal basis for the performance of their functions.

126. Also, the federal law enforcement authorities are obliged, after making an arrest, to draw up a detailed report stating the place and time of arrest, the authority to which the person or persons arrested were handed over and whether or not there was resistance. If injuries are present, the report must indicate whether they were inflicted during arrest, owing to resistance, or in what circumstances they occurred.

127. With regard to the chain of custody and preservation of evidence, the protocols establish specific measures and methods to be adopted by the authorities for securing crime scenes and safeguarding evidence that could lead to the establishment of responsibility and the tracing of those guilty of criminal acts.

128. By publishing these protocols Mexico is taking a major step in raising professional standards of police investigation activities, given that the protocols on arrest and handover and chain-of-custody procedures are also applicable to the armed forces and all federal government officials.



### III. Torture prevention training for public servants

#### A. Efforts at the federal level

129. Some 29 training initiatives have been undertaken at the federal level, providing courses or programmes on human rights and the prevention of torture, which were attended by approximately 110,297 public officials between 2006 and March 2012.

130. Also, the courses indicated below were organized during the same period for the states included in the Subcommittee's visit to Mexico:

<i>State</i>	<i>Total courses held</i>	<i>Participants</i>
Federal District	<b>495</b>	45 084
Mexico state	<b>92</b>	6 781
Jalisco	<b>5</b>	282
Oaxaca	<b>16</b>	No information available
Nuevo León	<b>1</b>	127
<b>Total (approximate): 52 274</b>		

131. With regard to training programmes for substantive personnel of the Office of the Attorney-General of the Republic on human rights, combating torture and tools for preventing acts constituting torture or ill-treatment, the following are noteworthy:

- A specialized course on the prosecution service;
- A course on the Federal Investigation Agency;
- An initial training and skills development course for professional experts;
- A course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment;
- A course on arrest procedures;
- A workshop course on human rights in federal justice administration;
- A seminar on human rights in the area of public security and justice administration;
- The case law of the inter-American human rights system;
- A training programme for public officials of the Office of the Attorney-General on serious human rights violations;
- The investigation and prosecution of acts constituting enforced disappearance of persons;
- A seminar on support for crime victims;
- A seminar on human rights and gender equity;
- A seminar on non-discrimination and rights of persons with disabilities; and
- A seminar on human rights in relation to indigenous issues.

132. The budget disbursed by the Office of the Attorney-General from March 2011 to April 2012 for training of public servants totalled 46.3 million pesos.

<i>Budgetary outlay for training in the Office of the Attorney-General of the Republic</i>			
<i>Public servants</i>	<i>Item of expenditure</i>	<i>2011 (January-December)</i>	<i>2012 (January-April)</i>
<b>Total<sup>3</sup></b>		<b>37.9</b>	<b>8.4</b>
15 501	Support for training public servants	4.3	1.3
33 401	Services for training public servants	33.6	7.1

133. As part of the steps taken by the Ministry of Defence to prevent the perpetration of acts of torture, a workshop course on forensic investigation and documentation for purposes of application of the Istanbul Protocol has been included in its programme on promoting and strengthening human rights and international humanitarian law.

134. Within the priority themes of the programme, various courses, lectures and talks aimed at torture prevention and eradication are provided for all military personnel on topics relating to the Federal Act on the Prevention and Punishment of Torture and the Istanbul Protocol. These are supplemented by other subjects, including the following:

- What is torture?
- An analysis of cases in which military personnel have been reported as suspected perpetrators of acts of torture;
- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international human rights instruments concerned with the prevention and eradication of torture;
- The Istanbul Protocol for medical military personnel;
- Torture prevention measures.

135. On the form used for routine medical examinations of inmates at military prisons the Ministry of Defence has since September 2009 included a space for recording current health status and any history of exposure to violence.

136. The training activities described below have also been conducted by the Ministry of Defence in the area of torture prevention.

(a) Training was provided during 2010 for 8,882 employees at the following events:

- (i) A lecture for judicial military police personnel on the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, other international human rights instruments concerned with the prevention and eradication of torture and the Federal Act on the Prevention and Punishment of Torture, attended by 45 persons;
- (ii) A lecture on searches, arrests, unlawful detention and abuse of authority (torture, incommunicado detention, threats, injuries and killings) for personnel of the Presidential General Staff, attended by 157 persons;
- (iii) Three workshop courses on medical examination and documentation of torture cases and forensic investigation of deaths suspected of being the result of

<sup>3</sup> Millions of pesos.

human rights violations, held at the army and air force study centre and attended by 90 personnel members;

(iv) Lectures and talks on torture prevention, held at the territorial command units of the Mexican army and air force and attended by 8,590 persons.

(b) Training was provided during 2011 for 24,088 employees at the following events:

(i) A lecture for judicial military police personnel on the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, other international human rights instruments concerned with the prevention and eradication of torture and the Federal Act on the Prevention and Punishment of Torture, attended by 120 persons;

(ii) A lecture on searches, arrests, unlawful detention and abuse of authority (torture, incommunicado detention, threats, injuries and killings) for personnel of the Presidential General Staff, attended by 112 persons;

(iii) Three workshop courses on forensic investigation and documentation for purposes of application of the Istanbul Protocol, held at the army and air force study centre and attended by 84 personnel members;

(iv) Lectures and talks on torture prevention, held at the territorial command units of the Mexican army and air force and attended by 23,772 persons.

(c) Training was provided during the current year for 4,295 employees at the following events:

(i) A workshop course on forensic investigation and documentation for purposes of application of the Istanbul Protocol, held at the army and air force study centre and attended by 13 military personnel members;

(ii) Lectures and talks on torture prevention, held at the territorial command units of the Mexican army and air force and attended by 4,282 serving officers.

137. The judicial police, in coordination with the Office of the Assistant Attorney-General for Human Rights, Victim Support and Community Services, has carried out various activities with a view to meeting the goals of the National Human Rights Programme 2008–2012, which sets out a training and awareness strategy on the content and scope of human rights for public servants.

138. In this connection there has been an increase in the number of educational activities undertaken and judicial police personnel trained during 2011 and 2012 in the topics indicated below, which has enabled officers to develop their expertise in areas such as prevention of torture and cruel, inhuman or degrading treatment or punishment.

<i>No.</i>	<i>Educational activities</i>	<i>2011</i>		<i>2012</i>	
		<i>Number of courses</i>	<i>Training participants</i>	<i>Number of courses</i>	<i>Training participants</i>
1	Courses on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	3	32	6	158
2	Workshop course on human rights in federal justice administration	33	516	10	174
3	Course on arrest procedures	2	5	-	-
<b>Total</b>		<b>36</b>	<b>553</b>	<b>16</b>	<b>332</b>

139. Federal judicial police personnel have received training in the practical application of the Istanbul Protocol through a course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment. The aims of the course are to instruct substantive personnel in the effective documentation of physical and psychological evidence for the purpose of identifying possible cases of torture or ill-treatment and to study and analyse the guiding principles of the Istanbul Protocol with a view to duly implementing Decision No. A/057/03 of the Attorney-General of the Republic, which refers in this respect to “notification as to whether training courses for persons responsible for monitoring the system are in line with the principles, standards and cross-cutting themes of human rights, particularly with regard to the prevention of torture and other cruel, inhuman or degrading treatment or punishment”.

#### Activities in 2011

<i>No.</i>	<i>Educational activities</i>	<i>Date</i>
1	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	24 and 25 February 2011
2	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	7 and 8 April 2011
3	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	9 and 10 August 2011

#### Activities in 2012

<i>No.</i>	<i>Educational activities</i>	<i>Date</i>	<i>Venue</i>	<i>Training participants</i>
1	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	23 January	Federal Investigation Agency	32
2	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	24 January	Federal Investigation Agency	31

<i>No.</i>	<i>Educational activities</i>	<i>Date</i>	<i>Venue</i>	<i>Training participants</i>
3	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	25 January	Federal Investigation Agency	31
4	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	26 January	Federal Investigation Agency	31
5	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	27 January	Federal Investigation Agency	32
6	Course on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment	6 and 7 March (Change of venue)		1

140. With regard to training and awareness-raising on the right to a defence and due process guarantees, such as the prevention of torture and ill-treatment and the protection of persons charged and deprived of liberty, substantive personnel attended a workshop course on human rights in federal justice administration in order to upgrade their skills with a view to the prevention of arbitrary arrests and other conduct in breach of human rights. A course was also held on arrest procedures with the aim of enhancing participants' awareness of the zero-tolerance rule on unlawful detention in order to reaffirm the importance of respecting the human rights of persons who are taken into custody, whether for the commission of an offence or in compliance with orders issued by the authorities.

### Activities in 2011

<i>No.</i>	<i>Educational activities</i>	<i>Date</i>	<i>Venue</i>	<i>Training participants</i>
1	Workshop course on human rights in federal justice administration	27 January 2011	San Luis Potosí	4
2	Workshop course on human rights in federal justice administration	24 and 25 February 2011	Chiapas	11
3	Workshop course on human rights in federal justice administration	7 and 8 March 2011	Federal Investigation Agency	41
4	Workshop course on human rights in federal justice administration	17 and 18 March 2011	Querétaro	12
5	Workshop course on human rights in federal justice administration	4 and 5 April 2011	Federal Investigation Agency	29
6	Workshop course on human rights in federal justice administration	14 and 15 April 2011	Veracruz	12

<i>No.</i>	<i>Educational activities</i>	<i>Date</i>	<i>Venue</i>	<i>Training participants</i>
7	Workshop course on human rights in federal justice administration	2 and 3 May 2011	Federal Investigation Agency	37
8	Workshop course on human rights in federal justice administration	12 and 13 May 2011	Sinaloa	21
9	Workshop course on human rights in federal justice administration	19 and 20 May 2011	Office for Human Rights, Victim Support and Community Services	10
10	Workshop course on human rights in federal justice administration	24 and 25 May 2011	Chihuahua	14
11	Workshop course on human rights in federal justice administration	6 and 7 June 2011	Federal Investigation Agency	32
12	Workshop course on human rights in federal justice administration	2 and 3 June 2011	Puebla	1
13	Workshop course on human rights in federal justice administration	16 and 17 June 2011	Jalisco	3
14	Workshop course on human rights in federal justice administration	27 and 28 June 2011	Chiapas	5
15	Workshop course on human rights in federal justice administration	4 and 5 July 2011	Office for Human Rights, Victim Support and Community Services	31
16	Workshop course on human rights in federal justice administration	1 and 2 August 2011	Federal Investigation Agency	26
17	Workshop course on human rights in federal justice administration	4 and 5 August 2011	Office of the Assistant Attorney-General for Organized Crime Investigations	30
18	Workshop course on human rights in federal justice administration	1 and 2 August 2011	Office of the Assistant Attorney-General for Organized Crime Investigations	30
19	Workshop course on human rights in federal justice administration	4 and 5 August 2011	Yucatán	3
20	Workshop course on human rights in federal justice administration	5 and 6 September 2011	Federal Investigation Agency	26
21	Workshop course on human rights in federal justice administration	7 and 8 September 2011	Tijuana	16
22	Workshop course on human rights in federal justice administration	8 and 9 September 2011	Office of the Attorney-General (change of venue)	14

<i>No.</i>	<i>Educational activities</i>	<i>Date</i>	<i>Venue</i>	<i>Training participants</i>
23	Workshop course on human rights in federal justice administration	3 and 4 October 2011	Federal Investigation Agency	23
24	Workshop course on human rights in federal justice administration	6 and 7 October 2011	Quintana Roo	4
25	Workshop course on human rights in federal justice administration	17 and 18 October 2011	Federal Investigation Agency	32
26	Workshop course on human rights in federal justice administration	31 October and 1 November 2011	Federal Investigation Agency	26
27	Workshop course on human rights in federal justice administration	3 and 4 November 2011	Sonora	1
28	Workshop course on human rights in federal justice administration	16 and 17 November 2011	(change of venue)	8
29	Workshop course on human rights in federal justice administration	23 and 24 November 2011	Jalisco	3
30	Workshop course on human rights in federal justice administration	28 and 29 November 2011	Aguascalientes	1

141. With a view to creating opportunities for studying and developing an understanding of human rights principles and norms to enable the public servants concerned to incorporate new techniques and tactics and adapt existing ones in public protection duties with full respect for human rights, the Ministry of Public Security has organized courses with emphasis on torture prevention for senior officers and operational personnel assigned to permanent police posts and checkpoints of the Federal Forces Division and officers of the Regional Security Division.

<i>Courses</i>	<i>Entity</i>	<i>February 2006-March 2012</i>
Training courses for federal, state and municipal police forces	Entire Mexican Republic	97 269 course participants

142. The Ministry of Public Security has also introduced a diploma course in human rights and public security with the primary aim of providing instruction on these topics and fostering a culture of respect for human rights among its public service personnel, especially police officers. It has accordingly continued to actively promote various professional development activities in this respect, having provided training in 2008, 2009, 2010 and 2011 for 140 personnel members through the Ibero-American University. One of the main subjects covered in the diploma course is the prohibition of torture, including its conceptualization in international law applied in the domestic context.

143. It has run various courses to train instructors and trainers in the areas of human rights and humanitarian principles applicable to the police service. In 2008 and 2011 the

Ministry of Public Security and the International Committee of the Red Cross (ICRC) concluded concerted action agreements whose key component is the training of public servants as instructors and trainers in human rights and humanitarian principles applicable to the police service, with special focus on the legitimate use of force and firearms by law enforcement officials.

144. It has held nine instructor training courses, through which 196 public servants were granted international certification entitling them to give tuition and instruction in the Spanish-speaking American continent, thus clearly showing Mexico and its federal police as promoters of international human rights and humanitarian law standards in the police service. One of the topics covered is torture prohibition in the international, regional and national spheres.

145. With regard to training provided by the Ministry of Public Security for prison personnel, particular mention should be made of the organization of workshops on the implementation of the Istanbul Protocol. These workshops are concerned with developing the following areas: prevention and detection of physical and mental torture of inmates on admission to, during incarceration at and on release from federal penitentiaries; cooperation with national and international mechanisms, civil society groups and other specialized international organizations; conformity of medical examinations at places of detention with the Istanbul Protocol; and action to deal with investigative bodies' enquiries as well as complaints and reports of torture in accordance with international standards.

146. In this connection a seminar was held on prohibition of torture and application of the Istanbul Protocol for the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment, the objective of the seminar being the prevention of torture through the use of diagnostic procedures as set out in the Istanbul Protocol in medical and psychological examinations conducted by federal prison service personnel. A total of 1,219 staff members (physicians, psychologists, lawyers, guards and custody officers) took part in the seminar.

147. These activities are carried out in conjunction with the Office of the United Nations High Commissioner for Human Rights in Mexico, the Ministry of Foreign Affairs, the Office of the Attorney-General of the Republic and the National Human Rights Commission. Details of the courses held are given below.

<i>Federal facility</i>	<i>Location</i>	<i>Period</i>		<i>Total</i>
		<i>2008</i>	<i>2011</i>	
Altiplano social rehabilitation centre (No. 1)	Almoloya de Juárez, Mexico state	119	42	<b>161</b>
Western social rehabilitation centre (No. 2)	Puente Grande, Jalisco	117	62	<b>179</b>
North-eastern social rehabilitation centre (No. 3)	Matamoros, Tamaulipas	218	39	<b>257</b>
North-western social rehabilitation centre (No. 4)	Tepic, Nayarit	104	47	<b>151</b>
Eastern social rehabilitation centre (No. 5)	Villa Aldama, Veracruz		72	<b>72</b>
North-north-western social rehabilitation centre (No. 7)	Durango, Durango		36	<b>36</b>



<i>Federal facility</i>	<i>Location</i>	<i>Period</i>		<i>Total</i>
		2008	2011	
Psychosocial rehabilitation centre	Ciudad Ayala, Morelos	97	41	<b>138</b>
Islas Marías complex	Islas Marías	139	86	<b>225</b>
<b>Training participants</b>		<b>794</b>	<b>425</b>	<b>1 219</b>

148. A further aim of these courses on human rights and prohibition of torture and other cruel, inhuman or degrading treatment or punishment is to familiarize administrative, legal and technical personnel, guards and custody officers at every federal remand and social rehabilitation centre with the regulatory framework set out in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Code of Conduct for Law Enforcement Officials with a view to the prevention of human rights violations, including the prohibition of torture, in the performance of their duties. These courses were organized as follows:

<i>Federal facility</i>	<i>Location</i>	<i>Period</i>						<i>Total</i>
		2006	2007	2008	2009	2010	2011	
Altiplano social rehabilitation centre (No. 1)	Almoloya de Juárez, Mexico state		464	781	912	1 032	1 298	<b>4 487</b>
Western social rehabilitation centre (No. 2)	Puente Grande, Jalisco		553	769	1 198	1 213	1 436	<b>5 169</b>
North-eastern social rehabilitation centre (No. 3)	Matamoros, Tamaulipas		659	762	1 391	1 113	1 351	<b>5 276</b>
North-western social rehabilitation centre (No. 4)	Tepic, Nayarit		647	1 162	1 594	1 221	1 413	<b>3 222</b>
Eastern social rehabilitation centre (No. 5)	Villa Aldama, Veracruz	Began operating in 2008		465	772	917	1 382	<b>3 536</b>
South-eastern social rehabilitation centre (No. 6)	Huimanguillo, Tabasco	Began operating in 2011					370	<b>370</b>
North-north-western social rehabilitation centre (No. 7)	Durango, Durango	Began operating in 2011					402	<b>402</b>
North-western social rehabilitation centre (No. 8)	Guasave, Sinaloa	Began operating in 2011					135	<b>135</b>
Psychosocial rehabilitation centre	Ciudad Ayala, Morelos		353	474	693	802	1 412	<b>3 734</b>
Islas Marías complex	Islas Marías		113	296	282	329	632	<b>1 652</b>
<b>Training participants</b>								<b>27 983</b>

149. One of the workshop courses undertaken by the Ministry of Public Security was on the prevention of human rights violations in the prison service, its purpose being to develop awareness among federal prison system trainees and provide them with theoretical and methodological tools so that from the time of their initial training they would gain an understanding of the mechanisms for preventing human rights violations, particularly with respect to the prohibition of torture, and a full knowledge of human rights protection and advocacy organizations at the national and international levels.

<i>Initial training</i>	<i>Location</i>	<i>August 2011-April 2012</i>
National Academy of Prison Administration	Lencero, Veracruz	1 579 course participants

## **B. Efforts in the Federal District**

150. At the state level the Office of the Attorney-General of the Federal District includes the topic of ethics and human rights in its professional development courses and organizes a higher technical university diploma course in criminal investigation for the training of police detectives. This course is recognized by the Ministry of Education and its syllabus includes torture prevention and human rights protection.

151. A training workshop on torture prevention and investigation under the new criminal justice system was conducted on 26 May and 2, 16 and 23 June 2011 by the Vocational Training Institute of the Federal District government in coordination with the Mexican Commission for the Defence and Promotion of Human Rights and the Human Rights Directorate in the Office of the Attorney-General of the Federal District.

152. The workshop covered the following topics:

- International standards;
- Definitional elements of the crime of torture in Mexico, with emphasis on Federal District legislation;
- Prevention and investigation of torture under the new criminal justice system;
- Action to combat acts of torture in relation to constitutional measures for the control of organized crime;
- Investigation of cases of torture (application of codes of ethics and the Istanbul Protocol);
- International experiences in the investigation and prosecution of torture cases, and activities of the Human Rights Commission of the Federal District in connection with the documentation and investigation of torture cases;
- Procedural protocol on investigating and prosecuting torture cases and providing victim support;
- Medical and psychological aspects of torture investigation in accordance with the procedural protocol of the Office of the Attorney-General of the Federal District;
- Involvement of the Directorate for Victims of Crime in the reporting procedure.<sup>4</sup>

153. This workshop was attended by 53 public servants comprising prosecution personnel and experts from different units of the Office of the Attorney-General of the Federal District. Also, 10 public defence lawyers took part.

154. The Vocational Training Institute has organized various courses and diploma study programmes on topics concerned with access to justice, the new criminal justice model and the new investigative policing model, including:

<sup>4</sup> Contributions were made at this workshop by international speakers including Dr. Barbara Frey of the University of Minnesota (rapporteur for the drafting of the Istanbul Protocol) and Dr. Carlos Castresana (former head of the International Commission against Impunity in Guatemala).

- An introductory course on the accusatorial system;
- A diploma course on litigation techniques under the accusatorial system;
- A diploma course on forensic sciences;
- The sixth training forum, held in 2011, on enforcement of criminal penalties under the accusatorial system, prison jurisdiction and social rehabilitation.

155. The special treatment of young persons and the protection of their human rights, including with respect to the prohibition and prevention of torture and ill-treatment, form part of the training received by substantive personnel of the institution (public prosecutors, clerical officers and police detectives) in diploma courses on:

- Prosecutorial investigations;
- Police investigations; and
- Juvenile justice.

156. With regard to human rights training activities conducted by the Council of the Federal Judiciary, particular mention may be made of the following programmes which are closely related to torture prevention:

<i>Title</i>	<i>Date</i>
Course on training of teachers in international human rights law	10 August to 7 November 2009
Lecture on issues of legal accountability under the adversarial criminal justice system	4 November 2009
Specialized training course on the role of sentence enforcement judge	28 September 2010 to 10 February 2012
Course on protection of the rights of migrant workers and their families and human trafficking for purposes of labour exploitation	4 and 11 May 2011
Lecture on current issues of fundamental rights	27 May 2011
Introductory seminar on constitutional reforms concerning the remedy of <i>amparo</i> and human rights and their implications for the work of the judiciary	23 and 24 September 2011
Lecture on universal justice and its importance in the defence of human rights: a practical outlook	3 November 2011
Book presentation: <i>Jurisprudencia interamericana sobre derechos humanos</i> (inter-American human rights case law)	19 January 2012
Course on constitutional reforms concerning the remedy of <i>amparo</i> and human rights: opening lecture on international human rights law	1 February to 22 March 2012
Itinerant workshops on the impact of the constitutional reforms concerning the remedy of <i>amparo</i> and human rights on the work of the judiciary	March to October 2012

<i>Title</i>	<i>Date</i>
Lecture on contemporary themes concerning the inter-American human rights system	8 March 2012
Lecture on the crisis of the <i>nullum crimen sine lege</i> principle: causes and effects	21 March 2012
Lecture on different applications of the <i>pro homine</i> principle	16 April 2012
First seminar on international humanitarian law	17 to 19 April 2012

157. In March 2011 the Federal District Department of Public Security conducted a distance-learning course on human rights, including a situational analysis and the Human Rights Programme of the Federal District, the aim of the course being to develop a human rights culture among public servants. All senior staff took part in the course.

158. The Federal District Department of Public Security has organized the following workshops in coordination with ICRC: “Serve and protect: international human rights law and humanitarian principles for law enforcement authorities”, a major component of which is the legitimate and rational use of force in accordance with related international standards; “Non-violent dispute resolution”; “Youth and public safety” and “Sexual diversity, HIV/AIDS and human rights”.

<i>Workshop title</i>	<i>Number of workshop sessions</i>	<i>Number of participants</i>
Serve and protect	136	1 997
Non-violent dispute resolution	120	2 056
Youth and public safety	62	658
Sexual diversity, HIV/AIDS and human rights	38	879
Use of handcuffs	125	2 710
<b>Total</b>	<b>481</b>	<b>8 300</b>

159. Set out below are details of the training activities organized for ICRC-certified instructors of the Federal District Department of Public Security.

- In March 2011 they underwent refresher and update training by ICRC on the workshop “Serve and protect: international human rights law and humanitarian principles for law enforcement authorities”;
- In April 2012 they attended a course on the rights of indigenous communities in the Federal District given by personnel of the Human Rights Education Division within the Human Rights Commission of the **Federal District**;
- In June 2012 they received refresher training on the Federal District Civic Culture Act (tuition given by the Legal Services Department);
- In October 2011 they received refresher training on equality and non-discrimination via the virtual platform of the National Council for the Prevention of Discrimination in an online course entitled “The ABC of equality and non-discrimination”, which was supplemented by an attendance course;

- In November 2011 the workshop “Domestic and gender-based violence” was organized by the speakers programme office of the Embassy of the United States of America;
- In November 2011 the workshop “Training for public servants in reducing stigma and discrimination” was conducted by the Mexican Health Foundation with financing from the Global Fund, its aim being to develop public servants’ awareness and skills with a view to the provision of services that are free of stigma and discrimination;
- In December 2011 the workshop “Investigation of femicide cases with due diligence” was conducted by the National Institute for Women and the Training Institute of the Office of the Attorney-General of the Federal District.

160. Skills upgrading has been provided by the Technical Institute of Police Training for its personnel, as described below.

- In January 2011 a train-the-trainer course on handcuffing and the legitimate use of force was held for 168 trainers;
- In February 2011 refresher training was provided on the course “Use and handling of handcuffs and the legitimate use of force” for 1,320 officers of the bank and industry police division;
- In March 2011 an international seminar on organized and transnational crime and drug trafficking was organized by the Italian Central Directorate for Anti-drug Services, the Embassy of Italy and the Technical Institute of Police Training for senior staff of the Ministry of Defence, the Ministry of the Navy, the Office of the Attorney-General of the Republic, the Federal Police, the Federal District Department of Public Security, the Office of the Attorney-General of the Federal District, the Federal District government, El Salvador and Guatemala as well as managerial personnel and teachers of the Technical Institute of Police Training;
- In March 2011 a workshop on civil justice was conducted for 102 trainees from the Technical Institute of Police Training by the Executive Directorate for Civil Justice of the **Federal District** government;
- In April 2011, 50 **Federal District** crime prevention officers began a degree study course in police administration at the Technical Institute of Police Training.<sup>5</sup>
- In September 2011 a diploma course on public security, human rights and the accusatorial criminal justice system (leading to a specialist qualification in public security and human rights) was introduced for senior staff of the Federal District Department of Public Security, the Ministry of Defence, the Ministry of the Navy, the Ministry of Public Security and the Office of the Attorney-General of the Federal District, its aims being the enhancement of the vocational training of middle- and higher-ranking operational personnel in order to foster a more humane and scientific approach among the participants with a view to efficient crime prevention and also the provision of methodological tools and the development of law enforcement

<sup>5</sup> The degree programme includes two modules on human rights, which are studied in the second and third course semesters, covering topics such as background data; the Mexican Constitution and human rights; human rights in Mexico; preventive policing and human rights; analysis of acts constituting human rights violations by public servants (police personnel) in the performance of their duties; the Federal Act on the Prevention and Punishment of Torture; the Federal Act on the Administrative Responsibilities of Public Servants; criminal justice and human rights; and human rights and *amparo* proceedings.

administrative systems and procedures that will encourage intersectoral coordination to create a united front and ensure more effective public protection, at all times within the framework of a culture of respect for human rights;

- Since January 2011 a basic law enforcement training course incorporating human rights as a cross-cutting theme has been in operation, the number of public servants who took part in 2011 totalling 464;
- From January to June 2011 training in handcuffing and the legitimate use of force for operational personnel was provided for 34,045 officers.

161. The degree courses in law enforcement administration, criminology and police investigation and the diploma course in human rights and public security (for managerial personnel) organized by the Human Rights Commission of the **Federal District**, the Autonomous University of Mexico City, the citizens' watchdog body Observatorio Ciudadano de la Ciudad de México and the Technical Institute of Police Training cover topics arranged in modules on, inter alia, the prevention and punishment of torture, the rational use of force, the Istanbul Protocol and the Federal Act on the Prevention and Punishment of Torture.

162. A 130-hour diploma course on torture prevention and eradication is scheduled for 2012 by the Technical Institute of Police Training for its trainers and teaching staff and for police instructors, trainers and teaching staff of the auxiliary police division and the bank and industry police division in order to incorporate in the tuition which they provide for both new and serving officers a skills upgrading element on the topics of non-arbitrary arrest, lawful detention, use of force and prevention of torture and other cruel, inhuman or degrading treatment in the performance of police duties.

163. The auxiliary police division of the **Federal District** Department of Public Security has carried out the following training activities:

- A refresher course on human rights for 76 officers;
- A refresher course on using and handling the PR-24 police baton for 312 officers;
- A refresher course in self-defence for 184 officers; and
- A senior personnel course on the legitimate use of police force for 15 officers.

164. In collaboration with the National Institute for Women an ongoing information and leaflet campaign aimed at the prison population is being conducted by the Office of the Attorney-General of the Federal District, the Human Rights Commission of the **Federal District** and the Federal District Division of Prison Matters to promote a culture of crime reporting.

165. In 2011, training was provided to students in the second intake of the diploma course on human rights in the prison service, which covers topics related to the issue of non-discrimination. This educational activity is undertaken in coordination with the Human Rights Commission of the **Federal District** and the Autonomous University of Mexico City.

166. A course on securing crime scenes has been organized, with support from the International Academy of Training in Forensic Sciences, for security, medical, technical, administrative, legal and middle-management personnel in order to develop awareness of safeguards for the preservation of evidence of suspected criminal conduct.

### C. Efforts in Mexico state

167. With regard to training for public servants on the legitimate use of force in Mexico state, 105 public servants engaged in medical, social and psychological work at remand facilities, social rehabilitation centres, the state penitentiary and the Quinta del Bosque juvenile social rehabilitation school in Zinacantepec have since 3 November 2008 undergone training at the Central Regional Academy of Public Security in combating torture and duly applying the Istanbul Protocol with a view to its implementation in prisons.

168. Training has been provided for managerial, technical and administrative personnel and security and custody officers, with support from the State Human Rights Commission, through a total of 82 workshops on the topics of probity and ethical standards in the service; human rights and prison systems; human rights and public security; human rights, public service and codes of conduct; discrimination and gender diversity; vulnerable groups, indigenous peoples and assertive communication.

169. Refresher and update training has been regularly provided for managerial, administrative and technical personnel and security and custody officers, the number of public servants who participated in 2008 totalling 1,305, rising in 2009 to 1,464 and in 2010 to 2,908. The number receiving training in 2011 was 1,272.

170. With respect to budgetary allocations for training and skills upgrading for serving officers of the Department of Public Security, the Institute of Professional Development was assigned a budget of 10,000,000 pesos for each of the fiscal years 2010 and 2011. The cost of this training is approximately 2,000 pesos per participant.

171. Mexico state periodically holds training courses in human rights for its personnel. In the period from March 2011 to March 2012 training on this topic was provided for 1,032 public servants. Details of these training activities are given below.

<i>Period</i>	<i>Subject</i>	<i>Participants</i>	<i>Course provider</i>
March-December 2011	Legal safeguards in Mexico		Mexico State Human Rights Commission
	Public security and human rights	712	
June 2011	Prevention and punishment of torture	40	Institute of Professional Development
January–March 2012	Human rights and public security		Mexico State Human Rights Commission
	Crime Prevention Act of Mexico state	280	
	Basic Principles on the Use of Force and Firearms by Law Enforcement Officials		

172. As regards staff training, the Vocational Training and Development Institute has conducted the following courses since March 2011 in coordination with the Human Rights Unit of the Office of the State Attorney-General and the State Human Rights Commission:

- A course on human rights for the public prosecution service;

- A workshop course on international human rights law and international treaties, conventions and declarations;
- A course on human rights for the judicial police;
- A course on human rights and public service;
- A course on human rights; and
- A lecture on human rights in the civil service.

173. As part of prison staff skills development, particularly in regard to respect for the integrity and fundamental rights of persons deprived of liberty, topics concerned with ethics, commitment to service and human rights, respect for inmates' physical integrity and specialized tactics for prison surveillance have been included, on the basis of the comprehensive training needs assessment programme of Mexico state, in initial and refresher training courses for security and custody officers.

174. In this connection, all security and custodial personnel have followed initial training courses and over 70 per cent have received refresher training. Similarly, all managerial, technical and security personnel have regularly attended talks by human rights agencies on human rights issues and the prison system, which have been given to over 3,000 public servants in the prison service.

175. Particularly noteworthy are the courses on the Istanbul Protocol and combating torture, which have been attended by 215 managerial and technical staff members of the prison service, and the 22 courses on human rights, discrimination and the Istanbul Protocol attended by 585 public servants comprising middle-ranking security officers, custodial staff and technical and legal personnel at the 22 remand and social rehabilitation centres in Mexico state.

#### D. Efforts in the state of Jalisco

176. With the aim of promoting specialized training incorporating a human rights policy element and covering current issues such as contagious diseases, epidemiology, hygiene and forensic medicine, including documentation of injuries and medical ethics, the following courses were organized in the state of Jalisco in 2011 for medical personnel at state penitentiaries, providing training for a total of 68 doctors and 14 nurses:

<i>Course</i>	<i>Number of participants</i>
Metabolic syndrome and latest-generation treatment	30 doctors and 9 nurses
Timely detection of diabetes, hypertension, osteoporosis, multiple sclerosis, chronic obstructive pulmonary disease, poorly controlled asthma, HIV and hepatitis B	18 doctors
Schizophrenia, attention deficit disorder, anxiety-depression syndrome, drug dependence, diabetes, respiratory infections and bipolar depression	20 doctors and 5 nurses
<b>Total participants</b>	<b>68 doctors and 14 nurses</b>



177. The training provided for state prison guards and custody officers is as follows:

<i>Type</i>	<i>Law enforcement training</i>
Specialized	Tactical instruction on prison transfers
Initial	Initial training for custody officers
Refresher	Law enforcement skills development Treatment and human rights of migrants in Mexico Institutional clusters Course for first-line officers (chemical, radiological and explosives detection) Human rights Positive stress management – level I
Specialized	Emotional and psychological equilibrium in critical action-reaction environments Tactical instruction on prison transfers Training of trainers Policing under the accusatorial criminal justice system Degree programme on public security Compassion fatigue management Positive stress management – level I
Academic upgrading	Upper-secondary education qualification with training in public security General upper-secondary education qualification by interdisciplinary area (University of Guadalajara) Preparatory course for the National Higher-Education Assessment Centre examination

178. The Police and Highway Patrol Academy of Jalisco is planning to hold the following courses for substantive personnel (200 public servants) in 2012:

<i>Course</i>	<i>Number of participants</i>
Compassion fatigue management	70
Positive stress management	70
Institutional clusters	30
Awareness development, human relations and service quality	30

## **E. Efforts in the state of Oaxaca**

179. With regard to training programmes in the state of Oaxaca, the Vocational Training and Development Institute of the State Attorney-General's Office is seeking the assistance of the National Human Rights Commission in the implementation of skills upgrading courses, including one on the application of the Istanbul Protocol, for personnel of the State Attorney-General's Office.

180. The Oaxaca state government has conducted various courses on aspects of human rights for personnel of the State Investigation Agency, including topics such as human rights under the accusatorial system, police investigative techniques, the use of force and human rights, justice administration and human rights, and human rights during detention. The National Human Rights Commission, the Vocational Training and Development Institute and also the Office of the Human Rights Ombudsman of Oaxaca participated in the organization of these courses.

181. The Oaxaca Department of Public Security has a professional development institute which serves as a centre for training the state's public security institutions in conformity with the standards set out in the professional development policy programme of the National Public Security System. This institute is responsible for executing plans and programmes and specifically their thematic content, for example the topic on the rational use of force, which is included in training courses for the state and municipal police forces and prison custody officers and also the initial training course.

182. The topic of combating torture is included in the course on human rights and gender equity provided for public security institutions.

183. With respect to skills upgrading programmes for prison staff, the Department of Public Security has held the following courses for security and custody officers at places of detention:

- Human rights at social rehabilitation centres and controlling prison disturbances;
- Criminology and prison systems;
- Emergency psychological intervention in prisons;
- PR-24 expandable baton and handcuffing techniques;
- Internal security and prison population management;
- Prison response teams;
- Maintaining and restoring law and order;
- Alternative dispute resolution measures;
- Prisoner transport operations and drug detection in prisons;
- Specialized security measures to meet juvenile offender treatment objectives;
- Transferring high-risk prisoners;
- Intervention strategies in prisons;
- Identifying narcotic drugs;
- Police self-defence techniques; and
- Intervention techniques and tactics.

184. All these courses are conducted by the South-eastern Regional Academy of Public Security in the state of Veracruz. Also, a human rights workshop course on the use of force in police operations has been given by the Office of the Human Rights Ombudsman of Oaxaca.

185. In late January 2012 the Human Rights Coordination Office, in conjunction with ICRC, organized an awareness seminar on human rights and humanitarian principles applicable to the police service, which was attended by more than 30 officers from the State Investigation Agency of the Oaxaca Attorney-General's Office and from divisions of the Department of Public Security, who received a total of over 25 hours' related training. It is

planned to repeat the initiative in September 2012 for the benefit of additional personnel from both institutions.

## **F. Efforts in the state of Nuevo León**

186. In Nuevo León the State Human Rights Commission issued recommendation No. 07/2011, whose points 3 and 4 called for the provision of human rights training for custodial personnel of the social rehabilitation centres and the juvenile detention and rehabilitation centre. That recommendation was accepted by the authorities and complied with as follows:

- The Nuevo León Department of Public Security sought the assistance of the Security Sciences University (a decentralized government body responsible for the training of police public servants) with a view to including the observance of human rights in the content of induction, training and skills upgrading courses provided for public officials at places of detention;
- Pursuant to the Commission's recommendation, security and custody officers at the social rehabilitation centres and the juvenile detention and rehabilitation centre are receiving training in human rights and the use of force.

187. The State Human Rights Commission also issued recommendation No. 16/2011 for the purpose of instructing the State Academy of Public Security to assume responsibility on its behalf with a view to developing teaching content for inclusion in induction and training courses to be provided for prison personnel.

188. In connection with that recommendation, the Security Sciences University has indicated that the higher technical university courses conducted by it place emphasis on prison administration and incorporate police ethics, moral values and human rights.

189. In addition, the State Human Rights Commission issued recommendation No. 21/2011 (also accepted by the Department of Public Security), whose point 3 called for the provision of human rights training for custodial personnel of the social rehabilitation centre in Apodaca, Nuevo León, with a view to the submission of a request to the Security Sciences University concerning the inclusion of the topic of human rights in induction, training and skills upgrading courses.

190. Pursuant to recommendation No. 73/2011, issued by the National Human Rights Commission, calling for human rights training to be provided for middle-ranking and operational law enforcement personnel, a training course on human rights for the public security service was introduced by the state government on 13 February 2012. The training has been carried out at the alternate headquarters of the Security Sciences University for personnel designated by the State Police Agency. As at 14 April 2012, 127 state police officers had attended the course.

191. The course comprises 7 modules covering a total of 80 hours, with the requirements of 90 per cent minimum attendance, class participation and the production of a final paper. The programme content is also studied in the cadet training course given at the Security Sciences University and in the skills upgrading courses regularly held for law enforcement officers at police training camp No. 1.

## **IV. Public policies on torture eradication**

### **A. Public policies at the federal level**

192. With a view to preventing acts of torture or ill-treatment and, where appropriate, investigating and punishing public servants responsible for such human rights violations, the Office of the Attorney-General of the Republic, through the Office of the Assistant Attorney-General for Human Rights, has since March 2012 set up human rights protection units at the premises of the federal investigation centre, the Office of the Assistant Attorney-General for Organized Crime Investigations and the metropolitan division of the Office of the Attorney-General.

193. These human rights protection units carry out inspection tours at places of detention on a daily basis in order to check:

- That cells are kept clean;
- That there are sufficient blankets for detainees;
- That detainees are provided with food and drink;
- That detainees receive medical care if required;
- That wallcharts referring to detainees' fundamental rights are displayed;
- That males are kept separate from females.

194. Also, the Office of the Assistant Attorney-General for Human rights, Victim Support and Community Services undertakes inspection visits to state divisions of the Office of the Attorney-General of the Republic and to places of preventive custody in order to detect any irregularities and adopt measures in conformity with the law. In cases where human rights violations are found, the necessary action is taken to ensure that the violation ceases, legal guidance is provided and a complaint is duly initiated. During the period between March 2011 and April 2012, 25 such visits were carried out.

195. The Attorney-General's Office also operates an institutional programme for the promotion of a human rights culture, whose purpose is to build confidence in the institution both internally and externally and to raise public awareness of the scope and content of human rights.

196. The measures taken to implement this programme are concerned primarily with the production of bibliographic material through the publishing programme of the Attorney-General's Office. Also, information material in the form of posters, brochures, leaflets and pamphlets is distributed at all administrative units of the Attorney-General's Office, including divisions in the individual states.

197. With respect to torture prevention, the following documents have been distributed: Decision No. A/057/2003 of the Attorney-General of the Republic on the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment, the first edition of the basic guide to combating torture and the second general report of the Attorney-General's Office on complaints of alleged torture against public servants filed with the National Human Rights Commission during the period from November 2006 to May 2010 and on the use of medical/psychological evaluation reports between 2007 and 2009.

198. The educational material is aimed at promoting a culture of respect for human rights and is used primarily as an aid to human rights training.

199. In this connection, a poster on prisoners' human rights has been distributed for display in cells and in places accessible to the general public. The poster shows the telephone numbers of the Office of the Assistant Attorney-General, the Inspectorate-General and the Office of Internal Oversight.

200. With regard to institutional measures to prevent torture and punish the public officials involved, the penitentiary strategy 2008–2012, referred to above, has been produced by the Ministry of Public Security as a policy document on action to modernize the country's prison system, focusing on easing overcrowding, strengthening security at prison premises, combating corruption and developing a new prison model.

201. This model is structured on the interlinkage of the five components of social rehabilitation, employment and employment training, education, health and sport.

202. The following material on human rights, torture prevention and the legitimate use of force has been produced by the Ministry of Public Security and is distributed to personnel of the federal protection service, federal police and federal prison service, state and municipal police forces nationwide, and judicial and public prosecution authorities, among others:

- Brochures:
  - Protection of human rights;
  - Prevention and detection of torture;
- Booklets:
  - United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;
  - United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
  - United Nations Code of Conduct for Law Enforcement Officials;
- Books:
  - Human rights norms and practices for the police;
  - Istanbul Protocol: Manual on the detection of cases of possible torture or other cruel, inhuman or degrading treatment or punishment.

## **B. Public policies in the Federal District**

203. At the state level the activities outlined below have been undertaken by the Federal District government.

### **1. Transparent prosecution service programme**

204. Electronic screens have been installed at visible locations on the premises of the prosecution divisions of the offices of the Assistant Attorneys-General for central and devolved preliminary investigations. Operating 24 hours a day 365 days a year, the screens reproduce data contained in the preliminary investigation system, thus providing detainees' relatives instantly with accurate information on persons handed over to the prosecution service, such as their legal status and the offence with which they are charged, and show a countdown clock indicating the time remaining for the public prosecutor to determine the detainee's status.

205. This mechanism is a tool for overseeing the conduct of the prosecution service to ensure that persons handed over to the Attorney-General's Office are not held in custody beyond the statutorily permitted period.

206. The screens display the following information:

- Preliminary investigation number;
- Date and time of commencement of the preliminary investigation;
- Name and age of the accused;
- Prosecution unit conducting the preliminary investigation following arrest;
- Offence with which the detainee is charged;
- Countdown clock showing the time remaining for determination of the legal status of the accused; and
- Legal status of the accused.

207. To date 70 screens have been fitted at regional divisions and central investigation departments. Thus, all premises of the public prosecution service in the Federal District now have this equipment.

208. The transparent prosecution service web programme was implemented in September 2010 as the second stage of the above programme. The web programme, which allows Internet searches to be made on persons handed over to the prosecuting authorities, provides the public with details of the prosecution division at which a relative or acquaintance is being held, the name of the head or person in charge of the division, a georeferenced map of its location and the charges against the detainee.

209. The Assistant Attorney-General's Office, in collaboration with the company BlackBerry Latinoamérica, has developed an application for mobile devices which includes the prosecution service web programme and a directory of public officials of the Attorney-General's Office.

210. Through these programmes the public can acquire sufficient data to access the prosecution division in order to obtain further information, either via the web programme screen display or directly from prosecution personnel, thereby contributing to increased monitoring of arrests and the prevention of incommunicado detention.

211. In connection with its participation in the 2011 innovation competition held by the Public Information Access and Personal Data Protection Institute of the Federal District on 7 and 8 February 2012, the Office of the Attorney-General of the Federal District arranged for members of its personnel to make two fact-finding visits to the Office of the Assistant Attorney-General for Devolved Preliminary Investigations, in the course of which they examined 273,609 public logins to the prosecution service programme website, 8,665 downloads, 158,542 inquiries, 29 preliminary investigations initiated following formal complaints and 87 incident reports filed via the BlackBerry application.

## **2. Interpreters and translators**

212. By communication SAPD/300/CA/943/2011-08 the Office of the Attorney-General of the Federal District reiterated to officers of the devolved investigation departments that prosecution personnel under their authority had an obligation to promote and guarantee, in coordination with the Special Prosecution Division, the right of indigenous persons to an interpreter to assist them, in accordance with article 2, section A VIII, of the Mexican Constitution and with article 12 of the Indigenous and Tribal Peoples Convention (No. 169) of the International Labour Organization.

213. The Special Prosecution Division for Cases Involving Indigenous Persons, which is administered by the decentralized investigation departments at specialized divisions, has promoted the conclusion of contracts and agreements with specialist individuals and institutions in the area of support for indigenous persons in order to increase the use of outside experts (translators, interpreters and cultural specialists), thereby enhancing the quality and impartiality of the service.

214. With respect to foreign-language interpreter assistance, the Office of the Attorney-General employs personnel who possess a specialist knowledge of the English, French and German languages and are qualified translators to assist detainees should they so require.

215. As regards other foreign languages, support is provided where necessary by personnel engaged by the Federal District Department of Tourism, who are also qualified as specialists. In addition, consular assistance may be requested under section 5, subsections I, II and III, of Decision No. A/008/2000 of the Attorney-General.

216. Because the districts of Polanco and Zona Rosa are major tourist areas in Mexico City and Polanco is also home to the headquarters of a number of diplomatic missions accredited to Mexico, it was essential that, in addition to the Special Prosecution Division for Cases Involving Domestic and Foreign Tourists situated in Mexico City's historic centre, there should be a specialized unit in the vicinity of those districts. It was accordingly stipulated in Decision No. A/012/2011 of the Attorney-General that the special prosecution units for cases involving tourists would be relocated in the Polanco and Zona Rosa districts in order to bring the justice administration services provided by this body closer to the tourist, diplomatic and consular sector.

217. With the aim of building a justice administration system that guarantees unconditional respect for the human rights of all individuals, Decision No. A/018/2011 of the Attorney-General of the Federal District was issued in order to lay down the procedure to be followed by investigating prosecutors for the purpose of ensuring that persons appearing before them in any capacity — including that of accused — to make a statement were made aware of their rights. To that end a charter of rights has been prepared. This document is to be read out to such persons in order to inform them of their fundamental rights, including the right to be assisted by an interpreter.

218. The charter has been translated into English and its translation into the French language is being planned.

219. Pursuant to article 2 of the Mexican Constitution, the Public Defence and Legal Guidance Directorate of the Federal District Department of Legal Services was requested in a communication dated 15 August 2011 to take the necessary measures to assign public defenders conversant with indigenous languages and cultures to the Attorney-General's Office in order to guarantee the right to an adequate defence for indigenous persons handed over to the prosecution authorities, as laid down in article 2, section A VIII, of the Mexican Constitution, article 12 of the Indigenous and Tribal Peoples Convention (No. 169) of the International Labour Organization and article 4 of the Act on the Public Defence Service of the Federal District.

220. That request was accompanied by several working meetings with the above body, which resulted in the assignment of a Mixteca-speaking indigenous defence lawyer to the Special Prosecution Division for Cases Involving Indigenous Persons.

221. By a communication dated 13 September 2011 the Special Prosecution Division for Cases Involving Indigenous Persons sought the participation and collaboration of the Federal District Department of Rural Development and Equity for Communities with a view to strengthening the provision of defence services for indigenous persons.

222. Decision No. A/010/2011 of the Attorney-General of the Federal District, which was published on 2 June 2011, amended sections 3, 5, 10, 11, 12, 13 and 15 of Decision No. A/008/2005 establishing action guidelines for public prosecutors, forensic medical experts and psychologists on the use of medical/psychological evaluation reports for cases of possible torture.

223. The amendments introduced are as follows:

- The obligation of prosecution personnel to order an immediate evaluation in cases of possible torture;
- The right of victims to be examined by a forensic medical expert and psychologist of their choice;
- The change in the assignment of forensic doctors and psychologists from the Department of Expert Services to the Directorate for Victims of Crime; and
- The organization of training in the use of medical evaluation reports, to be provided under the responsibility of the Vocational Training Institute, which will certify the forensic medical experts and psychologists who successfully complete the courses.

224. The Federal District government, through its Vocational Training Institute, has published the following collections, which, by reason of their specialized thematic content, are useful for purposes of establishing general guidelines for investigations conducted by prosecution personnel and ensuring observance of the right to legal certainty and due process:

- Advanced studies in criminal sciences:
  - Main aspects of oral trials under the new adversarial criminal justice system;
  - Truth and the search for truth in the criminal process: the instrument of the Constitution;
  - Wrongful and unlawful acts in the doctrine of the First Division of the Supreme Court;
  - Challenges of justice administration in a globalized world;
  - Humanism in criminal law;
  - Pretrial detention: constitutional and statutory provisions;
- Criminal law debates:
  - Arrest warrants and committal orders;
  - Introduction to evidence under the new adversarial criminal justice system;
  - Use of physical police coercion, with particular reference to firearms;
- Legislative studies:
  - Act Regulating the Use of Force by Public Security Bodies of the Federal District (with commentary);
- Investigative police:
  - 20 basic rules of police self-defence;
  - 20 basic aspects of police investigative interviewing;
- Judicial investigations:
  - 20 rules for the determination of criminal charges by prosecution authorities;



- 20 basic rules of juvenile justice;
- Other noteworthy publications:
  - Handbook on oral proceedings;
  - Crime prevention: experiences, models and discussion;
  - Criminal trials: international, comparative and Latin American perspectives.

### C. Public policies in the state of Jalisco

225. Practical measures are being taken in the state of Jalisco to prevent acts of torture in prisons and juvenile detention centres, including, in particular, the following:

- Direct supervision of personnel in the different units and also of inmates by prison governors;
- Provision of information in each cell block, setting out inmates' rights and obligations;
- Installation of mailboxes in the different areas of the prison premises for the submission of complaints by inmates and visitors and of requests for interviews;
- Holding of interviews by specialized units to deal with complaints or allegations made by prisoners;
- Visits to cells by the prison inspectorate and social rehabilitation administrative office to enable inmates to express their concerns and anxieties and to report abuse or improper behaviour by penitentiary personnel or other inmates;
- Handling of enquiries concerning prisoners' legal status;
- Daily surveillance and inspection of cell blocks to prevent abuse or improper behaviour by inmates;
- General training in human rights for prison personnel through courses given by instructors of the Human Rights Commission with a view to preventing abuse by public servants against prisoners;
- Inmates' access to telephone communication with their relatives;
- Medical assessment of all inmates admitted to or discharged from prison and recording of their physical condition in injury reports;
- Administrative imposition of coercive or disciplinary measures for acts committed by public servants in violation of prison regulations or state legislation on the enforcement of penalties;
- Assessment by the prison interdisciplinary board of the severity of inmates' breaches of conduct for purposes of imposition of penalties and, where a breach warrants segregation, preparation of the relevant injury report by the medical unit prior to the inmate's relocation to the appropriate cell;
- Observance of the right to receive visitors on days and at times allocated by the prison;
- Distribution of the Istanbul Protocol and other material to personnel working in the areas of psychology, medicine and criminology to assist in the performance of their duties and strengthen respect for every inmate's human rights;

- Upon inmates' admission, provision of a copy of the prison regulations, which set out their rights and obligations during their term of incarceration, and of the visiting handbook, in which the requirements for visitors' admission are specified;
- Application of the Istanbul Protocol in the preparation of medical treatment and injury reports;
- Provision of training for operational, technical and administrative personnel by the State Human Rights Commission;
- Requests for increases in operational and technical staffing levels;
- Installation, in strategic and prominent locations accessible by the general public, of large, clear and understandable notices concerning the reporting of acts of torture, stating that any irregularities by prison personnel should be reported and indicating to whom such reports have to be made.

## **V. Complaints recorded by the national preventive mechanism during 2011**

### **A. Initial visits to places of detention**

226. Although the national preventive mechanism submits its own information to the Subcommittee, it should be noted that, between January and December 2011, personnel from the national preventive mechanism carried out 61 initial visits to places of detention in the states of Baja California, Baja California Sur, Chiapas, Chihuahua, Guerrero, Guanajuato, Hidalgo, Jalisco, Michoacán, Nayarit, Nuevo León, Oaxaca, Puebla, San Luis Potosí, Sinaloa, Sonora, Tlaxcala, Veracruz and Zacatecas.

227. The national preventive mechanism also concluded eight general cooperation agreements on torture prevention with the human rights agencies of Chihuahua, Mexico state, Guanajuato, Nayarit, Quintana Roo, San Luis Potosí, Tlaxcala and Veracruz.

228. As a result of the visits made during the previous year, 10 reports were issued in 2011 and presented to the governments and municipal authorities of the states of Baja California, Baja California Sur, Colima, Nayarit and Puebla. Those reports referred to a total of 2,565 irregularities in connection with the right to humane and dignified treatment, the right to due process and legal certainty, the right to health care, the right to personal integrity and the human rights of vulnerable groups.

### **B. Follow-up visits**

229. In that period 530 visits were made to places of detention in the Federal District and the states of Aguascalientes, Campeche, Coahuila, Durango, Querétaro, Quintana Roo, Jalisco, Sinaloa, Tabasco, Tamaulipas and Yucatán to review the most recent measures taken with respect to the irregularities noted in the 23 reports issued during the period from 2007 to 2010 (recommendations).

230. As a consequence of the foregoing, the national preventive mechanism issued a concluding report to the authorities concerned, setting out the situation regarding follow-up of the irregularities detected, and a report on the irregularities still in existence, which will be monitored in the course of ensuing visits.

## **VI. Measures to strengthen justice access mechanisms**

### **A. Federal level**

231. With regard to investigations conducted by the Office of the Attorney-General of the Republic, 17 preliminary investigations were initiated during the period between 1 March 2011 and 30 April 2012 concerning offences provided for under the Federal Act on the Prevention and Punishment of Torture, the outcome being one indictment.

232. In the same period 1,138 preliminary investigations were initiated in connection with instances of abuse of authority, resulting in indictments in 118 cases.

233. The Attorney-General's Office also recorded 305 cases concerning complaints of alleged arbitrary arrest, of which 131 have been closed, 136 have been processed and 38 are still pending.

234. Information is set out below on recorded instances of alleged violations of human rights between 1 March 2011 and 30 April 2012.

<i>Alleged violation</i>	2011										2012				<i>Total</i>	<i>%</i>
	<i>Mar.</i>	<i>Apr.</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>Aug.</i>	<i>Sep.</i>	<i>Oct.</i>	<i>Nov.</i>	<i>Dec.</i>	<i>Jan.</i>	<i>Feb.</i>	<i>Mar.</i>	<i>Apr.</i>		
1. Abuse of public office	28	24	32	28	22	26	32	27	19	13	15	19	14	36	<b>335</b>	22.3
2. Arbitrary arrest	19	19	45	20	9	31	28	29	19	15	15	12	14	30	<b>305</b>	20.3
3. Injuries	14	12	15	11	12	15	18	14	10	13	9	18	5	11	<b>177</b>	11.8
4. Irregular conduct of preliminary investigations	6	6	19	5	7	16	14	12	5	1	4	9	3	6	<b>113</b>	7.5
5. Illegal house and other searches	6	15	18	7	5	7	11	10	5	3	8	9	8	8	<b>120</b>	8.0
6. Incommunicado detention	4	2	6	7	3	11	7	6	4	3	5	1	1	1	<b>61</b>	4.1
7. False charges	3	1	11	6	-	4	7	4	3	1	1	-	-	2	<b>43</b>	2.9
8. Delay in justice administration	3	10	7	1	1	8	3	2	4	-	1	7	5	4	<b>56</b>	3.7
9. Breach of public office in justice administration	2	1	4	2	2	6	7	3	2	2	1	10	7	5	<b>54</b>	3.6
10. Improper discharge of public service	3	1	0	-	4	3	-	2	6	7	5	1	1	3	<b>36</b>	2.4
11. Threats	2	4	5	2	-	3	4	1	2	1	2	3	3	4	<b>36</b>	2.4
12. Torture	3	3	5	1	1	4	4	1	-	2	2	2	2	2	<b>32</b>	2.1
13. Denial of right of petition	1	-	2	2	3	1	2	5	5	2	4	2	3	3	<b>35</b>	2.3
14. Theft	2	2	6	2	-	3	4	1	2	-	1	1	2	1	<b>27</b>	1.8
15. Improper seizure of property	3	4	3	3	1	-	2	1	-	-	-	-	-	1	<b>18</b>	1.2
16. Unlawful detainment	-	1	0	2	-	1	5	1	1	2	-	-	1	-	<b>14</b>	0.9
17. Extortion	-	2	2	-	-	1	-	2	2	1	2	1	1	2	<b>16</b>	1.1
18. Involuntary or enforced disappearance of persons	-	1	1	-	2	-	1	-	1	1	-	-	1	1	<b>9</b>	0.6
19. Intimidation	2	-	0	-	1	-	1	2	-	-	1	1	1	1	<b>10</b>	0.7
20. Bribery	-	-	0	-	-	-	-	-	-	1	1	-	-	1	<b>3</b>	0.2
21. Unlawful entry of premises	-	-	0	-	-	-	-	-	-	-	-	-	1	1	<b>2</b>	0.1
<b>Total</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>99</b>	<b>73</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>90</b>	<b>68</b>	<b>77</b>	<b>96</b>	<b>73</b>	<b>..</b>	<b>1 502</b>	<b>100</b>

235. As to complaints of injuries recorded by the Attorney-General's Office, there were 177 reported cases, of which 66 have been closed, 97 have been processed and 14 are pending.

236. With regard to activities undertaken by the human rights protection units operated by the Office of the Assistant Attorney-General for Human Rights, Victim Support and Community Services, the following are noteworthy:<sup>6</sup>

<i>Services provided by human rights protection units</i>	2012			
	<i>Federal investigation centre</i>	<i>Office of the Assistant Attorney-General for Organized Crime Investigations</i>	<i>Department of the Federal District</i>	
	<i>23 January to 13 May</i>	<i>13 February to 13 May</i>	<i>28 February to 13 May</i>	
Legal advice	281	153	191	<b>625</b>
Juvenile visits	659	10	49	<b>718</b>
Psychological care	197	16	17	<b>230</b>
Initiation of investigative procedures	28	4	5	<b>37</b>
Support for foreign nationals	16	0	3	<b>19</b>
Measures taken with personnel of the National Human Rights Commission	76	9	9	<b>94</b>
Formal applications	81	3	3	<b>87</b>
Complaints of irregularities	58	0	0	<b>58</b>
Persons on waiting lists	65	0	0	<b>65</b>
<b>Total</b>				<b>1 933</b>

237. Figures for the country as a whole show that, in the period between March 2011 and April 2012, medical/psychological assessments were conducted in 63 cases of possible torture or ill-treatment, leading to the establishment of proof of the perpetration of torture in seven cases and of ill-treatment in 23 cases, with negative results in 33 cases.

238. During the period from 1 December 2006 to 30 April 2012 the Ministry of Public Security recorded 82 cases categorized as torture according to the National Human Rights Commission classification or on the basis of the complainant's or victim's statement. However, following investigations to elucidate the facts, these cases were reclassified, with the result that only eight cases could be deemed to constitute this form of human rights violation and most of them have not been identified as such since the related proceedings before the competent administrative or judicial authorities have not been concluded.

239. Of the torture cases known to the National Human Rights Commission where the Ministry of Public Security was judged responsible, six concluded with recommendations, as follows:

- Specific recommendation 3/2008 issued by reason of the unlawful search of the home of the victim, Mr. Santos Quiroz Espinoza, in Torreón, Coahuila, and also

<sup>6</sup> Activities carried out between 23 January and 13 May 2012.

torture and injuries from burns caused by electric shocks<sup>7</sup> (status: recommendation accepted and in course of implementation);

- Specific recommendation 55/2008 issued by the National Human Rights Commission on 18 November 2008 by reason of the illegal search, injuries, abuse of authority and torture which allegedly occurred on 16 September 2007 at the home of Mr. Francisco Javier Atilano Palacios in Torreón, Coahuila<sup>8</sup> (status: recommendation accepted and implemented);
- Specific recommendation 13/2010 issued by reason of the alleged unlawful arrest at the victim's home in Tijuana, Baja California, by federal police officers, who inflicted injuries on the victim<sup>9</sup> (status: recommendation accepted and in course of implementation);
- Specific recommendation 23/2010 issued by reason of the alleged arrest and torture of the alleged victim during a search operation carried out at the Los Olivos ranch in Maravatío, Michoacán, pursuant to a subpoena served on him by the Attorney-General's Office<sup>10</sup> (status: recommendation accepted and in course of implementation);

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<sup>7</sup> The Ministry of Public Security referred the case to the federal police internal oversight body, whose administrative procedure concluded with a decision not to proceed, since no evidence was found, and steps were taken to cooperate with the federal public prosecutor in the conduct of the preliminary investigation and in the criminal action, as a result of which the arresting officers were sentenced to a term of imprisonment of one year and three days, ordered to pay a fine equivalent to 51 times the minimum daily wage, dismissed from their posts and disqualified from holding any other similar post. Also, training content has been strengthened with the assistance of the National Human Rights Commission, ICRC and the Office of the United Nations High Commissioner for Human Rights.

<sup>8</sup> The Ministry of Public Security referred the case to the federal police internal oversight body, which issued a decision not to proceed by reason of the lack of evidence, and to the federal public prosecutor, who decided to defer the proceedings. As regards redress for the psychological harm caused, it was not possible to continue the victim's care owing to his death since, according to reports furnished by the director of the social rehabilitation centre of Torreón, Coahuila, he had died from an acute myocardial infarction on 28 July 2008, allegedly as a consequence of an altercation with another inmate; the facts were examined by the state prosecutor's office. Also, human rights training content has been expanded with the assistance of the National Human Rights Commission and other specialized institutions. With regard to the adoption of measures to prevent excessive use of force, a cooperation agreement was concluded by the Ministry of Public Security and ICRC in 2008 and renewed and extended in 2011.

<sup>9</sup> In the criminal action the judge refused to issue an arrest warrant, as requested by the Federal Public Prosecutor's Office, against two federal police officers and on 31 December 2010 a referral for a ruling not to prosecute was authorized. On 20 June 2011 the internal oversight body issued a decision to close the case. As regards redress for the harm caused, no pronouncement has been made on the subject by any administrative or judicial authority. Human rights training content has been expanded with the assistance of the National Human Rights Commission and other specialized institutions. With regard to the adoption of measures to prevent excessive use of force, a cooperation agreement on the matter was concluded by the Ministry of Public Security and ICRC in 2008 and renewed and extended in 2011.

<sup>10</sup> The federal police internal oversight body issued a decision not to proceed, by reason of the lack of evidence, and the administrative procedure was accordingly recorded as fully and finally closed. The preliminary investigation which gave rise to the present case is in progress. Human rights training content has been expanded with the assistance of the National Human Rights Commission and other specialized institutions. With regard to the adoption of measures to prevent excessive use of force, a cooperation agreement on the matter was concluded by the Ministry of Public Security and ICRC in 2008 and renewed and extended in 2011. As regards redress for the harm caused, no pronouncement has been made on the subject by any administrative or judicial authority.

- Recommendation 49/2010 issued by reason of violations of human rights, namely the right to due process and legal certainty and the right to personal integrity and safety, allegedly committed against the victims by federal police officers and Mexican army personnel, who entered their home, inflicted injuries on them and took them into custody at military camp No. 5, where they continued the ill-treatment, finally handing the victims over to the federal prosecution service<sup>11</sup> (status: recommendation accepted and in course of implementation);
- Specific recommendation 75/2011 issued by reason of acts which took place in Ciudad Juárez, Chihuahua, when federal police officers arrested Mr. Noé Fuentes Chavira, Mr. Rogelio Amaya Martínez, Mr. Gustavo Martínez Rentería, Mr. Víctor Manuel Martínez Rentería and Mr. Ricardo Fernández Lomelí for alleged involvement in the murder of a federal police officer and the detonation of a car bomb in that city<sup>12</sup> (status: recommendation accepted and in course of implementation).

## B. Council of the Federal Judiciary

240. Details recorded by the Council of the Federal Judiciary with regard to cases where individuals have been convicted of torture offences, including information on the penalties imposed, are set out below.

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With respect to the recommendation regarding the provision of video recording and audio equipment to federal police officers so that all arrests made by them would be recorded using such devices, the institution informed the National Human Rights Commission that the adoption of such an arrangement would depend not only on budget availability but also on the risk and type of operation involved and be subject to the safety of civilians and of its own police personnel, the observance of human rights and respect for the dignity of victims and children, among other considerations.

<sup>11</sup> The federal police internal oversight body and the Office of the Attorney-General of the Republic have been sent a copy of the recommendation and informed of the institution's willingness to afford such cooperation as may be requested by those authorities. Circulars have been issued to federal police personnel attached to the federal law enforcement division calling for their continued and unconditional observance of human rights in the performance of their duties. As regards redress for the harm caused, no pronouncement on the matter has been made by any administrative or judicial authority.

<sup>12</sup> The Ministry of Public Security will duly comply with whatever decision is rendered by the judicial authorities concerning redress. Human rights training content has been expanded with the assistance of the National Human Rights Commission and other specialized institutions. With regard to the adoption of measures to prevent excessive use of force, a cooperation agreement on the matter was concluded by the Ministry of Public Security and ICRC in 2008 and renewed and extended in 2011.

In connection with the recommendation regarding the provision of video recording and audio equipment to federal police officers so that all arrests made by them would be recorded using such devices, the institution informed the National Human Rights Commission that the adoption of such an arrangement would depend not only on budget availability but also on the risk and type of operation involved and be subject to the safety of civilians and of its own police personnel, the observance of human rights and respect for the dignity of victims and children, among other considerations.

It will also afford the federal police internal oversight body and the Federal Prosecutor's Office such cooperation as may be required by them for the due elucidation of the facts and the commissioner of that body has been requested to issue instructions to the effect that measures recommended by the National Human Rights Commission regarding the arrest of persons must be duly complied with.

<i>Type</i>	<i>Sex</i>	<i>Ruling</i>	<i>Number of cases</i>
Indirect <i>amparo</i> petitions (2 811)	Female (354)	Granted Not granted Dismissed	26 14 314
	Male (2 457)	Granted Not granted Dismissed	107 95 2 255
Direct <i>amparo</i> petitions (2)	Female (2)	Granted Not granted	0 2
Criminal actions (2)	Male (2)	Convictions	0

### 1. Federal District

241. With respect to Federal District records of criminal actions relating to torture, six cases have been recorded, as follows:

	<i>Criminal action number</i>
1.	69/08
2.	74/08
3.	235/08
4.	185/09
5.	234/09
6.	281/11

242. As regards the number of public servants prosecuted for acts of torture, five were tried in criminal action No. 235/08 and two in criminal action No. 234/09. One indictment in absentia was recorded in 2011.

243. Between 2008 and the present date, the Federal District High Court handed down three convictions for torture offences and no acquittals.

244. The Office of the Attorney-General of the Federal District has adopted a procedural protocol on investigating and prosecuting torture cases and providing victim support, which was published on 2 June 2011 under Decision No. A/009/2011 of the Attorney-General of the Federal District.

245. This protocol contains the following chapters:

- (a) Chapter 1: General provisions;
- (b) Chapter 2: Basic steps to be taken by prosecution personnel in the conduct of preliminary investigations in torture cases;
- (c) Chapter 3: Mechanisms for overseeing the conduct of the prosecution service and safeguarding information;
- (d) Chapter 4: Obligation of public servants to report acts of torture;
- (e) Chapter 5: Provision of support, assistance and protection for victims and witnesses;



(f) Chapter 6: Conduct of the Office of the Assistant Attorney-General for Judicial Proceedings in torture cases; and

(g) Chapter 7: Proposals not to prosecute or to defer prosecution in torture cases.

246. Under the aforementioned decision the Special Prosecution Division for Crimes of Torture was established at the Department for Investigation of Crimes Committed by Public Servants.

247. A special unit is being set up within the Auxiliary Prosecution Division to follow up and review proposals not to prosecute or to defer prosecution in torture cases and within the Office of the Assistant Attorney-General for Judicial Proceedings to deal with the prosecution of criminal cases relating to torture offences.

248. As regards the basic steps to be taken, the decision provides as follows:

(a) Commence the related preliminary investigation without delay;

(b) Request the Centre for Social and Legal Support to Victims of Violent Crime to provide immediate aid required by the victim pursuant to the Federal District Act on Assistance and Care for Crime Victims;

(c) Call upon the assigned forensic doctor to certify the victim's physical integrity in conformity with the protocol on medico-legal appraisal of physical integrity or probable clinical age, issued by the Federal District governor;

(d) If the victim shows any physical impairment, the Department of Expert Services is required to engage a photography expert to record the impairment;

(e) Take the victim's statement, the purpose of which is to elicit full particulars of how the acts occurred, including precise details of the circumstances (time, manner, place and occasion) of the offence, information to identify the perpetrator or perpetrators and a description of the participation of each of them. An amplified statement is to be taken at the victim's request or if the need therefor, which has to be fully demonstrated by the prosecution service, arises from the investigation;

(f) Promptly request the Directorate for Victims of Crime to engage a specialist physician and psychologist and the Department of Expert Services to engage a photography expert with a view to the timely preparation of the medical/psychological evaluation report for cases of possible torture, in accordance with the applicable regulations;

(g) In the event of the victim's physical or psychological impairment, request the specialist physician and psychologist referred to in the preceding subparagraph to assess the impairment for the purpose of seeking redress;

(h) Request the involvement of a forensic expert to obtain from the victim a description of the physical characteristics of the perpetrator or perpetrators;

(i) Take steps to identify the perpetrator or perpetrators by means of an album of photographs of public servants linked to the offence;

(j) Request the intervention of the investigative police for the purposes of investigating the facts and locating and subpoenaing the suspects;

(k) If the victim or witnesses recognized one or more perpetrators, an identity parade is to be organized with the use of a Gesell room with one-way mirrors;

(l) Take statements from any eyewitnesses, who should also be required to provide full particulars to enable the circumstances (time, manner, place and occasion) of the reported offence to be determined and the identity of the suspect or suspects to be established;

(m) Undertake, with the involvement of the relevant experts, a judicial inspection of the crime scene, in which all evidence relating to the investigation is to be certified and instructions are to be given to the effect that a photographic record be made of the evidence and, where appropriate, that it be removed, packed and transferred, with the chain of custody being preserved, in accordance with Institutional Decision No. A/002/2006;

(n) Adopt the necessary measures to prevent any interference by persons unconnected with the investigation in order to maintain the secrecy of the investigation;

(o) Authenticate, where applicable, the status of the perpetrator of the torture; and

(p) Adopt any necessary measures of protection to safeguard the physical integrity of the victim, complainants, prosecution witnesses and public servants.

249. In the event that a torture victim is deprived of liberty, the following steps are to be taken in addition to those referred to in the preceding paragraph:

(a) Ascertain the location where the torture victim is being held and travel to that place in order to stop the unlawful conduct;

(b) Inform the person concerned of his or her rights as a victim in accordance with the applicable legislation;

(c) Ensure that formalities conducted with respect to the person deprived of liberty take place in an appropriate setting where the victim's safety and trust are secured and where the public servants who are involved or who may interfere with the investigation are not present;

(d) Request the competent authority to order the necessary measures for the purpose of protecting and safeguarding the physical and psychological integrity of the crime victim if it emerges from the investigations that his or her physical or psychological integrity is at risk;

(e) Any other steps which may be appropriate in accordance with the law and any that may arise from the aforementioned measures in order to enable the facts to be elucidated and the suspects to be identified.

## **2. State of Jalisco**

250. With a view to creating opportunities for indigenous persons to have access to differentiated justice in the state of Jalisco, particularly at procedural stages where there is an increased risk of defencelessness and violation of their physical or psychological integrity, and to enhancing their means of communication, a coordination agreement on the release of indigenous persons held in state penitentiaries was concluded in May 2011 between the National Commission for the Development of Indigenous Peoples, the Indigenous Persons' Commission of the state of Jalisco and the Department of Public Security, Crime Prevention and Social Rehabilitation with the aim of helping indigenous persons in custody to obtain statutory privileges (bail, suspended sentence, substitute penalties, early discharge, parole, remission and abatement of penalty). Also, the commitments set out in the coordination agreement include an undertaking by the Indigenous Persons' Commission to provide bilingual interpreters or translators to assist the judicial and/or administrative authorities in ensuring that all notifications, especially of the rendering of a judicial decision or the granting of the privilege of early discharge, are given in indigenous prisoners' mother tongue.

### 3. State of Oaxaca

251. As regards the number of cases of alleged torture recorded in the state of Oaxaca, to date no criminal actions have been instituted in respect of torture offences, no judgements have been handed down concerning such offences and no public officials have been prosecuted.

252. Three release ceremonies involving indigenous detainees have been organized by the Office of the Attorney-General for the Defence of Indigenous Peoples and Vulnerable Groups. The first took place on 23 December 2010, the second on 15 September 2011 and the third on 23 December 2011. The persons benefiting from these measures were 22 members of the Mixe, Zapoteca, Mixteca, Chontal and Mazateca ethnic groups, for whom a total sum of 251,063 pesos was allocated.

253. The penalty for any person committing a torture offence in the state is imprisonment from 2 to 10 years in addition to a fine equivalent to between 200 and 500 times the current general minimum daily wage and disqualification from holding any public appointment, post or position for up to twice the term of imprisonment imposed, in accordance with the provisions of article 2 of the State Act on the Prevention and Punishment of Torture.

## VII. Measures to improve conditions at places of detention

### A. Federal level

254. Refurbishment work has been carried out at the federal investigation centre located in the Federal District in order to provide better and more spacious accommodation for persons placed in preventive custody by the Office of the Attorney-General of the Republic and land has been acquired in the state of Morelos for the purpose of creating better premises for persons held in preventive custody.

255. These two measures are helping to improve the conditions at preventive custody facilities by providing more decent and comfortable premises for detainees.

256. As regards the renovation of the federal investigation centre in the Federal District, the sum of 17.1 million pesos was disbursed between the 2011 fiscal year and April 2012 for work of adapting and refurbishing the centre, thereby improving the conditions of preventive custody facilities.

257. In connection with the building of a new federal investigation centre in the state of Morelos, the sum of 129.5 million pesos has been disbursed for the acquisition of the land on which the new centre will be built. The construction of the new centre is for the purpose of providing decent accommodation for persons in preventive custody.

258. It can be seen from the foregoing that the budget outlay for improving the conditions of federal investigation centres operated by the Attorney-General's Office amounts to 146.6 million pesos.

259. Details are given below of measures to improve conditions at places of detention administered by the Ministry of Public Security.

### B. Building of new prisons

260. The Federal Government has recognized the need to rectify structural shortcomings in the prison service with regard to facilities, infrastructure, systems and staffing of places of detention.

261. In 2007 the Ministry of Public Security implemented a federal penitentiary strategy involving a new model based on:

- Prison surveillance intelligence systems;
- Custodial security infrastructure, technology and systems; and
- The creation of the National Prison Academy, which has been set up for the purpose of training personnel to international standards and from which 3,500 new prison officers have graduated.

262. The prison infrastructure strategy established by the Ministry of Public Security to meet the targets set in 2007 entails the following activities:

- Expansion of federal prison capacity;
- Enlarging the capacity of the Islas Marías penal complex. In December 2006 this island prison colony housed just 915 prisoners. Investment by the Federal Government has made it possible to increase its infrastructure and the prison population has now risen to 8,000 inmates;
- Transferring state penitentiaries to the federal prison system. In the past three years the Federal Government has transferred five state penitentiaries to the federal prison system and has carried out the necessary adaptations to meet high standards of security and to transform these penitentiaries into high-security, large-capacity federal facilities.
- A public-private investment arrangement for building new federal penitentiaries under service procurement contracts;
- Eight additional federal penitentiaries are currently being constructed under this arrangement, which will make it possible to increase the prison infrastructure by more than 20,000 places. The new plans incorporate maximum and super-maximum security wings based on the classification produced by the International Corrections and Prisons Association;
- Work has at the same time been carried out on the installation of systems to increase prison operational data and monitoring capacities. In this connection the National Prison Information System makes it possible through Platform Mexico to collate and unify the data on all the country's prisons, including:
  - Records of persons prosecuted and convicted;
  - Index files on prison personnel;
  - Transfer operations and supervisory and monitoring systems.

263. The above measures will provide some 20,000 spaces for federal offenders to be placed in federal custody with advanced intelligence mechanisms for prison surveillance.

264. The federal prison system can now also accommodate prisoners sentenced under state (non-federal) jurisdiction whose dangerousness requires maximum security and for the first time has special premises for women prisoners.

265. Two prison facilities having the latest equipment for prisoner screening, supervision and surveillance as well as personnel trained in operational and custodial techniques were opened on 28 February 2012 at the north-western federal penitentiary complex.

266. The plan to build new infrastructure includes the construction of two federal penitentiaries with high-security installations to house kidnappers, as provided for in the national agreement on security, justice and the rule of law, and the building of 12 federal prisons under public-private project development partnerships.<sup>13</sup>

267. One of the planned facilities, to be located in Guasave, Sinaloa, will operate as a multi-level prison with a security wing for kidnappers and at the initial stage will be able to accommodate 633 convicted persons.

268. The second facility will be located in Papatla, Veracruz, and will be the first prison complex in the country to have security wings for all risk levels. It will have the capacity to hold 1,600 convicted persons.

### **1. Federal District**

269. Work began during 2012 in the Federal District on the construction of two blocks at the northern remand prison for men to house 1,500 inmates, which will make it possible to reduce overcrowding.

### **2. Mexico state**

270. The government of Mexico state intends in 2012 to bring into operation the Tenango del Valle and Tenancingo penitentiaries, which will accommodate 1,250 prisoners, thereby easing problems of overpopulation.

271. In the municipality of Nezahualc6yotl the buildings occupied by the Neza southern and northern remand prisons in Mexico state are currently undergoing complete restoration. The former will operate as a specialized institution for the treatment of women and the latter as a psychosocial rehabilitation institution for prisoners with psychiatric problems.

272. There are plans to expand the accommodation at the Ecatepec and Neza Bordo remand prisons by 1,000 new beds and to construct a prison complex at Otumba Tepachico, providing an additional 1,000 beds.

273. The state government has begun work on building an institution where psychiatric prisoners will receive ongoing specialized care in decent premises specially designed for their surveillance, attention and treatment, with a concentration of both human and material resources (personnel and controlled medication), thereby avoiding conflicts with other inmates.

### **3. State of Jalisco**

274. In order to increase prison capacity in the state of Jalisco, two facilities are currently being constructed. One is the Guadalajara metropolitan prison, which is to be located at the state penitentiary complex and will accommodate 480 male prisoners. The other, to be built in the municipality of Colotl6n, will house 50 male and 7 female prisoners. The aim is thus to expand holding capacity at the state level from 9,304 to 9,841 beds.

275. The opening of these facilities is dependent on completion of the work and the fitting out of the premises.

### **4. State of Oaxaca**

276. The necessary steps are being taken in the state of Oaxaca to build a new federal penitentiary that complies with the required standards of security, space, ventilation, natural

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<sup>13</sup> Four working reports, Ministry of Public Security, p. 75.

light and hygiene, the primary objective being to provide persons deprived of liberty with a more decent living, recreational and working environment, thereby contributing significantly to the effectiveness of their rehabilitation and their quality of life. The construction of new prison facilities will make it possible to prevent overcrowding, which can be characterized as a form of torture or cruel treatment in the case of persons deprived of their liberty.

277. A federal penitentiary is currently being built in the locality of Miahuatlán de Porfirio Díaz in collaboration with the state government and the Federal Government.

278. The Oaxaca social rehabilitation department is taking appropriate measures for the construction of two new state prisons which will meet the minimum requirements relating to security, space, ventilation, natural light and hygiene. It is planned to locate these facilities in the region of Valles Centrales, with an additional facility in Costa or Mixteca, since these are areas where there is most demand. Once these prisons are built, the facilities which do not currently comply with the standards of prisoner accommodation will be closed.

## **C. Improvements to places of detention**

### **1. Federal District**

279. As part of the mechanisms for overseeing the conduct of public servants of the Office of the Attorney-General of the Federal District, 547 surveillance cameras were installed in 2008 at strategic sites on the premises of the prosecution divisions, making it possible to prevent assaults on the physical integrity of persons detained pending their appearance before the public prosecutor and to check the service provided to users in general.

280. In 2011, 225 surveillance cameras were purchased for the same purpose and installed at the prosecution divisions in security or cell block areas, which are monitored by the Judicial Inspectorate of the Office of the Attorney-General of the Federal District. They also operate as a means of ensuring respect for detainees' personal integrity and preventing or discouraging assaults on detainees. In addition, 16 high-technology closed-circuit cameras have been installed at strategic sites on central investigation department premises.

281. The work of the Judicial Inspectorate constitutes one of the most important oversight mechanisms with regard to the Office of the Attorney-General of the Federal District since this inspection body undertakes supervisory visits to the public prosecution divisions, during which checks are made to ensure that the conduct of the prosecution service conforms to the principles of legality, impartiality, efficiency and probity.

282. The types of inspection carried out by this body can be classified as follows: full; technical and legal oversight and evaluation; rota; ad hoc; follow-up; review; investigative and online.

283. As regards visits to assess preliminary investigations conducted following arrests, it is ascertained, inter alia, whether the suspects' detention is justifiable on legal grounds, whether their physical condition has been medically certified and whether they have been informed of their rights as recognized by article 20 of the Mexican Constitution.

284. Refurbishment work has been carried out in the Federal District on 25 cell blocks, including, in particular, the replacement of bars with lexan and the installation of vandal-proof sanitary equipment to ensure that persons handed over to the authorities have the use of adequate facilities.

285. Two medical consultation rooms have been installed for the provision of appropriate treatment for victims and persons charged. These areas are available for use by the central investigation departments located in the headquarters building of the Office of the Attorney-General of the Federal District.

286. In 2011 a comprehensive system for visitor access control at places of detention in the Federal District was put into operation using electronic index files compiled on visits to inmates in the northern, eastern and southern remand prisons for men, given that 70 per cent of visits take place at these facilities.

287. The initial stage of the process involved notification and familiarization of visitors' relatives and the recording of data in the electronic files, thereby making it possible to expedite visitors' admission and prevent arbitrary granting of visits since entry is permitted only by fingerprint identification, thus creating a speedier and more transparent procedure.

288. The table below shows other activities carried out at places of detention in the Federal District.

<i>Place of detention</i>	<i>Restoration work</i>
Northern remand prison for men	<ul style="list-style-type: none"> <li>• Expansion of capacity (228 metal beds have been installed in the refectory areas of cell blocks 3 and 5)</li> <li>• Renovation of lighting in the tunnels leading to the courtrooms</li> </ul>
Eastern remand prison for men	<ul style="list-style-type: none"> <li>• Desilting of the main sump and sanitary pipework for the general kitchen area</li> <li>• Renovation of steam-generating boilers</li> <li>• Repair of the hydropneumatic system for pumping drinking water to the cell blocks</li> <li>• Renovation of lighting in the tunnels leading to the courtrooms</li> <li>• Preventive maintenance on three electrical substations</li> <li>• Expansion of capacity (metal beds have been installed in the refectory areas of cell blocks 4 and 5)</li> </ul>
Southern remand prison for men	<ul style="list-style-type: none"> <li>• Fitting out of the area for the location of a new cold-storage room</li> <li>• Preventive and corrective repairs to food delivery trolleys</li> <li>• Expansion of capacity (288 metal beds have been installed in the refectory areas of cell blocks 4, 7 and 8)</li> <li>• Fitting out of washrooms in cell blocks 4, 7 and 8</li> <li>• Refurbishment and fitting out of rooms 7 to 13 in zone 3 of the entrance building</li> <li>• Repair of the water supply to sanitary installations for inmates on overnight stays from other prisons for the requirements of oral proceedings</li> </ul>

<i>Place of detention</i>	<i>Restoration work</i>
Northern penal enforcement facility for men	<ul style="list-style-type: none"> <li>• Expansion of capacity (beds have been installed in cell blocks 1, 2 and 3)</li> <li>• Maintenance work on the emergency power plant</li> </ul>
Santa Martha Acatitla social rehabilitation centre for men	<ul style="list-style-type: none"> <li>• Repair of power lines at the electrical substation</li> <li>• Repair of drinking-water tank valves</li> <li>• Installation of depressurization tank in the pump room</li> <li>• Repair of the boiler hydraulic system</li> <li>• Fitting of storage room motor</li> <li>• Fitting of public telephone terminals</li> </ul>
Federal District social rehabilitation centre for women	<ul style="list-style-type: none"> <li>• Refurbishment of the Torre Médica Tepepan hospital</li> </ul>
Santa Martha Acatitla social rehabilitation centre for women	<ul style="list-style-type: none"> <li>• Replacement of the food preparation stove for the child development unit</li> <li>• Repair of the hydropneumatic sewage pumping system for the cell block area</li> </ul>
Federal District penitentiary	<ul style="list-style-type: none"> <li>• Fitting out of the water supply system for zones 1 and 2 of wing 12</li> <li>• Iron construction work in cell blocks for the installation of additional metal bunks</li> <li>• Repair of boiler casings</li> <li>• Plastering work in the drinking water supply area in the visiting room garden</li> <li>• Demolition of cell block 1 (built more than 50 years previously) to provide a dayroom for inmates</li> </ul>
Psychosocial rehabilitation centre for men	<ul style="list-style-type: none"> <li>• External rendering work to prevent leaks affecting the checkpoint area during the rainy season</li> <li>• Iron construction work in cell blocks 1 and 2 for the installation of 12 metal bunks</li> </ul>

## 2. Mexico state

289. With regard to support for indigenous inhabitants in Mexico state, it is reported that there are 281 indigenous persons in custody, for whose trials assistance is provided by the state public defence institute, which has specialist translators. Also, agreements have been concluded with the National Commission for the Development of Indigenous Peoples and the state commission for the development of indigenous peoples, which give free advice and support to indigenous persons held in state penitentiaries.

290. As regards data on persons deprived of liberty, the Mexico state adult detention system comprises 21 remand prisons and social rehabilitation centres and the Dr. Guillermo Colín Sánchez penitentiary. The number of persons incarcerated is 18,195 (17,094 males and 1,101 females).



291. Mexico state has strengthened the specialized programmes undertaken in the areas of education, employment, occupational therapy and psychotherapy and 10,251 persons in custody are enrolled in literacy, primary, secondary and preparatory classes or on introductory workshop courses within the prison education system, representing a level of educational coverage of 57 per cent of the prison population. In addition, it has organized 295 civic, sporting, recreational and artistic events for prisoners with the aim of reinforcing their rehabilitation treatment.

292. With regard to prison work, 16,963 inmates engage in occupational activities such as general services and handicrafts, representing a rate of participation in work therapy activities of over 90 per cent of the total prison population.

293. The state has provided 26,713 medical consultations for prisoners, who, in cases where required, are transferred to secondary-level public hospitals. It has also undertaken 18,416 preventive medicine initiatives.

294. Mobile telephone signal blocking devices designed to disrupt inmates' wireless calls were introduced in September 2010 by the Mexico state government at the remand and social rehabilitation centres of Santiaguito in Almoloya de Juárez, Netzahualcóyotl Bordo de Xochiaca, Lic. Juan Fernández Albarrán in Tlalnepantla de Baz and Dr. Sergio García Ramírez in Ecatepec de Morelos and are now also in operation at the Otumba Tapachico prison in Chalco, the Dr. Alfonso Quiroz Cuarón prison in Texcoco de Mora and the Cuautitlán and Valle de Bravo prisons, together covering over 92 per cent of the prison population.

295. Work has begun on adapting one prison to accommodate women only, where they will be able to serve the custodial sentences imposed on them by the judicial authority and receive specialized medical care and social rehabilitation treatment.

296. There are currently 31 children aged between 0 months and 2 years living with their mothers in prison. They were all born during their mothers' incarceration and their births took place in health service hospitals to avoid their being stereotyped. They receive specialized medical care and, when required, are transferred to health service hospitals for treatment and vaccination. Also, the social work unit is responsible for seeking donations of clothing, nappies, milk and food for these children and their mothers.

297. Account has been taken of the fact that, while children need maternal care up to a certain age, there is a risk of their suffering physical abuse given that the female prison population includes murderers and child killers, who may inflict irreparable harm. They may also be the cause of altercations between female inmates.

298. It is felt from a psychological standpoint that a child should only remain with its mother until it is two years old, beyond which age it requires more specialized care since images which may harm it in childhood are recorded in its brain. When it reaches this age, arrangements are accordingly made by prison social work staff with the jailed mother's relatives for them to take custody of the child, in all cases under the legal supervision of the municipal schemes for comprehensive family development to ensure that all action taken is in conformity with the law.

299. If a child's mother does not have relatives who can assume responsibility for it, temporary guardianship is granted so that the child can be cared for under the state scheme for comprehensive family development until its mother is discharged from prison.

300. With regard to young persons in conflict with the law, Mexico state operates the Quinta del Bosque social rehabilitation school, where there are currently 261 juveniles in custody (24 females and 237 males), and 20 regional youth rehabilitation centres, which annually provide specialized non-custodial care for over 380 juveniles.

301. On the question of alleviating prison overcrowding, Mexico state, prompted by a desire to emphasize the importance of the role of the prison service, which, in its view, is to provide resocializing treatment aimed at the attainment of freedom in society, has amended, supplemented and repealed several articles of the State Criminal Code, the State Judiciary Act and the State Act on the Enforcement of Custodial and Liberty-restricting Penalties, which has made it possible for the first time in 13 consecutive years to reverse the rising trend in the prison population, which reached an historical peak of over 20,000 inmates and an overpopulation rate of 103.4 per cent in 2007. As a consequence of that measure and the implementation of unprecedented public policies to ease the pressure on prisons, which have led to the release of 25,238 prisoners under different arrangements, as well as the expansion of the prison infrastructure at the Tlalnepantla, Texcoco and El Oro facilities, the overpopulation rate currently stands at 75 per cent, i.e. 28.4 percentage points below that recorded in 2007.

302. In line with the foregoing, a new code of criminal procedure was brought into force in the state on 1 October 2010 to ensure justice in the application of the law and provide for the resolution of disputes arising from crimes, thereby contributing to the restoration of social harmony between the parties involved, within a framework of unconditional respect for the fundamental rights of the individual, as recognized in the Federal Constitution and state constitution and also in international treaties adopted and in the resulting legislation, the aim being to achieve the lowest number of persons deprived of liberty.

303. For the purpose of establishing state and central medical registers of deceased persons, including their name and age, the place and cause of death, and also autopsy details and attendant circumstances in cases of unnatural death, Circular No. 0005/2011 was issued in 2011 by the Jalisco state prison service to all penitentiaries and juvenile detention centres, instructing them to apply strict control measures for recording prisoner deaths on their premises by means of duly numbered entries in a single logbook containing, at a minimum, the inmate's name, age and cell block, the trial, court and crime, the date, time, place and cause (diagnosis) of death and any other facts of significance concerning the reason for the death, together with the log sheet number.

304. With regard to improving prison record systems, one of the priorities addressed since the establishment of the National Conference of the Prison Service in 2009 has been to create a nationally based register of the prison population. To that end the National Registry of Prison Information (RNIP) has been set up by the Federal Government and a data transfer tool, known as an integration bus, is to be installed for transferring information from individual states' databases to the RNIP database. Since the beginning of the year, Platform Mexico personnel have been engaged in developing the related application (database and interface) to achieve this objective.

### **3. State of Jalisco**

305. The following activities have been carried out as part of the work undertaken by the state of Jalisco to renovate its places of detention:

- The capacity of the women's rehabilitation centre has been expanded from 334 to 376 places, thereby improving inmates' quality of life through the provision of more decent living conditions and thus easing overcrowding at the centre. Financing to implement this measure, amounting to approximately \$41,979.00, was secured through donations by private individuals;
- A substation and transformer for the supply of electricity in the event of power failures at the social rehabilitation centre have been replaced owing to the poor state of repair of the previous ones and fluctuations in voltage due to the large quantity of

electricity required by the centre. Financing in the sum of \$2,391,723.54 was provided from the Security Fund;

- A gate has been erected at the vehicle checkpoint to the Guadalajara remand prison and 25 metres of wall have been renovated at a cost of \$25,000.00. These alterations were carried out owing to the dilapidated condition of the previous gate, which jeopardized security in this important area;
- A polycarbonate dome has been built at the Guadalajara prison, thus providing sun and rain protection for inmates' relatives entering and leaving the facility since the dome is located in an area where there is a constant flow of visitors to the prison visiting yard. It was acquired through a donation from the firm CCA Techos;
- The conjugal visiting area at the Guadalajara prison has undergone refurbishment to provide decent quarters for inmates' intimate contact with their partners. The work was carried out thanks to a donation from the firm Grupo Piesa Constructivas;
- The addiction treatment unit at the Guadalajara prison has been enlarged, providing more space for prisoner care and thereby improving and speeding up the social reintegration process. The cost of this extension work, assessed at \$2,000,000.00, was met from donations;
- Cells for prisoners with disabilities have been adapted and access ramps have been installed at the Guadalajara prison;
- At the Guadalajara prison a chapel has been built and the gymnasium has been renovated and fitted out with additional equipment;
- At the social rehabilitation centre an indoor football pitch has been constructed, two basketball courts and one volleyball court have been refurbished, an open-air gymnasium has been built, ramps for persons with disabilities have been installed and renovated, general painting work has been carried out and visiting yards have been refurbished;
- Ongoing preventive and corrective maintenance is being undertaken to improve the functioning of the Puerto Vallarta prison;
- A recycling workshop has been set up to provide employment for inmates and the closed-circuit television system has been improved at the Ciudad Guzmán prison;
- At the 11 prisons and the two juvenile centres, painting and maintenance work has been carried out on the exterior of the premises and the interior of the inmates' dayrooms and cell blocks, thus helping to ensure that human rights are respected and upheld through the provision of decent accommodation;
- The flat roofs of the prisons and juvenile centres have been waterproofed to prevent leaks during the rainy season;
- Preventive and corrective maintenance has been carried out on deep wells 2, 4 and 8 at the Puente Grande prison complex to ensure that the drinking water supply remains in good condition.

#### **4. State of Oaxaca**

306. With regard to the situation at the Santa María Ixcotel prison in the state of Oaxaca, the following activities have been undertaken:

- Inmates who were housed in cell blocks 19, 20 and 21 and tower 3 have been relocated in order to ease overcrowding in these quarters, which have also undergone refurbishment;

- Waterproofing has been carried out to improve the state of the flat roofs of the general kitchen area, women's wing and cell block 19;
- In the general kitchen area, gas leaks have been repaired, new burners have been purchased, the ventilation and lighting have been renovated, the floor has been replaced, painting work has been carried out and the walls and extractor hood have undergone general cleaning;
- In the women's wing the ceiling and lighting have been renovated and the state of the bathing facilities, washing area and exterior of this sector has been improved;
- An emergency electrical power plant has been installed in a special purpose-built room;
- The condition of the electrical fittings has been improved;
- Painting work has been carried out to improve the visual appearance of the conjugal visiting quarters and the sports area, and energy-saving light bulbs have been fitted;
- The kitchen staff area, which was in a deplorable state, has been renovated to provide more decent accommodation;

307. Within the Tanivet regional prison complex in Tlacolula a new building to provide mentally disturbed prisoners with more decent and spacious living conditions suited to their disorders was handed over for immediate use in October of last year. It meets minimum standards of security, ventilation and light and has the capacity to house 20 inmates, which can be increased to 40. There are thus now two buildings for the accommodation of prisoners with mental illnesses, thereby preventing overcrowding. These buildings have regularly been fumigated by specialized personnel to keep the living quarters in optimum conditions of hygiene and free from insects and creeping animals. Water filters have been installed and a *palapa* (palm-roofed, open-sided structure) has been erected to serve as a visiting area. The psychiatric annex has been renamed the specialized detention centre for psychiatric patients.

308. With voluntary youth support an area has been fitted out at the Oaxaca Department of Juvenile Services, with the installation of a dough mixer and industrial oven, for use as a bakery workshop, which will supply the central prison and detention centre;

309. A perimeter mesh fence topped with concertina wire has been installed to strengthen security and prevent escape attempts. Also, the washing facilities used by juvenile detainees have been renovated.

310. The construction of a basketball and multipurpose area and waterproofing work on all the cell blocks are currently being arranged.

311. At the Miahuatlán prison, security cameras have been installed and the workshop area in the high-security wing has been paved with a view to the construction of a washroom which will have sheet-metal walls and be fitted with a toilet, urinal and handbasin.

312. An annex to the administration building has been constructed, with its own washing facilities, to serve as sleeping quarters for prison security personnel.

313. The outside and inside of the Juquila prison buildings in which inmates' are housed, including washrooms, work areas and cells, and the administration building have been painted. These buildings have also been fully waterproofed and the kitchen area has been fitted out, with the installation of an extractor hood and sinks and the provision of cooking utensils.

314. At the inmates' request a chapel has been built and four public telephones for prisoners to make calls and one to receive calls have been installed. Concertina wire has been fitted along the top of the entire perimeter fence to strengthen security at the prison and thereby prevent escape attempts.

315. At the Etlá prison, a room which is to serve as a dental surgery has been refurbished and fitted out in readiness for the forthcoming delivery of working equipment and a dentist's chair by the Benito Juárez Autonomous University of Oaxaca, which will also provide the necessary medical personnel to dispense treatment to inmates.

316. Following arrangements made by the authority, painting work is currently being carried out on the exterior and interior of this penitentiary with voluntary assistance from the prisoners. A wooden structure with a galvanized sheet-metal roof has been erected in the checkpoint area to shelter visitors arriving during the rainy season. Also, an ironwork and galvanized sheet structure has been erected in the workshop area to protect inmates from the sun and rain.

317. At the Tuxtepec prison the drainage system serving the cell blocks and administration building and also the pipes running along the exterior of the prison have been fully replaced. The kitchen areas of sectors 90 and 91 have been refurbished and extended, and the washing facilities in both sectors have undergone maintenance. Repair and maintenance work has been carried out on the lighting for the basketball courts.

318. All areas of the Tehuantepec prison premises have been waterproofed. Maintenance has been undertaken in the checkpoint area, and the notice stating which items may not be taken inside has been painted and its lettering renewed. An emergency electrical power plant has been installed and a special room to house it has been built outside the premises.

319. At the Pochutla prison the wiring has undergone repairs and maintenance and the fuse boxes which were in poor condition have been replaced. The same work has been carried out in the entrance stairway leading to the prison interior. The area where the telephones used by inmates are located has been refurbished.

320. At the Matías Romero prison the stairway leading to the conjugal quarters has undergone repairs and maintenance, and the same work has been carried out in the quarters themselves, which were in poor condition. Incandescent lamps have been installed in the women's area to provide more light in that sector.

## VIII. Steps taken to increase economic and administrative resources of places of detention

### A. Federal District

321. The budget allocated to the prison service in the Federal District for the period from 2006 to 2012 is shown in the table below.

#### Prison service budget allocation 2006–2012

<i>Fiscal year</i>	<i>Original allocation</i>	<i>Amended</i>
2006	\$1 095 130 911.00	\$1 187 654 313.43
2007	1 153 517 527.00	1 234 189 751.53
2008	1 346 676 473.00	1 375 058 813.31
2009	1 364 067 784.00	1 520 868 920.84

<i>Fiscal year</i>	<i>Original allocation</i>	<i>Amended</i>
2010	1 701 561 692.00	1 722 562 978.87
2011	1 816 934 023.00	1 966 562 071.29
2012	1 841 362 601.00	1 841 362 601.00

322. The distribution of human resources at places of detention in the Federal District is as follows:

<i>Facility</i>	<i>Population by gender</i>			<i>Custodial personnel</i>	<i>Average number of inmates per security officer</i>
	<i>Population</i>	<i>Male</i>	<i>Female</i>		
Northern remand prison for men	12 208	12 208	-	151	81
Eastern remand prison for men	12 580	12 580	-	136	93
Southern remand prison for men	8 518	8 518	-	111	77
Federal District penitentiary	2 817	2 817	-	98	29
Acatitla social rehabilitation centre for men	2 455	2 455	-	116	21
Psychosocial rehabilitation centre	409	409	-	34	12
Northern penal enforcement facility for men	490	490	-	36	14
Eastern penal enforcement facility for men	537	537	-	33	16
Acatitla social rehabilitation centre for women	1 614	-	1 614	66	24
Tepepan social rehabilitation centre for women	282	-	282	43	7
<b>Total</b>	<b>41 910</b>	<b>40 014</b>	<b>1 896</b>	<b>824</b>	<b>-</b>

323. In 2011, 640 security and custody officers were recruited under a rigorous selection process conducted by the reliability screening unit. A further 173 posts are to be created in 2012, and interviews for those posts are currently being arranged.

324. In order to strengthen childcare provision in the child development units, specialists in spheres such as psychology, social work, medicine and teaching have been engaged.

325. To provide support and assistance during medical transfers, 19 medical emergency officers have been hired. Also, the recruitment of 126 data control technicians to manage the visitor access control system has been authorized.

## B. Mexico state

326. The budget allocated to the prison service in Mexico state between 2006 and 2012 breaks down as follows:

<i>Type of expenditure</i>	<i>Millions of pesos</i>						
	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Current	802 053	836 414	857 629	888 483	998 524	1 057 950	1 131 368
Authorized public security contribution fund	35 594	21 000	24 200	26 366	44 200	42 200	42 200
	(Security fund)	(Security fund)	(Security fund)				

<i>Type of expenditure</i>	<i>Millions of pesos</i>						
	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Prison service development assistance					100 00		
Metropolitan fund					130 00	87 00	
Public security (budget item 36) statutory aid						32 085	
Police assistance credit							11 189
<b>Total</b>	<b>837 647</b>	<b>857 414</b>	<b>881 829</b>	<b>914 849</b>	<b>1 272 724</b>	<b>1 219 235</b>	<b>1 184 557</b>

327. The budget earmarked annually breaks down as follows:

<i>Remand and social rehabilitation centres</i>	<i>Authorized annual budget 2012</i>
Chalco	74 101 889.18
Cuautitlán	33 310 787.03
Ecatepec	88 689 108.85
El Oro	12 644 704.62
Ixtlahuaca	19 115 848.12
Jilotepec	16 295 807.62
Lerma	17 707 478.26
Netzahualcáyotl Bordo de Xochiaca	133 258 235.24
Netzahualcáyotl northern prison	0
Netzahualcáyotl southern prison	2 320 116.65
Otumba	11 958 908.93
Otumba Tepachico	78 423 282.10
Model prison	20 211 014.04
Santiaguito	101 090 777.66
Sultepec	15 330 888.24
Temascaltepec	17 239 056.41
Tenancingo	23 120 176.78
Tenango del Valle	19 867 028.47
Texcoco	55 194 130.69
Tlalnepantla	85 798 194.02
Valle de Bravo	22 688 837.85
Zumpango	17 157 058.32
Zinacantepec juvenile rehabilitation school	50 312 393.16

328. The budget allocated to the psychosocial rehabilitation centre in Netzahualcáyotl is 60 million pesos.

329. The numbers of public servants employed in the Mexico state prison service are as follows:

<i>Managerial</i>	<i>Technical</i>	<i>Legal</i>	<i>Administration and services</i>	<i>Security</i>	<i>Total</i>
20	471	56	271	2 761	3 579

### C. State of Jalisco

330. The budget allocated to the prison service in the **state of Jalisco** between 2006 and 2012 breaks down as follows:<sup>14</sup>

<i>Year</i>	<i>Budgetary allocation</i>
2006	\$576 491 423.00
2007	\$771 896 712.00
2008	\$857 700 889.00
2009	\$957 986 764.00
2010	\$982 600 540.00
2011	\$959 927 438.58
2012	\$1 066 674 160.00

331. The Jalisco prison service has also been granted a federal budget from the public security contribution fund for an authorized amount of \$27,965,602.00, assigned as follows:<sup>15</sup>

<i>Budgetary allocation</i>	<i>Earmarked for</i>
\$3 198 004.00	Specialized training for operational personnel and training for technical personnel
\$18 000 000.00	Biometric access control systems at two penitentiaries
\$4 127 953.00	Construction of the addiction treatment unit at the social rehabilitation centre
\$1 639 645.00	Acquisition of equipment (computer hardware, scanner, printer, camera, lights, USB digitizer, headsets, recording booth and database server) for the purpose of transferring data from the Jalisco state prisoner register system in conformity with RNIP quality requirements
\$1 000 000.00	Feasibility study on mobile telephone signal blockers

332. The budgetary priorities for prison improvements have been determined at plenary meetings of regular sessions of the National Conference of the Prison Service

<sup>14</sup> Note: The budgetary allocation is for the 13 prisons and the General Bureau of Crime Prevention and Social Rehabilitation, which means that the budget cannot be broken down by individual location.

<sup>15</sup> Note: Financing for the state of Jalisco in the current fiscal year (2012) from the public security contribution fund is in the process of being authorized by the executive secretariat of the National Public Security System.



since its establishment in 2009. For the 2012 fiscal year it was agreed by Decision No. 09/VI/So/17-10-11, adopted at the sixth session of the National Conference of the Prison Service (attended by the Jalisco prison authorities), to continue the investment strategy (public security contribution fund and state allocations) for the five areas of spending promoted by the national prison service, which are as follows:<sup>16</sup>

- Provision of training for 20 per cent of prison personnel;
- Installation of radio-frequency blocking devices at the 78 places of detention designated as priority locations;
- Establishment of connectivity between the 78 places of detention and Platform Mexico by the end of 2011;
- Purchase of equipment for RNIP data gathering at the country's 78 prioritized locations; and
- Implementation of addiction treatment programmes at state facilities.

333. The numbers of public servants employed at state establishments situated in the state of Jalisco are as follows:

<i>Location</i>	<i>Administrative personnel</i>	<i>Technical personnel</i>	<i>Operational personnel</i>
General Bureau of Crime Prevention and Social Rehabilitation	228	33	369
Bureau for Special Prevention and Social Adjustment Measures	26	5	4
Comprehensive juvenile care centre	55	42	128
Observation, classification and assessment centre	65	48	99
Rehabilitation centre for women	52	38	134
Social rehabilitation centre	91	95	249
Ameca regional correctional facility	12	7	50
Autlán de Navarro regional correctional facility	12	9	45
Chapala regional correctional facility	10	8	56
Lagos de Moreno regional correctional facility	17	7	50
Tepatitlán de Morelos regional correctional facility	12	6	49
Tequila regional correctional facility	12	7	48
Puerto Vallarta prison	32	22	123
Ciudad Guzmán prison	34	47	186
Guadalajara remand prison	128	80	282
Total posts by category	786	454	1 872
<b>Grand total</b>			<b>3 112</b>

<sup>16</sup> The following Internet site may be consulted for further information:  
<http://www.secretariadoejecutivosnp.gob.mx/work/models/SecretariadoEjecutivo/Resource/363/1/images/Minuta%20VI%20CNSP.pdf>.

## D. State of Oaxaca

334. Set out below are budget details relating to places of detention in the state of Oaxaca.

<i>Year</i>	<i>Approved budget</i>	<i>Column 1</i>
	Prevention and social rehabilitation	Rehabilitation of juvenile offenders/ Department of Juvenile Services
2006	97 320 032.75	10 977 263.43
2007	101 086 516	11 841 202
2008	109 017 397.8	12 486 531.95
2009	111 443 196	13 245 516
2010	120 654 866	13 690 107
2011	128 840 775.8	15 181 912.46
2012	136 546 580.4	15 308 384.55
<b>Total 2006–2012</b>	<b>804 909 364.8</b>	<b>92 730 917.39</b>

## IX. Promotion of cooperation between the State and international human rights protection mechanisms

335. Mexico operates a policy of total openness and collaboration with international human rights mechanisms. Within that framework a number of visits have been made to the country by those bodies, resulting in a series of recommendations, and efforts are being pursued to duly deal with their urgent appeals.

336. The most recurrent topics receiving the attention of these international human rights mechanisms with respect to Mexico have been the elimination of the practice of preventive custody, the successful implementation of the reform of the criminal justice system, the adoption of human rights constitutional reforms, the need for reform of the military court system so that it does not have jurisdiction over cases involving human rights violations and military courts cannot try cases where the victims are civilians, and the establishment of mechanisms to ensure that judicial decisions are promptly and fully executed and enforced.

337. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment visited Mexico from 7 to 16 August 1997 in order to gather information from a wide range of contacts and to be able to assess the situation with regard to the practice of torture in the country. The Special Rapporteur prepared a report on his visit, containing his conclusions and 19 recommendations concerning the situation of torture from the perspective of his mandate.

338. Since that time the Mexican Government has submitted six annual reports with updates on measures taken to combat torture.

339. During 2011, seven urgent appeals were received from the Special Rapporteur. Four have been addressed and three are still to be dealt with. These appeals relate, in particular, to the adoption of appropriate measures, including structural reforms, for the prevention of outbreaks of violence in prisons and the elimination of the practice of preventive custody.

340. During 2012, one urgent appeal was received from this international mechanism. Information from the authorities concerned is awaited.

341. Mexico is up to date with its reporting obligations towards the monitoring bodies, which is a reflection of its total commitment to the international human rights instruments.

342. In November 2012 the Mexican Government is to defend its consolidated fifth and sixth report on implementing the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment before the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment at its forty-second session.

343. That report was prepared on the basis of the new procedure established by the Committee against Torture for the presentation of periodic reports, the Mexican Government having been informed in 2009 by a note of the Secretary-General of the United Nations that the Committee against Torture had decided to implement a new optional reporting procedure entailing the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their ensuing periodic report.

344. It was accordingly notified that the replies to that list would be treated as the fifth and sixth periodic report to be submitted under article 19 of the Convention. The new procedure was aimed primarily at States parties whose reports were due for submission after 2010, a situation which applied to Mexico.

345. In the inter-American sphere the Mexican Government cooperates with the different human rights bodies. This cooperation includes the recognition of the jurisdiction of the Inter-American Court of Human Rights to hear specific cases of alleged violations of human rights.

346. The Inter-American Court's judgements have given rise to the adoption of a number of measures by the Mexican Government ranging from legislative reforms to public policies and the provision of redress.

347. For example, with regard to the implementation of the judgement handed down by the Inter-American Court on 26 November 2010 in the case of *Cabrera García and Montiel Flores v. Mexico*,<sup>17</sup> a compliance report was submitted on 21 December 2011 by the Mexican Government, setting out the efforts that it was making to carry out the judgement. From the State's viewpoint, full compliance has been achieved with respect to aspects such as publishing the verdict and granting redress to the victims and significant progress has been made in connection with measures to ensure non-recurrence, such as the organization of training courses and steps to establish a national register of arrests. As regards other aspects, such the conduct of an investigation into the facts and the legislative reforms ordered by the Inter-American Court, major compliance efforts are being pursued.

## **X. Challenges to preventing torture in Mexico**

348. In response to the recommendations issued by the Subcommittee, the Mexican Government has carried out various measures to eradicate any practices that could give rise to torture or ill-treatment by the authorities at places of detention. However, there are still major challenges in this area.

349. One of the main challenges, bearing in mind that Mexico is a federation, is to harmonize the criminal definition of torture at the national level in line with international

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<sup>17</sup> On 2 May 1999 Mr. Montiel and Mr. Cabrera were arrested in Pizotla, Guerrero, by military personnel for the offence of carrying firearms. They were subsequently released by the federal executive "on humanitarian grounds". In its judgement the Inter-American Court held the State responsible for their unlawful arrest and the infliction of cruel treatment during their detention.

standards. This is an urgent task which will require the cooperation of the legislature and executive at the federal and state levels.

350. A second challenge is to establish a national register of complaints of torture and ill-treatment that will make it possible to identify and punish acts which violate the rights of persons under any form of detention. The register should include details of the complainant, the authority involved and follow-up action on the complaint.

351. It is essential to strengthen support programmes for victims and their relatives given that torture and ill-treatment not only violate the dignity of the human person but can also affect individuals' health and social development, with negative repercussions on economic and family circumstances.

352. There is a need to continue to strengthen programmes for the training of law enforcement, prison and justice administration personnel, in particular with regard to appropriate arrest techniques and the use of force, following an approach based on human rights and protection of the individual.

353. To prevent detainees from being subjected to torture or ill-treatment it is necessary at all times to know the whereabouts of such persons and the authority concerned. A major challenge is thus to unify detention records and procedures at the national level in order to ensure a transparent chain of custody.

354. Finally, there is a need to continue efforts to achieve nationwide implementation of Decision No. A/57/2003 concerning the use of medical/psychological evaluation reports for cases of possible torture or ill-treatment (practical application of the Istanbul Protocol).

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