



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

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**Committee against Torture**

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

**Second periodic reports of States parties due in 2013**

**Honduras\* \*\***

[Date received: 8 May 2015]

- \* The initial report of Honduras appears in document CAT/C/HND/1; it was considered by the Committee at its 880th and 882nd meetings, held on 6 and 7 May 2009 (CAT/C/SR.880 and 882). For its consideration, see the Committee's concluding observations (CAT/C/HND/CO/1).
- \*\* The present document is being issued without formal editing.

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\* The appendices may be viewed in the Secretariat.

## Abbreviations and acronyms

CONADEH	Office of the National Commissioner for Human Rights
CONAPREV	National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment
ILO	International Labour Organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
SDC	Swiss Agency for Development and Cooperation
UNDP	United Nations Development Programme

## I. Introduction

1. Honduras is a signatory to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, in compliance with its obligations under the Convention, transmitted its initial report to the Committee against Torture on 9 September 2008, for review in May 2009.
2. The present document replying to the list of issues constitutes the second periodic report of the State.
3. This report was prepared with the full and active participation of representatives of government secretariats and institutions, as well as civil society organizations comprising the membership of the Inter-Agency Working Group (Response Group on Human Rights).
4. The Inter-Agency Working Group, which was coordinated by the Ministry of Human Rights, Justice, the Interior and Decentralization, included representatives from the ministries of Security, Foreign Affairs and International Cooperation, National Defence, and Finance, as well as the judiciary; the Public Prosecution Service; the Office of the National Commissioner for Human Rights; the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment (CONAPREV); the Special Commission on Transition of the National Prison System; the National Institute for Women; the National Institute for Migration; the Directorate for Children, Adolescents and Families; the Directorate for Youth; the Directorate for Indigenous and Afro-Honduran Peoples, and the United Nations Development Programme (UNDP). Representatives of the following civil society organizations also participated: the Committee for the Defence of Human Rights, the Federation of Non-Governmental Organizations for the Development of Honduras and the Civil Society Group.

## II. Replies to the list of issues

### Articles 1 and 4

#### Reply to paragraph 1

5. The National Congress adopted Decree No. 22-2011, amending article 209-A of the Criminal Code, which defines the offence of torture as follows:

Any public official or employee or any other person acting in an official capacity who exceeds his or her mandate while attempting to obtain a confession or information from any person, or to punish him or her for any act that he or she has committed or is suspected of having committed, or for any reason based on any type of discrimination by subjecting him or her to conditions or procedures which, by their intimidating or coercive nature or by the use of material force, cause physical or mental suffering or the destruction or impairment of his or her faculties or understanding, discernment or decision-making or are in any other way prejudicial to his or her mental integrity shall be deemed to have committed torture. Any person found guilty of having committed torture shall be punished by imprisonment of from 10 to 15 years if serious harm has been caused or from 5 to 10 years otherwise, in addition to ineligibility for reinstatement for double the term of imprisonment. When torture is committed by a private citizen, the penalties shall be reduced by one third. The above sanctions shall be imposed without prejudice to any penalties that may be applicable to offences against the life, physical integrity, health, sexual freedom or property of the victim or third parties. The above penalties shall apply to public

officials or employees who, by their consent or acquiescence and failing in the duties of their post, allow other persons to carry out the acts described above. The same penalties shall apply to public officials or employees of prisons, correctional facilities for juveniles or centres for the protection of minors who commit any of the acts referred to in the first paragraph of this article against inmates, detainees or convicts.

6. The definition of torture is in full conformity with all the elements contained in article 1 of the Convention.

7. On 1 July 2002, the State ratified the Rome Statute of the International Criminal Court, which defines torture as a “crime against humanity ... when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack,” in which case the crime is imprescriptible and the ordinary rules of the Criminal Code do not apply as far as prescription is concerned. However, the offence would only be imprescriptible in cases that fit the definition of torture contained in the Rome Statute.

8. In all other cases, the offence of torture does prescribe, in accordance with the ordinary rules of prescription set forth in the Criminal Code. Nevertheless, article 163 of the preliminary draft criminal code (currently being drafted) proposes that the offence of torture should be imprescriptible because it is an affront to human dignity.

### **Reply to paragraph 2**

9. The Congress issued Decree No. 49-2012 of 30 May 2012, adding article 333-A to the Criminal Code. The article defines enforced disappearance of persons as an offence, thus bringing it in line with international standards on the matter:

Article 333-A. Anyone who, acting with the authorization, support or acquiescence of one or more public officials or employees, deprives a person or persons of his or her liberty in any way, thus preventing or hindering that person from exercising his or her constitutional guarantees and the right to due process, providing the following circumstances also occur: (1) lack of information and refusal to recognize the deprivation of liberty, and (2) concealing or denying the whereabouts of the detainee, shall be deemed to be guilty of the offence of enforced disappearance and shall be punished by imprisonment of from 15 to 20 years and a fine of between 25 and 50 times the minimum wage. When the defendants are public officials or employees, the penalty shall be increased by one third.

## **Article 2**

### **Reply to paragraph 3**

10. The following measures and procedures have been carried out by different State agencies.

#### *The judiciary*

11. The Public Defence Service has assigned public defenders to be present in police stations that keep detainees in custody so as to ensure respect for their fundamental rights: allowing for alternative measures, when appropriate; informing detainees of their rights, and providing access to professional legal defence, when detainees do not have their own lawyer.

12. There are not enough public defenders to cover all the police stations and courts; therefore, a special shift has been set up so as to ensure that services are available in all venues 24 hours a day, 365 days a year.

13. In order to guarantee that detainees undergo a medical examination within the first 24 hours of detention, all integrated centres have forensic medical clinics with a doctor on duty, so that the service is available 24 hours a day.

14. If a detainee has been beaten or is ill, the defender requests the authorities to transfer him or her to a health-care centre where he or she can receive immediate care, and a record is kept of the situation.

*The Public Prosecution Service*

15. The Office of the Special Prosecutor for Human Rights has provided for weekly visits to be made to police stations that have detention cells, with a view to determining the status of detainees. Chief prosecutors have been instructed to conduct daily visits to prisons so as to ensure that inmates are guaranteed their fundamental rights and that records are kept of interviews with detainees.

*National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment (CONAPREV)*

16. In compliance with the Optional Protocol to the Convention, the Organic Act on CONAPREV and the regulations to that Act, CONAPREV conducts scheduled and ad hoc preventive visits to police stations in the main cities of the country. On these visits, the Committee meets with the person in charge of the detention centre and conducts inspections, so as to ascertain the living conditions and treatment of detainees, who are interviewed and given brochures containing information on their rights.

17. CONAPREV reports on its observations regarding the visits and makes recommendations, which must be complied with immediately, to the director of the police station in question. Recommendations are implemented without delay when the rights of inmates are involved, no significant budgetary expenditure is required, and the situation can be improved if the person in charge is willing to take the necessary action.

18. When CONAPREV has received complaints of bad practice in the application of detention procedures provided for under the Police and Harmonious Social Relations Act, it has noted that in most cases, the detentions have been made on grounds of causing a public disturbance, lack of identification papers or vagrancy (loitering).

*Office of the National Commissioner for Human Rights (CONADEH)*

19. To guarantee the rights of detainees, inspections are conducted in detention centres every week and in prisons every other week. Information is gathered on the human rights situation of inmates, complaints are addressed, recommendations are made and the relevant authorities are ordered to take the appropriate corrective measures.

*Ministry of Security*

20. The Ministry of Security created the Department of Human Rights to provide advice and to plan and implement activities in this area. The Ministry of Security periodically makes unannounced visits to police stations in departments and municipalities in order to observe the situation with respect to good practices within the police force, especially as regards the treatment of detainees.

**Reply to paragraph 4**

21. To guarantee human and financial resources for the Public Defence Service, the judiciary has increased allocations for the Public Defence Service proportionally to the annual increment in its own budget. The allocation amounted to 108,822,253 lempiras in

2009; 119,119,798 lempiras in 2010; 126,954,741 lempiras in 2011; 159,541,719.02 lempiras in 2012; 168,032,476.05 lempiras in 2013, and 174,914,469.94 lempiras in 2014. This has made it possible to increase the number of public defenders every year throughout the country. Thus, there were 244 public defenders in 2009, 248 in 2010, 258 in 2011, 265 in 2012, 267 in 2013 and 269 in 2014.

#### **Reply to paragraph 5**

22. The State has allocated budgetary funds and resources to CONAPREV. When it was set up in 2011, it received an allocation of 3 million lempiras; this amount was increased to 5 million lempiras in 2012, 8 million lempiras in 2013 and 9 million lempiras in 2014.

23. To eliminate legal obstacles to the allocation of a budget to CONAPREV, the Congress adopted Decree No. 356-2013 of 20 January 2014, amending article 7 of the Act establishing it and providing that legal or administrative measures that restrict, limit or delay access to funds or transfers from the State shall not be applicable if they hinder implementation of this Decree in matters pertaining to the budget of the National Mechanism.

24. Follow-up to the recommendations made by CONAPREV varies, depending on the authority to whom they are addressed, the right to be protected, the budgetary expenditure required and the complexity of the issue involved. Many of the recommendations are carried out following discussions with the authorities in charge of the detention centres concerned. Adoption of other more complex recommendations entails taking additional measures; the issues involved are identified and discussed in the report on findings and recommendations.

25. CONAPREV is encouraged by the measures taken in response to its recommendations on the treatment of inmates; improvements in the food provided to inmates, the budget for which was increased from 13 to 30 lempiras; establishment of security protocols and plans to prevent reoccurrence of tragedies; construction of new prisons, and monitoring of the use of mobile telephones in prisons.

26. The reports issued by CONAPREV are transmitted in hard copy to the authorities in charge of the detention centres and public institutions concerned and to mayors' offices. Three reports were published during the period from 2011 to 2013.

#### **Reply to paragraph 6**

27. By means of Decree No. 18-2014, of 25 March 2014, the Congress appointed Roberto Herrera Cáceres as National Commissioner for Human Rights for a term of six years. He was elected in a transparent process during which public hearings were held with 21 candidates.

28. Pursuant to articles 7 and 8 of the Act establishing it, CONADEH has functional, administrative and technical independence. It carries out unannounced visits to jails and detention centres and has unrestricted access to civilian and military offices, as well as to detention, imprisonment or internment centres. Its personnel must be received immediately and their visits must be handled as a priority matter.

29. CONADEH must respond immediately and follow up on complaints of human rights violations and must work to ensure that the actions of public officials are consistent with the content of human rights treaties that have been ratified by the State.

30. It has offices in all 18 departments of the country, where it receives complaints of human rights violations. A rapid response system is in place whereby complaints are received by means of calls from landlines or mobile telephones to the free hotline number 132 in the central office, which operates 24 hours a day 365 days a year. Mobile units have

been set up in municipalities to deal with complaints; complaints may also be lodged through the website at [www.conadeh.hn](http://www.conadeh.hn).

31. Between 2010 and 2014, the 19 branch offices of CONADEH received 912 complaints which were determined to be cases of torture and ill-treatment. The most serious ones were referred to the Public Prosecution Service.

#### **Reply to paragraph 7**

32. To ensure the full independence of the judiciary, the Congress passed Decree No. 219-2011, creating the Council of the Judiciary and Judicial Staff. This body is responsible for the organization, administration and discipline of the judiciary and the judicial staff. Its objective is to ensure the functional and administrative autonomy and independence of all bodies within the judiciary, as well as the impartiality of judges and magistrates.

#### *Disciplinary proceedings against judges and magistrates*

33. The Supreme Court of Justice reports the following proceedings:

The case of Adán Guillermo López

34. The Council of the Judiciary and Judicial Staff issued the following decision regarding this complaint:

1. To deny the plea for prescription of the authority's action imposing disciplinary sanctions and dismissal from office, against the decision of the Supreme Court of Justice.
2. To dismiss the complaint brought by attorney Adán Guillermo López, relating to his dismissal from the office of judge of the *tribunal de sentencia* (sentencing court) of the Judicial Section of San Pedro Sula, Department of Cortés.
3. To confirm the dismissal of attorney Adán Guillermo López Lone, contained in Decision No. 371 of 16 June 2010, issued by the Honourable Supreme Court of Justice.

35. In this case, the grounds for dismissal were based on the fact that the plaintiff had actively participated in the political demonstration held near Toncontín Airport on 5 July 2009 and that, as he himself stated in the hearing for his defence, when the military forces that were guarding the airport runway opened fire with their regulation weapons, causing a human stampede in which, as he tried to run to safety, he suffered a fracture of the tibial plateau on his left leg. This contradicts attorney López's own statement in the claim form submitted to Seguros Atlántida for medical expenses, on which he stated that the accident had occurred as he was walking, when he stumbled and hit his knee and was unable to walk further.

36. Article 319 of the Constitution of the Republic, in conjunction with articles 62 and 78 thereof, stipulates that officials and auxiliary personnel of the judiciary may on no account become involved in partisan political activities of any kind, except in order to cast their personal vote. They are also prohibited from joining trade unions or going on strike. The evidence provided to the Supreme Court of Justice showed that attorney López participated actively in political demonstrations, not as a mere citizen, because he was always identified as acting in his capacity as judge of the *tribunal de sentencia* of San Pedro Sula. This capacity does not cease when an official is off duty; hence, he acted in open violation of the provision of article 3.6 of the Act on the Organization and Powers of the Courts; articles 49, 156 and 187 (a) of the Act on the Judiciary and Judicial Staff, and article 189 of the regulations thereto.



37. Article 1 (d) of the Code of Ethics for Judicial Officials and Employees stipulates that they must not go to indecorous places or participate in events that might create a public disturbance. Article 2 (d) of the Code stipulates that they must abstain from participating in and expressing political opinions, either privately or publicly. Their intervention must be limited to casting their vote. Likewise, the Code of Ethical Conduct for Civil Servants provides that they must abstain from participating in activities, situations or behaviours that are incompatible with their duties or that might affect their independence of thought for the performance of their duties. Both codes require that they must be held accountable for their actions.

38. Article 4 of the Principles of Ibero-American Judicial Ethics states that judicial independence means that judges are ethically prohibited from participating in any type of partisan political activity. As stated in article 1 of the Statute of the Ibero-American Judge, the general principle of independence is a guarantee for defendants, and therefore, judges are subject only to the Constitution and the law, in strict compliance with the principle of legal hierarchy.

#### The case of Ramón Enrique Barrios

39. In this regard, the Council of the Judiciary and Judicial Staff issued the following decision:

1. To deny the plea for prescription of the authority's action imposing disciplinary sanctions and dismissal from office brought by attorney Ramón Enrique Barrios.
2. To allow the challenge submitted by attorney Ramón Enrique Barrios against his dismissal from the office of judge of the *tribunal de sentencia* in the judicial section of the city of San Pedro Sula, in view of the fact that there is no clear evidence for the grounds invoked for his dismissal.
3. To rescind Decision No. 372 of 16 June 2010 issued by the Supreme Court of Justice; consequently, Decision No. 794 of 26 May 2003 remains in force. This decision, also issued by the Supreme Court of Justice, which provides for the creation of the post of *juez de sentencia* (sentencing judge) in the city of San Pedro Sula and the appointment of attorney Ramón Enrique Barrios to the post of *juez de sentencia* in that city, remains in force.
4. To dismiss the claim for reinstatement brought by attorney Ramón Enrique Barrios, in view of the fact that the complainant has continued in that position and is being paid the relevant monthly salary.

40. The dismissal was based on the grounds that he had accepted an invitation to deliver a lecture in auditorium number four of the National Autonomous University of the Valley of Sula for professors, workers and the general public, regarding the events of 28 June 2009. The activity went beyond the confines of the auditorium and led to opinions being expressed that became political in nature, such expressions being prohibited for judicial staff, in accordance with the Constitution of the Republic, the Act on the Judiciary and Judicial Staff, the Act on the Organization and Powers of the Courts and the Code of Ethics for Judicial Officials and Employees. Such judicial staff must abstain from participating in political activities and expressing opinions, either privately or publicly, even when that is permissible for other citizens.

41. The Council of the Judiciary and Judicial Staff reviewed the evidence presented by both sides and reached the conclusion that the investigations carried out by the Office of the Inspector of the Judiciary and Judicial Staff were inadequate and the dismissal was not conclusively supported by other types of evidence.

42. Attorney Barrios continued performing his duties and receiving his salary as judge of the *tribunal de sentencia* of San Pedro Sula. He did not provide proof to the Council of the Judiciary and the Judicial Staff of any damage suffered that would justify requiring the Supreme Court of Justice to pay him compensation.

The case of Luis Enríquez Chévez

43. The dismissal of attorney Chévez was based on the fact that he had participated in a demonstration in the city of San Pedro Sula, Cortés, on 12 August 2009, near the premises of the Monument to Mothers and in the city centre, where he was arrested by the National Crime Prevention Police for disturbing the peace. He was released pursuant to a recourse of habeas corpus. In addition, he had altercations with other judicial employees within the premises of the judiciary, arising from his political position concerning events in the country.

44. In regard to this claim, the Council of the Judiciary and the Judicial staff decided as follows:

1. To deny the plea for prescription of the authority's action imposing disciplinary sanctions and dismissal from office brought by attorney Luis Alonso Chévez de la Rocha.

2. To allow the challenge against the dismissal of attorney Luis Alonso Chévez de la Rocha.

3. To dismiss the claim for reinstatement submitted by attorney Luis Alonso Chévez de la Rocha to the position of Special Judge against Domestic Violence in the city of San Pedro Sula, given that his previous position has been filled by attorney Daniel Domínguez Zapata, making it impossible to reinstate him.

4. Bearing in mind the inconvenience and the impossibility of reinstating attorney Chévez de la Rocha in the post that he held at the time of his dismissal, the Supreme Court of Justice, through the relevant department, shall proceed to compensate attorney Chévez de la Rocha the amount of one month's salary for each year of service performed by the plaintiff for the judiciary, up to a maximum of 15 years, pursuant to article 69 of the Act on the Judiciary and the Judicial Staff, as amended by Decree 85/99 of 21 May 1999, which was in force at the time of his dismissal. To that compensation shall be added an amount corresponding to one month's salary in lieu of advance notice and such other compensation as may be required by law, such as pending vacation, the end-of-year bonus and fourteenth month, plus salaries not received as of the effective date of dismissal, 13 September 2010, until the date of this decision.

45. The above decision was based on an evaluation of the evidence by the Council of the Judiciary and Judicial Staff, in which it was proven that attorney Chévez had been released by order of the *juez ejecutor* (enforcement judge), attorney Katy Sánchez, it having been stated that he was not detained and there was no evidence against him. However, it has been duly demonstrated that the plaintiff was hostile towards his co-workers in the judiciary and that he constantly stated that he was still working because he needed the money but he was ashamed to be working in the judiciary. This is not consistent with his status as a judge, as it patently damages the image of the judiciary, especially as he held the position of a judge for cases of domestic violence, which entails an obligation to behave with respect and equanimity in all his actions.

46. The Council found that the accusations leading to his dismissal were not a consequence of his performance as a judge and that therefore, based on the principle of

proportionality in labour relations, a lesser disciplinary measure than dismissal should have been imposed.

47. It was clear to the Supreme Court of Justice, however, that attorney Chévez is ashamed to be a part of the judicial system and only works there out of necessity. In view of such expressions of discontent, it is not advisable for any of the parties concerned to maintain the labour relationship, and therefore, he was granted an amount equivalent to his employee benefits and the compensation for damage caused to him, as required under article 129 of the Constitution and article 69, as amended, of the Act on the Judiciary and Judicial Staff.

The case of Tirza del Carmen Flores

48. In regard to this claim, the Council of the Judiciary and the Judicial Staff decided as follows:

1. To deny the plea for prescription of the action, brought by attorney Tirza del Carmen Flores Lanza against the penalties imposed by the Supreme Court of Justice.
2. To dismiss the claim submitted by attorney Tirza del Carmen Flores Lanza regarding her dismissal from office as a regular magistrada (judge of a higher court) of the Court of Appeals in the city of San Pedro Sula.
3. To confirm the dismissal of attorney Tirza del Carmen Flores Lanza, as provided in Decision No. 346 of 4 June 2010, issued by the Supreme Court of Justice.

49. The dismissal was based, in general terms, on the following:

- (a) That she was absent from her office in the court on 30 June 2009, when she was in the capital of the Republic on business unrelated to her duties, without permission;
- (b) That she carried out activities that were incompatible with the performance of her job, having taken steps to process an annulment submitted in connection with a petition for *amparo*;
- (c) That she gave the address of the Court of Appeals of San Pedro Sula, even though that is the exclusive legal domicile of the judiciary, as the place where she could receive notifications pertaining to actions that had nothing to do with her duty to devote herself exclusively to dispensing and administering justice in an impartial manner;
- (d) That she carried out activities which that are not permissible given her position as a *magistrada*, having appeared at the Office of the Attorney-General of the Republic to submit a complaint against State officials regarding offences they were alleged to have committed;
- (e) That she made comments about judicial actions of other courts and even the Supreme Court of Justice.

50. The Council of the Judiciary and the Judicial Staff stated that attorney Flores's unexcused absence from her duties, as stipulated in articles 45 and 54 (c) (i) of the Act on the Judiciary and Judicial Staff, was deemed to be conduct that undermined the effectiveness of the administration of justice, a view that was also established in article 179 of the Regulations to the Act on the Judiciary and the Judicial Staff, and that the infraction was also covered by article 173 (c) of those Regulations.

51. All *magistrados* have the obligation to work exclusively for the judiciary. Article 319 of the Constitution stipulates that judges and *magistrados* shall provide their services exclusively to the judiciary; consequently, they shall not practice the law independently nor offer counsel or legal advice to anyone. It is therefore the view of the Supreme Court of

Justice that by carrying out formalities or submitting requests at an institution, attorney Flores has violated the constitutional provision that makes her liable to dismissal, a sanction which was applied in order to uphold the Constitution. Although the Act on Constitutional Justice, the Organic Act of the Bar Association of Honduras and the Code of Criminal Procedure provide that any citizen may submit a petition for *amparo* and that citizens are in duty bound to lodge complaints when they are aware of an actionable offence having been committed, articles 319 and 320 of the Constitution expressly prohibit attorney Flores from such action; therefore, in dismissing her, the Supreme Court of Justice applied the supremacy of the Constitution rather than a law of lower rank that might diminish, restrict or distort it.

*Office of the Special Prosecutor for Human Rights*

52. The statements made by the then Deputy Minister of Security, Armando Calidonio, and published in the 26 May 2011 edition of the newspaper *La Prensa* were that the Office of the Prosecutor for Human Rights intimidated police officers and emboldened criminals by its actions and that he therefore held the Office of the Prosecutor for Human Rights responsible for anything that might happen to the police. That statement elicited an immediate reply, in the same medium, by Sandra Ponce, who at the time was Special Prosecutor for Human Rights. On 27 May 2011, she stated in the newspaper *La Tribuna*, that the police must understand that prosecutors were only carrying out their duties under the law, such as the duty to conduct investigations into events that constituted crimes, and that the actions of the police must be subject to the same oversight as any other democratic institution.

53. Those statements did not, however, prevent the Special Prosecutor for Human Rights from initiating ex officio an investigation into the deaths of seven alleged gang members in Ciudad Planeta, San Pedro Sula, which had occurred during a special patrol operation carried out by the national police.

**Reply to paragraph 8**

54. The Public Security Reform Commission was established by Legislative Decree No. 4-2012 of 31 January 2012, as a temporary and independent body charged with designing, planning and certifying the comprehensive reform of public security services. However, by Decree No. 403-2013, the Congress repealed the decree creating it.

**Reply to paragraph 9**

55. The Congress adopted Decree No. 23-2013, of 22 February 2013, amending by addendum the Criminal Code, and establishing the offence of femicide, as follows:

Article 118-A. A man or men who kill a woman for gender-related reasons, with hatred and disparagement because of her being a woman, shall be deemed to have committed the offence of femicide. The perpetrator shall be punished by imprisonment of from 30 to 40 years when one or more of the following circumstances concur: (1) When the perpetrator has or has had a spousal relationship, either by marriage, de facto, in consensual union or any other similar relationship, regardless of whether or not there is or has been cohabitation, including relationships in which there is or has been a sentimental attachment; (2) When the offence is preceded by acts of domestic or family violence, regardless of whether or not a complaint has been lodged; (3) When the offence is preceded by a situation of sexual violence, harassment, stalking or persecution of any kind; and (4) When the offence is committed with extreme cruelty or when slanderous or degrading injuries or mutilations have occurred before or after the deprivation of life.

56. The executive branch, through the National Institute for Women, promoted the formulation and implementation of the National Policy on Women: Second Gender Equality Plan. The second major line of action of the Plan is to promote, protect and guarantee the right of women, girls and adolescents to peace and to a life free of violence. It also seeks to combat violence against women in different environments. In August 2014, a diagnostic study was conducted on the handling of cases of femicide in Honduras (La Ceiba, San Pedro Sula and Tegucigalpa).

57. Most notably, the Gender Equality Plan has generated a normative framework of public policies recognizing and guaranteeing the rights of women. It has been the key technical and policy tool for mainstreaming gender equality, pursuant to the Act on the Establishment of a Vision for the Country and Plan for the Nation.

58. The National Plan to Combat Violence against Women 2014–2022 was adopted by Executive Decree No. 012-2014 of 10 April 2014. It is currently under discussion with stakeholders.

59. At the national level, there are 298 municipal offices for women's affairs. Support, advocacy and consensus building is provided by international cooperation agencies and civil society organizations with a view to ensuring that the municipal offices for women's affairs are granted legal status via an amendment to the Municipalities Act. Thus, municipalities are now required to earmark 2 per cent of their budgets for programmes and projects that promote economic and social development and combat violence against women.

60. The Supreme Court of Justice set up specialized courts on domestic violence in Tegucigalpa and San Pedro Sula. It also created the Gender Unit, which provides training and information on issues related to all forms of discrimination against women through the design and implementation of campaigns on the cycle of violence. It offers advice, and when complaints are justified under the law, it refers them to free legal aid or to the Public Defence Service.

61. Reports that the number of women murdered in Honduras has risen in recent years are a matter of serious concern to the State, which has undertaken a thorough investigation so as to punish the perpetrators. In September 2013, the Public Prosecution Service created the Office of the Special Prosecutor for Crimes against Life, which has a Specialized Unit on Crimes against the Lives of Women, a decentralized unit with operations in the main cities of the country, such as Tegucigalpa, La Ceiba, Comayagua, Choluteca and San Pedro Sula.

62. Upgrading the professional calibre of staff in the Public Prosecution Service has enabled it to investigate those deaths from the standpoint of gender, especially in terms of crime scene management. Thus, it is now possible to observe the dynamics involved in the killings, taking into account what types of hatred and disparaging attitudes towards women were involved.

63. The Office of the Special Prosecutor for Crimes against Life has published a manual of procedures for investigating violent deaths of women. The manual focuses on the gender approach, which involves multidisciplinary and interagency action aimed at improving the performance of the judiciary (appendix I).

64. As regards training programmes on gender-based violence, between 2009 and 2014, the Ministry of Defence trained 5,382 people; the Salomón Jiménez Castro Judicial School trained 424; the National Institute for Women trained 600 police officers and members of the Armed Forces; the Ministry of Security, 2,340; the Office of the Special Prosecutor for Women, 971. CONADEH, in conjunction with students majoring in social work, is

conducting a research project on the institutional response to the problem of femicide in Honduras (appendix II).

65. Statistics on the different forms of violence against women may be found in appendix III.

#### **Reply to paragraph 10**

66. Eleven transgender women died between 2010 and 2013; two of those cases were resolved and prosecuted. In one case, No. 651-2011, the victims were Bella Alva, Karen Vásquez and Marlen Guzmán, and the defendants were Cristhian Contreras “Tiger” and Juan Aguilar “Little One”. In this case, the *tribunal de sentencia* in San Pedro Sula acquitted the defendants. In the other case, No. 824-2013, the victim was Yesenia Ramírez and the defendant was Groduin Peña “El Loby”. A public hearing in this case is scheduled for 19 August 2015. No police involvement was reported in these cases, so it is not possible to provide statistics in that regard.

67. The Public Prosecution Service has set up a special unit within the Office of the Special Prosecutor for Crimes against Life, in order to investigate and deal with complaints against this vulnerable group.

68. The Ministry of Security created the Special Crimes Unit to deal with deaths of lesbian, gay, bisexual, transgender and intersex persons. It has carried out awareness-raising and non-discrimination campaigns on behalf of this community. In addition, it worked with non-governmental organizations concerned with the issue to carry out a human rights training programme on sexual diversity for police officers.

69. As regards measures taken to prevent torture and ill-treatment of these individuals, CONAPREV has recommended that they should be kept where they will be safe, separated from other inmates, if possible. Their sleeping quarters should be in separate modules so as to avoid abuse by other inmates.

#### **Reply to paragraph 11**

70. The Constitution includes provisions describing the State’s obligation to protect the human person (articles 59, 60, 61, 65, 68, 69, 70 and 81). Articles 119 to 124 govern the protection of children, guaranteeing social assistance, access to education, appropriate courts and special tribunals and protection against all forms of abandonment, cruelty and exploitation. Articles 127 to 141 include provisions on the right to dignified work.

71. Article 93 of the Code on Children and Adolescents stipulates that the Government shall adopt all measures necessary to prevent and, as the case may be, to punish threats and violations of the rights of children.

72. Articles 127 to 134 of the Labour Code provide that work of women and children should be suitable in the light, in particular, of their age, circumstances or physical state, and their intellectual and moral development. Persons under 16 years of age and women shall not perform tasks referred to in the law as unhealthy or dangerous, and night work and overtime are prohibited.

73. The Criminal Code refers to several offences involved in commercial sexual exploitation, in articles 144, 148, 149-B, 149-C, 149-D, 149-E, 154-A and 321.

74. On 25 April 2012, the Congress adopted Decree No. 59-2012, containing the Trafficking in Persons Act.

75. Article 6, paragraphs 1, 4 and 10, of that Act define the concepts of trafficking in persons, forced labour or service and commercial sexual exploitation, and amend the definition of trafficking as follows:

Article 52. A person who facilitates, promotes or carries out the recruitment, retention, transport, transfer, delivery, harbouring or receipt of persons, whether inside or outside the national territory, for the purpose of subjecting them to servitude, slavery or similar practices, forced labour or services, begging or forced pregnancy, forced or servile marriage, illicit trade in human organs, fluids and tissues, sale of persons, commercial sexual exploitation, illegal adoption or the recruitment of persons under 18 years of age for use in criminal activities shall be guilty of the offence of human trafficking and shall incur a penalty of 10 to 15 years' imprisonment, general disqualification for a period equal to double that of the term of imprisonment and a fine of 150 to 250 times the minimum monthly wage. The penalties shall be increased by one half in the following cases: (1) Where the victim is under 18 years of age; (2) Where the perpetrator is the spouse, partner or relative of the victim up to the third degree of consanguinity or the second degree of affinity; (3) Where the perpetrator uses force, intimidation, deceit or the promise of work or supplies the victim with drugs or alcohol; (4) Where the perpetrator exploits his or her own business, position, job or role; (5) Where the perpetrator exploits the trust of persons who hold authority over the victim or makes payments, loans or concessions to obtain their consent; (6) Where the offence is committed by a criminal group comprising three or more members; and (7) Where the victim becomes disabled or contracts a life-threatening disease as a result of the abuse he or she suffers. Under no circumstances will consent given by the trafficking victim or by his or her legal guardian be taken into account.

*Impact and specific measures of the Action Plan to Combat Commercial Sexual Exploitation 2006–2011*

76. The Action Plan covers the entire country and assigns priority to actions in the fields of tourism, border control, areas of high population density and those with the highest poverty rates. Work is currently under way on formulation of the National Plan to Combat Commercial Sexual Exploitation and Trafficking in Persons 2015–2020.

77. During its early years, the Inter-Agency Commission to Combat Commercial Sexual Exploitation focused on the fight against commercial sexual exploitation; however, because of the need to address the offence of trafficking in persons, the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons was set up.

78. The Trafficking in Persons Act provides that the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons shall be a deconcentrated entity with technical, functional and budgetary autonomy, working under the Ministry of Human Rights, Justice, the Interior and Decentralization.

79. The Administrative Office for Seized Property turned over to the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons the amount of 1,238,201.17 lempiras. Thirty per cent of that amount was earmarked for assistance to victims under a cooperation agreement with Casa Alianza de Honduras.

80. The most noteworthy achievements under the Action Plan include the following:

- From June 2011 to June 2012, the Pilot Project on Social Reintegration of Victims of Commercial Sexual Exploitation and Trafficking in Persons was carried out in the southern zone of the country, in the context of an agreement between the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons; the International Organization for Migration; the Ministry of Human Rights, Justice, the Interior and Decentralization; the Office of the Municipal Mayor of Choluteca, and the National Institute for Women;

- Between 2009 and 2014, the Querubines Programme of Casa Alianza de Honduras provided legal assistance and medical, psychological and social services to victims of trafficking and commercial sexual exploitation, through agreements with the United Nations Children's Fund (2008), Netherlands Development Assistance (2009), the International Labour Organization (ILO) (2007–2009), Save the Children (2010–2011), Fundación Diagrama, CHF International (2010–2011) and the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons;
- From May 2009 to January 2011, CHF International, in coordination with the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons, implemented the project on integrated protection services for victims of trafficking in persons. Services were provided to 318 trafficking victims, and 40 microenterprises were created.

81. Between September 2013 and September 2014, the programme on Supporting Institutional Counter-Trafficking Efforts, which is coordinated by Global Communities and the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons provided comprehensive assistance to the following: 16 men who were victims of trafficking for purposes of forced labour, through the Victoria Project; 21 victims of trafficking, all migrants returned from Mexico by land, who were assisted by the Association of Scalabrinian Sisters; 5 victims who were assisted by Samaritan's Purse International Relief; 15 victims trafficked for domestic work, assisted by Asociación Calidad de Vida; and 140 child and adolescent victims of trafficking for purposes of sexual exploitation and forced labour, who were assisted by Casa Alianza.

82. The National Police carried out activities in the following areas, in connection with the investigation of these crimes:

(a) Prevention and control: the Division against Abuse, Trafficking and Commercial Sexual Exploitation and Trafficking of Children and Adolescents and the Tourism Police worked effectively up to 2012;

(b) Investigation: the Trafficking in Persons Unit, the Special Crimes Unit, the INTERPOL Division and the Transnational Criminal Investigation Unit have assigned agents to work on the investigation of these offences;

(c) Training: the Police Education System has undergraduate and post-graduate training units.

83. The Public Prosecution Service has a Specialized Unit to Combat Commercial Sexual Exploitation and Trafficking in Persons. This unit deals with cases as they arise, regardless of the age or gender of the victim.

84. The Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons drew up six maps to show the social geography of migration routes, blind spots and vulnerable zones for the movement of persons. The maps serve as tools for prevention, investigation and prosecution of the offences in question and were used for national and international training activities.

85. Child victims of sexual exploitation and trafficking were included as subjects who are entitled to the services provided under the Social Protection Policy adopted in March 2012 and the National Policy on Prevention of Violence against Children and Young People adopted in 2013.



*Impact and specific measures for implementation of the National Plan of Action for the Elimination of Child Labour, 2008–2015*

86. The public policy known as the Road Map to Make Honduras a Country Free of Child Labour, Including Its Worst Forms was adopted by Executive Decree No. PCM-011-2011, of 15 February 2011. The following actions were taken under this Plan of Action:

87. The Ministry of Education included the variable of child labour in the National Primary Education Enrolment System so as to identify children who are working, as well as their geographic location. A Civic Saturday was set aside to advocate for prevention and reduction of child labour through education.

88. The Ministry of Labour and Social Security, with financial support from ILO, trained and conferred legal standing on seven regional subcommissions made up of representatives of government, employers, workers and civil society. These subcommissions were set up in Choluteca, La Ceiba, El Progreso, San Pedro Sula, Comayagua, Danlí and Juticalpa. Each subcommission has a local plan for addressing the issue of child labour from prevention to removal of children from the worst forms of child labour.

89. In 2013, with financial support from ILO, all sectors worked together to draw up a plan for the sustainable elimination of child labour. The purpose of the plan is to improve the sustainability of results to be implemented by the sectors that comprise the Technical Council for the Gradual and Progressive Elimination of Child Labour.

90. Comprehensive amendments on family and children were adopted by Legislative Decree No. 35-2013, of 6 September 2013. These include amendments to the Code on Children and Adolescents, the Family Code, the Civil Code, the Criminal Code, the Code of Criminal Procedure and the Domestic Violence Act.

91. Article 128 of the Code on Children and Adolescents provides that the Ministry of Labour and Social Security shall inspect companies, workplaces and centres and homes. When a home is also a workplace, inspections are conducted, with a court order, to see if children are working there and if the workplace is in compliance with child protection regulations. Violations are punished with a fine equal to from 5 to 15 times the minimum wage at the highest value. Repeat offenders are punished with twice the amount of the previous fine if the life of a child has been endangered or the child's dignity or physical, psychological or intellectual integrity has been threatened. In addition to the prescribed fine, civil and criminal penalties are imposed.

92. The Ministry of Labour and Social Security has 141 inspectors who are responsible for dealing with child labour issues and who are familiar with the subject. From 2008 to September 2014, 3,900 inspections were conducted throughout the country. In Tegucigalpa, 15 violations were punished under the regulations on child labour.

93. With regard to trafficking in persons, 74 cases are currently under investigation; 16 have been prosecuted, and convictions were obtained in four cases. One hundred twenty-seven cases of commercial sexual exploitation are under investigation, 39 have been prosecuted, and 31 convictions have been obtained.

94. Convictions in cases of trafficking in persons, commercial sexual exploitation and related offences, as well as proceedings and convictions against police and military personnel between 2009 and 2014, are shown in appendix IV.

*Measures taken to identify victims of trafficking who need international protection*

95. The National Institute for Migration, which was created by Executive Decree No. PCM-031-2014, of 30 June 2014, drafted a manual of procedures for the prevention of

trafficking of children and adolescents for purposes of commercial sexual exploitation. The purpose of the manual is to help officials and provide initial support to victims of trafficking, especially those under 18 years of age, by providing a legal framework for dealing with circumstances in which such actions might occur and offering guidance to authorities on how to intervene and follow up on such cases.

96. The Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons belongs to the Regional Coalition to Combat Trafficking in Persons, which has adopted Regional Guidelines for a Comprehensive Approach to Trafficking in Persons. The Guidelines lay down specific measures for identifying victims. The Inter-Agency Commission also has a rapid response team which is charged with identifying and certifying victims in coordination with the relevant agencies. A repatriation protocol is in place so as to ensure that proper assistance is provided to victims, both in Honduras and abroad. This tool is currently undergoing revision.

### **Article 3**

#### **Reply to paragraph 12**

97. Article 101 of the Constitution stipulates that Honduras recognizes the right to asylum in the form and subject to the conditions laid down in the relevant legislation. When it is legally appropriate to revoke or deny asylum, a person suffering political persecution or seeking asylum may not, under any circumstance, be expelled to the State demanding his or her return.

98. Article 1 of the Migration and Aliens Act adopted by Legislative Decree No. 208-2003, of 31 December 2003, states that the purpose of the Act is to regulate the State's migration policy, the entry and exit of Hondurans and foreign nationals, stays in Honduran territory and the issuing of migration documents.

99. The Ministry of Human Rights, Justice, the Interior and Decentralization is competent to deal with requests for asylum and establish requirements for obtaining residency or special permits to stay in the country, and requests for change of migratory status.

100. The National Institute for Migration is responsible for regulating the exit of Hondurans and foreign nationals, permits for foreigners to stay in the national territory, for recognizing refugee status and for implementing the migration policy.

101. Article 42 of the Migration and Aliens Act stipulates that refugee status shall be granted to applicants who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social or political group, or their opinions, are outside the country of their nationality and are unable, or, owing to such fear, are unwilling to avail themselves of the protection of their country, or who, not having a nationality and for the reasons mentioned in the previous paragraph, are outside the country of their habitual residence and are unable or, owing to such fear, are unwilling to return to that country; who have fled their country because their life, security or liberty have been threatened, and to persons who depend directly on them and who constitute a family group, who accompany them or who have subsequently joined them.

102. Article 42 of the Regulations provides that the National Institute for Migration may grant special permits to stay in the country for a maximum period of five years to aliens who request them for good reasons.

103. Before an applicant is granted the status of refugee or stateless person, the Department of International Migration must issue a decision as to whether such recognition is appropriate.

104. Article 52 of the Migration and Aliens Act stipulates that the Ministry of Human Rights, Justice, the Interior and Decentralization shall recognize the right to territorial asylum to aliens who request it, provided any of the following circumstances occur: political persecution owing to the overthrow of the regime of a previous government in their country of origin, existence of well-founded fear of their human and civil rights being violated for political reasons and for political or common offences related to political offences, duly proven. Members of their family group shall also be granted asylum.

105. Asylum seekers have the right to have access to the refugee determination procedure, and the Department of International Migration makes its recommendation for each case. The final decision is made by the Director General of the National Institute for Migration.

106. Article 146 of the Regulations to the Migration and Aliens Act provides that challenges to decisions and orders shall be subject to the recourses provided for in the Act on Administrative Procedures, articles 137 to 140 and 146 to 149 of which stipulate that any challenge to such decisions must be based on a motion to set aside the decision or a remedy of appeal before the body that issued the decision. Once the appeals have been exhausted, legal action may be brought against the State.

107. According to the statistical data compiled by the National Institute for Migration as of July 2014, asylum was granted to 90 persons: 33 Cubans, 21 Nicaraguans, 11 Colombians, 11 United States citizens, 4 Iranians, 2 Chileans and 1 each from Bolivia (Plurinational State of), Denmark, El Salvador, Haiti, Guatemala, Paraguay, Switzerland and Venezuela (Bolivarian Republic of).

108. The statistics show that as of 10 September 2014, 2,662 aliens entered the country without proper documentation; of these, 2,134 were Cubans who entered by land and 373 who came by sea.

109. In 2009, refugee status was granted to five persons from Colombia; in 2010, to four Colombians and one Salvadoran; in 2011, to one Venezuelan, four Colombians and one Namibian; in 2012, to one Colombian; and in 2014, to nine Nicaraguans and three Salvadorans.

110. From 2010 to 2014, a total of 3,379 aliens who did not fulfil the requirements for entry were returned to their countries of origin (appendix V). Nineteen aliens of different nationalities were expelled.

111. Requests from some aliens were rejected because they did not fulfil the migratory requirements set forth in articles 79, 80, 81, 85 and 87 of the Migration and Aliens Act, articles 113 and 114 of the Regulations, the Manual of CA4 Procedures and circulars issued by the National Institute for Migration.

112. Expulsions are carried out when a person violates article 89 of the Migration and Aliens Act or on the order of a competent court, when a person completes a prison sentence, pursuant to article 84 of that Act.

113. One Guatemalan and two Hondurans were extradited between 2010 and 2014. Five requests for extradition of Hondurans are currently in process.

114. Regarding the types of appeal mechanisms that exist, the Supreme Court of Justice adopted a decision on 10 June 2013, which was published in Official Gazette 33/147 of 11 June 2013, in which it referred to the general principles that should govern the extradition procedure and pointed out, in paragraph 6, that challenges to definitive decisions issued in the first instance by the *juez natural* (specially appointed judge) assigned to the case may only be brought by means of a remedy of appeal, which shall be considered and resolved by the Supreme Court of Justice.

115. Two extradition proceedings were recently carried out at the request of the United States. In both cases, the defence appealed, but the appeals were dismissed by the Constitutional Court.

**Reply to paragraph 13**

116. In extradition cases considered by the Supreme Court of Justice, the rights laid down in the Constitution and in international instruments are respected.

117. To date, there have been no cases of refoulement, extradition or expulsion on the basis of diplomatic assurances or equivalent guarantees.

**Articles 5, 7, 8 and 9**

**Reply to paragraph 14**

118. Under national law, acts of torture are not considered universal offences; however, the Congress is currently working on a new Criminal Code which would guarantee that principle.

**Reply to paragraph 15**

119. A number of treaties include the offences referred to in article 4 of the Convention, even if they are not mentioned specifically.

120. Those treaties include the following: extradition treaty between Honduras and Spain; Central American Treaty on Arrest Warrants and Simplified Extradition; extradition treaty between Honduras and Paraguay; extradition treaty between Honduras and Mexico; Central American Convention on Extradition; and the Convention on Extradition signed at the Seventh International Conference of American States.

**Reply to paragraph 16**

121. The State has signed the following international agreements: the Inter-American Convention on Letters Rogatory; the Inter-American Convention on Mutual Assistance in Criminal Matters; the Optional Protocol related to the Inter-American Convention on Mutual Assistance in Criminal Matters; the Inter-American Convention on the Taking of Evidence Abroad; the Treaty between the Government of Honduras and Mexico on the Execution of Penal Sentences; the Treaty on the Transfer of Sentenced Persons between Honduras and Spain; the Treaty on Mutual Legal Assistance in Criminal Matters between the Republic of Honduras and the United Mexican States; and the Convention on Mutual Legal Assistance in Criminal Matters between Honduras and Brazil.

122. On 9 March 2009, Honduras ratified the Treaty on the Transfer of Sentenced Persons. The Ministry of Human Rights, Justice, the Interior and Decentralization is responsible for implementing this treaty.

123. To date there have been no cases in which the above treaties would be applicable in connection with the offence of torture.

**Article 10**

**Reply to paragraph 17**

124. The curriculum for undergraduate programmes in police sciences and criminal investigation at the National Police Academy includes courses on human rights that are

worth four credits and equivalent to 60 class hours, and on gender equity as a cross-cutting issue, which is worth three credits and equivalent to 45 class hours.

125. The National Police Academy offers a course on special legislation which covers the Trafficking in Persons Act. The National Police University offers courses to police officers who are being promoted, and its academic curriculum includes courses on human rights and gender equity. The inspection track requires 30 hours of class for each subject matter, and the executive track, 60 hours.

126. Between 2009 and 2014, training programmes on the provisions of the Convention were developed and implemented. The Ministry of National Defence trained 9,154 persons; the Salomón Jiménez Castro Judicial School, 52; CONAPREV, 1,071; the Ministry of Security, 716; CONADEH, 1,976; the Ministry of Human Rights, Justice, the Interior and Decentralization, 1,187; the Orlan Arturo Chávez Training School of the Public Prosecution Service, 100; the Office of the Special Prosecutor for Human Rights, 304; and the *jueces de ejecución* carried out training activities in coordination with the Centre for the Prevention, Treatment and Rehabilitation of Victims of Torture and their Relatives and the Centre for Research and Promotion of Human Rights (appendix VI).

127. To date, none of the above institutions have developed a methodology for assessing the effectiveness of training programmes in reducing the number of cases of torture and ill-treatment; however, there has been a decrease in the number of complaints.

#### **Reply to paragraph 18**

128. Between 26 April and 26 September 2014, CONAPREV, working in coordination with the National Autonomous University of Honduras, and with financing from UNDP, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Swiss Agency for Development and Cooperation (SDC), offered a diplomate training programme on prevention of torture and protection of the rights of persons deprived of their liberty. The course was attended by 163 persons in the cities of Tegucigalpa, San Pedro Sula and La Ceiba. Module VIII of the diplomate programme, on investigation of torture and other cruel, inhuman or degrading treatment, offered instruction on the Istanbul Protocol. Also, from 24 to 28 November, a seminar on the Istanbul Protocol was offered to 70 members of the judicial staff in San Pedro Sula and Tegucigalpa.

### **Article 11**

#### **Reply to paragraph 19**

129. Article 282 of the Code of Criminal Procedure and article 27 of the Organic Act on the National Police establish the rules governing the detention or arrest of a person.

130. In 2007, the Ministry of Security, the Supreme Court of Justice and the Public Prosecution Service updated the Guide to Procedures, which, on the matter of detention or arrest, fully covers the different situations in which a detention or arrest may be carried out, namely, when a person is caught in flagrante delicto; when caught fleeing the scene of the act (quasi flagrancy); for possession of weapons, instruments or effects of the offence; confusion of the defendant and witnesses at the scene of the events and the suspect has fled. The Guide also describes the methods to be used in carrying out the arrest.

#### **Reply to paragraph 20**

131. One of the most serious problems faced by the prisons is overcrowding. The prison population grew from 11,167 in 2009 to 14,711 by 23 October 2014 (appendix VII).

132. The 24 prisons and three pretrial detention centres have a total capacity of 8,603 spaces for 14,711 inmates.

133. Overcrowding is a result of the system of self-government, the existence of certain categories of inmates who cannot be integrated with the general population and the lack of adequate infrastructure.

134. The National Prison System Act was adopted by Legislative Decree No. 64-2012, of 14 May 2012. Articles 50 and 79 of the Act prohibit the collection of fines, quotas, payment for services, privileges or benefits and any other type of illegal levies, and all forms of exploitation of labour or services among inmates.

135. These rules are developed in the draft general regulations that are currently under consideration. The draft regulations establish mechanisms for enabling prison authorities to take back control of the prisons by eliminating privileges for persons deprived of their liberty and prohibiting inmates from conducting business within the prisons. The draft regulations call for non-profit stores managed by the prison administration to be set up within the prisons, and for associations of inmates to be organized to carry out activities that promote re-education, rehabilitation and social reinsertion.

136. The following measures have been taken to reduce overcrowding: The Directing Council of the National Prison Institute adopted a decision on 9 April 2014 authorizing the establishment of three preventive detention centres; one is located in the Cobras Squadron in Tegucigalpa, one in the Second Infantry Battalion in Comayagüela, and another in the Third Infantry Battalion in Naco, Cortés.

137. Two new prisons are under construction:

(a) In Naco, Cortés, construction is 50 per cent complete on a property of 127 *manzanas*, large enough for inmates to do farming. The plan is to complete two modules with capacity for 450 persons by December 2014;

(b) In El Porvenir, Francisco Morazán, the facility will consist of 20 modules with capacity for 100 persons each, i.e., a total of 2,000 inmates. The prison will have a medical clinic, sports facilities, a primary school and a high school, a dining hall, a centre for religious services, a shop area, a visitors' area, a booth for lawyers to visit with inmates and a room for hearings with the *jueces de ejecución*. The basic structure is 70 per cent complete (appendix VIII).

138. The budget for food was increased from 13 to 30 lempiras per day for the last quarter of 2014, and the same increase was approved for 2015, for which a total food budget of 158,775,000 lempiras has been allocated.

139. To comply with decisions handed down by the Constitutional Chamber of the Supreme Court of Justice, *jueces ejecutores* were appointed ex officio. These judges report periodically on progress made towards implementing the recommendations.

140. To date, 11 persons deprived of their liberty have been placed in psychiatric hospitals; eight are in Santa Rosita Hospital and three in Mario Mendoza Hospital.

141. It has not been possible to separate remand prisoners from convicts, owing to overcrowding in most prisons and the fact that the infrastructure is outdated. The exception is the Juticalpa Prison, where the two groups are separated, since it was built recently and was specifically designed for that purpose.

142. The total prison population on 23 October 2014 stood at 14,711 inmates, of whom 641 were women (3.4 per cent of the population). With some exceptions, women and men are housed separately in prisons. There is only one women's prison, located in the Central District. Overcrowding is not a serious problem there, but pretrial detention is sometimes an

issue, as many of the women come from the interior of the country. The remaining female prisoners are in mixed jails, in which special annexes have been adapted for women.

143. The State has managed to effectively separate adults from children, taking into account the best interest of the child, so that facilities where children are detained are managed differently from adult prisons. Centres for children and adolescents are managed by the Directorate for Children, Adolescents and Families, while adult prisons are managed by the National Prison System.

144. The Directorate for Children, Adolescents and Families was created in 2014 to improve care for children and young people who are in State custody and to redefine the Public Policy on Care for Children and Families. The Directorate administers the residential learning centres where young people are serving time and develops individual plans for their care.

145. Preventive measures have been taken to reduce violence among inmates, such as reducing crowding, increasing security personnel, protecting the rights of inmates and detainees, setting up training and job programmes, improving the professional qualifications of prison staff and offering training courses.

146. The number of acts of violence in prisons was high in 2011, when there were 45 violent deaths. There were fewer instances of such violence in 2009 and 2012, with 28 deaths during each of those years. There were 19 deaths in 2010, 16 in 2013, and 17 up to July 2014.

#### **Reply to paragraph 21**

147. Legislative Decree No. 35-2013, of 27 February 2013, provides for juvenile criminal proceedings with many procedural guarantees. A juvenile offender may not be deprived of liberty for more than six months without a determination of his or her guilt or innocence. A distinction is made between precautionary measures imposed during proceedings, which are intended to ensure that the juvenile will be present at the trial, to prevent tampering with evidence and to avoid potential risk to the victim. Sanctions are divided into those involving deprivation of liberty, no deprivation of liberty, guidance and supervision.

148. Article 205 of the Comprehensive Reforms relating to Children and Families stipulates that in the case of offenders between the ages of 16 and 18, deprivation of liberty shall be for no less than 6 months nor more than 8 years. For those aged between 14 and 15, deprivation of liberty shall be no less than 4 months nor more than 5 years, and between the ages of 12 and 13, deprivation of liberty shall be no less than 1 month nor more than 3 years.

149. These provisions guarantee prompt and effective justice, establishing alternatives to imprisonment so as to allow for re-education and effective reinsertion of the child into the community, the family and school.

150. After its creation, the Directorate for Children, Adolescents and Families requested and obtained from the National Defence and Security Council approval for an allocation of 47 million lempiras for remodelling the Renaciendo and Sagrado Corazón de María learning centres in the Central District and the El Carmen centre in San Pedro Sula. Reconstruction was moving forward by October 2014, and the project is expected to be completed by early 2015. Steps are under way to obtain technical equipment for the learning complexes.

#### **Reply to paragraph 22**

151. The statistics on deaths in custody for 2009 to 2014 may be found in appendix IX.

152. The Office of the Special Prosecutor for Crimes against Life is investigating 11 deaths at the Marco Aurelio Soto National Penitentiary:

- Case No. 0801-2012-1397, defendant under investigation. Offence: homicide. Victim: Wilfredo Madrid, on 17 March 2012. Status of the case: under investigation. Nationality of the victim: Honduran. Sex: male, 26 years old. Cause of death: asphyxiation by strangling;
- Case No. 0801-0404-2014, defendant Will Maradiaga. Offence: homicide. Victim: Javier Gonzales, occurred on 16 May 2014. Status of the case: under prosecution, pending a hearing on evidence. Nationality of the victim: Honduran. Sex: male, 27 years old. Cause of death: exsanguination;
- Case No. 5106-2014, defendant Ramón Calix. Offence: attempted homicide. Victim: Leonel Romero, on 12 May 2014. Status of the case: under investigation. Nationality: Honduran. Sex: male. Age: unknown;
- Case No. 1231-2014, defendant Ramón Paz. Offence: murder. Victim: Jorge Godoy, occurred on 26 May 2013. Nationality of the victim: Honduran. Sex: male. Age: unknown. Cause of death: exsanguination. Status of the case: under prosecution; the defendant is in pretrial detention, the expert advisor has been sworn in, and a preliminary hearing has been held;
- Case No. 0801-2011-22086, defendant under investigation. Offence: homicide. Victim: Fernando Pavón, occurred on 21 June 2011. Status of the case: under investigation. Nationality of the victim: Honduran. Sex: male. Age: 21. Cause of death: head trauma caused by a firearm;
- Case No. 23389-2011, defendant under investigation. Offence: homicide. Victim: Luis Núñez, occurred on 4 July 2011. Status of the case: under investigation. Nationality of the victim: Honduran. Sex: male. Age: approximately 20 to 25. Cause of death: head trauma caused by a firearm;
- Case No. 0801-2012-1255, defendant under investigation. Offence: homicide. Victim: Roy Riva. Date: 28 February 2012. Status of the case: under investigation. Nationality of the victim: Honduran. Sex: male. Age: approximately 30 to 35, originally from Mosquitia. Cause of death: asphyxiation by strangling. A request for investigation was submitted to the National Criminal Investigation Directorate, progress report pending;
- Case No. 0801-2011-32981, defendant under investigation. Offence: homicide. Victims: Aníbal López, Miguel Martínez and José Orellana, occurred on 29 September 2011. Status of the case: under investigation. Nationality of the victims: Honduran. Sex: male. Ages: unknown. A request was made to accumulate the case files, the National Criminal Investigation Directorate was requested to complete the formalities and provide autopsy reports;
- Case No. 24931-2011, defendant: Julio Alvarado. Offence: homicide. Victim: Leonel Juárez, occurred on 27 July 2011. Status of the case: under investigation. Nationality of the victim: Honduran. Sex: male. Age: 27. Cause of death: deep wound to the chest;
- Case No. 0801-2012-7531, defendant under investigation. Offence: homicide. Victims: Nelson Baca and Edwin Orellana, occurred on 20 August 2012. Status of the case: under investigation. Nationality of the victims: Honduran. Sex: male, ages: 25 and 26. Cause of death: asphyxiation by strangling. Preliminary certifications and report on the case have been requested;



- Several cases are still under investigation, as it has not been possible to identify the perpetrators or determine whether prison personnel were involved. The Office of the Special Prosecutor for Crimes against Life is waiting for reports on investigations being conducted by the National Criminal Investigation Directorate.

### Reply to paragraph 23

153. On 15 April 2013, the Special Prosecutor for Human Rights submitted a prosecutorial application, in case 208-4-2013, against the former director of the Comayagua prison, Wilmer López, and three persons with the rank of prison police, José Mejía, Santos Andrés and Rito Yáñez, for their alleged responsibility for the concurrent offences of manslaughter and official misconduct.

154. The initial hearing took place on 31 August 2013. The judge issued an indictment against the director for the offences of manslaughter and official misconduct; some of the prison police were charged with manslaughter and others, only with official misconduct.

155. Under article 121 of the Criminal Code, the offence of manslaughter entails imprisonment of 3 to 5 years. Under article 35 of the Criminal Code, persons who are guilty of two or more offences are liable for all the penalties corresponding to the different infractions; in this case, therefore, the penalty for manslaughter should be multiplied by 358, the number of persons who lost their lives (two have not yet been identified). As a result, the penalty should be between 1,074 and 1,790 years, in addition to the penalty for official misconduct.

156. The defence appealed against the indictment. The Public Prosecution Service replied to the alleged wrong, and the Appeals Court confirmed the contested decision on 11 April 2014.

157. The court of first instance has ordered a preliminary hearing. Now all that remains is for the parties to be summoned to the *tribunal de sentencia* for the submission of evidence.

158. CONAPREV has issued a report on this case which is available on its website ([www.conaprev.gob.hn](http://www.conaprev.gob.hn)). The following recommendations made by the National Committee have been implemented:

- The prison was promptly rebuilt with interagency cooperation, and a support committee was set up to provide economic and technical assistance, in the form of human and logistical resources, to the institutions involved. The National Electric Power Company installed a new electric power system, and the Honduran Social Investment Fund provided economic aid for the reconstruction;
- Immediate medical assistance was given to the injured inmates, as well as to help survivors overcome their trauma after the tragedy. A staff psychiatrist was appointed, and he has continued to offer his services;
- A contingency plan was developed by the Standing Commission on Disaster Preparedness. The plan was adopted by the then National Director of Prisons, and evacuation drills were carried out in all prisons, with instructions being given both to authorities and to inmates;
- Fire extinguishers were installed in the prison, in strategic locations where they will be accessible to inmates;
- Overnight visits in prisons were prohibited;
- The prison is no longer overcrowded. By order of the *jueces de ejecución*, new admissions do not exceed the capacity of the facility, which is for 560 persons.

## Articles 12 and 13

### Reply to paragraph 24

159. Regarding the cases mentioned by the Truth and Reconciliation Commission, the Special Prosecutor for Human Rights submitted a prosecutorial application against Sergeant Fredy Flores for homicide committed against Pedro Hernández. Flores was convicted on 23 July 2014 and sentenced to 15 years imprisonment.

160. The homicide of Elvin Euceda is being prosecuted. An arrest warrant was issued on 25 September 2009 against police officer Denis Montoya. The arrest has not yet been made, so instructions on the matter have been issued to the Ministry of Defence.

161. On 23 September 2009, a prosecutorial application was issued against police officer Víctor Andrade for the homicide of Jairo Sánchez, and for serious and minor injuries to Josías Sánchez and Mario Valladares, respectively. A public oral trial was held on 13 October 2014, and the defendants were acquitted by the fifth chamber of the *tribunal de sentencia* of Tegucigalpa.

162. Prosecution for the homicide of Ángel Salgado began on 18 February 2010. An arrest warrant against Moisés López Benítez, a member of the army, is pending.

163. The Truth and Reconciliation Commission has characterized the death of Walter Grochez as a targeted death. A prosecutorial application in that regard, recorded in case file 9-318-2014, was presented against Germán Mendoza and Ángel Rivera. Mendoza has been in pretrial detention since 4 April 2013; Rivera has fled, and an arrest warrant has been issued against him. In the proceedings against Mendoza, on 26 August 2014, a hearing was held for the submission of evidence in the public oral trial.

164. According to the Truth and Reconciliation Commission, the death of Wendy Ávila was caused by the excessive use of force. The autopsy report indicates that she died of natural causes (cardiorespiratory arrest). Her clinical history shows that she entered the hospital with severe asthma and does not mention her having been exposed to allergens that might explain the onset of the asthma attack. The investigation was closed and placed in an administrative file on 12 October 2011.

165. In the investigation of the deaths of Isis Obed Murillo, Víctor Almendarez, Jorge Cruz, Francisco García, Roger Vallejo, Olga Osiris, Anastasio Barrera, Roger Bados, Pedro Magdie, Félix Murillo, Sergio Hernández, Luis Gradis and Santos Corrales, it has not been possible to establish the identities of the perpetrators of those killings; hence, they have not been prosecuted. The investigations are active, however, and the cooperation of friendly governments has been sought.

166. One of the greatest obstacles faced in investigating the deaths that occurred during protests is the fact that since the events happened in open spaces, the crime scenes were compromised, and it has not been possible to collect evidence that would help identify perpetrators and witnesses.

### Reply to paragraph 25

167. On 26 August 2009, the Public Prosecution Service instructed the competent prosecutors to report all complaints of violence against women who participated in marches and demonstrations. The following incidents were reported.

168. On 21 September 2009, in the vicinity of the Embassy of Brazil, a police contingent arrived to maintain order, with the result that Mrs. Agustina Flores was injured. On 8 April 2011, the Special Prosecutor for Human Rights issued a prosecutorial application, which is recorded in case file 20255-2011, against police officers Araceli García and Ester Ponce for

the offences of abuse of authority and humiliating treatment. In the initial hearing, the court of first instance issued a temporary stay of proceedings. The Public Prosecution Service appealed that decision, and the Supreme Court confirmed the decision of the court of first instance. A petition for *amparo* is now pending.

169. In Santa Bárbara, a protected witness identified by code number 16,003 reported a case of rape and abuse of authority. On 28 October 2010, a prosecutorial application, recorded in case file 22799-2010, was issued against police officer Edwar López for the offence of aggravated rape, and an arrest warrant was issued.

170. In San Pedro Sula, a report was filed on the case of Antonia Coello, a victim of the offence of torture and abuse of authority. On 19 October 2009, a prosecutorial application recorded in case file 27321-2009, was issued against police officer Denis Martínez for the offences of torture and unlawful arrest. On 22 February 2012, the defendant was convicted under a plea bargain and sentenced to 5 years for the offence of torture and 3 years for unlawful arrest, plus a fine of 50,000 lempiras.

171. During the crisis, the Public Prosecution Service appointed a female prosecutor in Tegucigalpa and another one in San Pedro Sula to deal with these cases. These prosecutors recommended that the victims should receive psychological and psychiatric care as needed.

172. On 20 November 2009, the Public Prosecution Service, by note No. 356-2009, requested the Ministry of Defence to take appropriate measures, as a matter of urgency, to prevent police procedures from facilitating behaviours that might endanger the life or integrity of women.

#### **Reply to paragraph 26**

173. The names of persons referred to in those actions have not been identified.

#### **Reply to paragraph 27**

174. General amnesty was granted, by Decree No. 2-2010, of 27 January 2010, to citizens who had attempted or perpetrated political offences or related common offences between 2008 and 2010. The amnesty does not cover acts of corruption, crimes against humanity or violations of human rights.

175. The Code of Criminal Procedure and the Criminal Code cover the legal consequences of amnesty. Article 42 of the Code of Criminal Procedure establishes the grounds for abatement of criminal proceedings, expressly including the basis for discharging criminal liability. Article 96 of the Criminal Code addresses amnesty, which completely removes the penalty and all its legal effects, except as provided in article 103, which stipulates that amnesty and pardon do not eliminate the right to compensation for the damage caused by the offence.

176. Article 296 of the Code of Criminal Procedure provides that proceedings shall be dismissed when criminal action is removed, that being the consequence of amnesty.

177. The amnesty decree provides that on the date of its entry into force, the courts shall dismiss all actions they have pending, and that the Public Prosecution Service shall proceed to close those cases.

#### **Reply to paragraph 28**

178. Since September 2013, the Office of the Special Prosecutor for Human Rights has received support for the improvement of its physical facilities. It has three vehicles for its work.

179. The Project on Strengthening the Rule of Law and Promoting Human Rights in Honduras, which is financed by UNDP, SDC and OHCHR, provided furniture for its offices and equipment for the Office of the Special Prosecutor for Human Rights.

180. An agreement was signed with the European Union for a project entitled Support for Strengthening the Capacities of the Office of the Special Prosecutor for Human Rights. The project provides for donation of motor vehicles, computers, air conditioning units, office equipment and surveillance cameras.

181. Statistics on investigations and prosecutions were systematized, and physical filing equipment was modernized.

182. Two expert consultants on human rights are carrying out a diagnostic study of strengths and weaknesses in the Office of the Special Prosecutor for Human Rights, and another one is drawing up protocols for investigating cases related to human rights defenders.

183. Nevertheless, three additional assistant prosecutors are needed to compile and analyse information on criminal cases and to assist in the investigations.

#### *Deficiencies in the Witness Protection Programme*

184. The Special Act on Witness Protection in Criminal Proceedings, contained in Decree No. 63-2007, was adopted by Congress on 21 June 2007.

185. The Witness Protection Programme has a director, an administrative assistant, a secretary, two members of the security staff of the Public Prosecution Service, two members of the security staff of the Cobra Police and two qualified psychologists from the Ministry of Health who are assigned temporarily to the Programme.

186. Fifty cycles of witness protection were provided in 2012, 66 in 2013 and 110 in 2014. The protection measures that have been applied most often are removal of witnesses from places where they are in danger, including through relocation, and providing personal custody. These measures include provision for medical expenses, lodging and food, both for witnesses and for their immediate family and relatives.

187. The Programme has an annual budget for witness protection of 1.5 million lempiras, disbursed every 35 days in cheques for 150,000 lempiras by the central administrative office of the Public Prosecution Service. Each case generates expenses amounting to approximately 4,000 lempiras.

188. The Programme has one non-armoured, easily identifiable vehicle which has been a target of chases. The security personnel have small-calibre weapons, and adequate weapons are needed to guarantee security. The Programme does not have a building of its own or special facilities reserved for lodging witnesses.

189. Protocols need to be adopted to allow for coordination with other agencies concerned with these issues and to promote the signing of agreements and treaties with other States in the region so as to make it possible to transfer witnesses to other countries.

#### **Reply to paragraph 29**

190. The Office of the Special Prosecutor for Human Rights received 76 reports of torture in 2009, 58 in 2010, 42 in 2011, 24 in 2012, 41 in 2013 and 12 in 2014. The highest numbers of complaints were recorded in 2009 and 2010, owing to the political crisis in the country during those years. Statistics on torture and the outcome of investigations may be found in appendix X.

191. The Office of the Special Prosecutor for Human Rights has provided the following information on convictions:

- On 12 August 2009, convictions were handed down in shortened proceedings, in case 28334-08, brought in San Pedro Sula; the defendants were sentenced to prison terms of 4 years 8 months;
- On 27 March 2012, convictions were handed down in shortened proceedings, in case 15-2012, in the court of La Esperanza; the defendants were sentenced to prison terms of 3 years;
- On 14 June and 2 August 2013, respectively, in case 112-2012 in the court of Talanga, two convictions were handed down in shortened proceedings; both defendants were sentenced to prison terms of 3 years 9 months.

### **Reply to paragraph 30**

192. Between 2009 and 2014, there were no reports of enforced disappearance committed by law enforcement officials.

193. With regard to cases that occurred prior to 1982, the Office of the Special Prosecutor for Human Rights is gathering all the physical files that were scattered in different archives. This will make it possible to better organize the investigation.

194. A prosecutor and an investigation analyst have been appointed to work exclusively on those cases, in order to complete the pending procedures, identify the victims in cases where the perpetrators are not known and determine if persons who have disappeared are still alive.

195. Given the length of time that has elapsed (over 30 years), it is difficult to identify the perpetrators (police and military), since there are no logbooks to determine if anyone had been detained in cells.

196. In some cases, only the names and surnames of disappeared persons can be found, and a search of records in the National Registry Office brings up several people with the same name.

197. The relatives of disappeared persons have not come forward or shown any interest, and in most cases, no bodies have been found that could be linked to specific families. Where the disappeared persons are not Honduran nationals, it is even more difficult to identify them, since the only source of information on their actual existence is the *notitia criminis* (notice of the crime) issued by the Committee of the Families of Disappeared Persons in Honduras.

198. With the full names of victims, an effort could be made to determine whether they are actually disappeared persons by finding out if they voted in elections between 1989 and 1990. It has been found that in some cases, there have been migratory movements of different nationalities, and the agencies reporting on them have stated that they belonged to labour union movements.

199. Steps are being taken to declare the legal death of disappeared persons. The European Union is providing support for the hiring of 10 investigators who, along with an international consultant, will be in charge of investigating the most difficult cases.

### **Reply to paragraph 31**

200. Although not all deaths of children are related to extrajudicial killings, the Public Prosecution Service and the police clearly have an obligation to conduct an official investigation once they have received the *notitia criminis*.

201. All deaths of children are investigated with special care. In 2002, the Special Unit to Investigate Deaths of Children was established within the National Criminal Investigation Directorate, which works under the Public Prosecution Service. In Tegucigalpa, there are three task forces which deal not only with cases involving children but with other matters as well, precluding them from devoting all their time to investigations.

- In 2010, 96 reports of deaths of children were received; 79 were investigated, 17 were prosecuted, and 6 sentences were handed down, convicting 11 persons and acquitting two;
- In 2011, 63 deaths were reported; 38 were investigated, 25 were prosecuted, and 10 sentences were handed down, convicting 17 persons. There were no acquittals;
- In 2012, 70 reports were received; 57 were investigated, 13 were prosecuted, and 6 sentences were handed down, with 10 convictions and 1 acquittal;
- In 2013, there were 98 reports; 88 were investigated, 10 were prosecuted, and 14 sentences were handed down, with 22 convictions and no acquittals;
- As of June 2014, 47 reports had been received; 39 were investigated, 8 were prosecuted, and no decisions have been handed down yet.

### **Reply to paragraph 32**

202. The Congress adopted Decrees No. 198-2011, of 11 November 2011, and No. 89-2012, of 25 May 2012, creating the Directorate for Investigation of the Professional Police and the Special Act on Promoting the Integrity of the Police.

203. The Directorate for Investigation of the Professional Police is a decentralized body of the Ministry of Security which is responsible for investigating offences committed by members of the police force, without prejudice to the powers of the Public Prosecution Service. It conducts drug tests, psychometric tests, lie detector tests, and assessments of socioeconomic circumstances or assets.

204. The authorities are required to collaborate, and they are held liable if they refuse to do so without justification. They must immediately report all complaints they receive about members of the police force.

205. Between June 2012 and October 2014, a total of 12,236 tests were administered: 2,570 to high-ranking officials, executive staff and inspectors; 5,989 to lower echelons, cadets and aides; and 3,677 to candidates for admission.

206. The Congress adopted Decree No. 379-2013, of 20 January 2014, creating the Technical Agency for Criminal Investigation within the Public Prosecution Service. This agency is based in the capital city and has jurisdiction throughout the national territory. It is responsible for investigating the offences mentioned in article 184 of the Code of Criminal Procedure, for which no non-custodial alternative measures are allowed, with the aim of discovering the perpetrators and their accomplices.

207. The Technical Agency for Criminal Investigation has a budget as part of the Public Prosecution Service. Its organization and operation are governed by the regulations contained in Decision FGR-12-2014. Its work plan has five components: recruitment (first group completed), training, equipping (in process), functionality (in process) and quality control of investigations (in process).

208. The Director, Deputy Director and National Coordinator of Operations have been appointed, and the first group of 99 candidates for appointment as technical investigation agents has been selected. The first training course was held from October to December 2014.

## Article 14

### Reply to paragraph 33

209. From 2009 to the present, no claims have been lodged, and no court orders have been issued for payment of compensation to victims of torture.

210. Discussions are ongoing on how compensation should be paid to victims and to families of inmates who lost their lives in the Comayagua fire. Eighty-five beneficiaries have received *Bono 10,000* vouchers and food under the *Alimento Solidario* (Solidarity Food) programme.

211. A bill on comprehensive compensation for victims of human rights violations has been submitted to Congress on two occasions, first on 26 May 2010 and later, in December 2013, by the Ministry of Human Rights, Justice, the Interior and Decentralization. It could not be introduced in the Legislative Chamber because the legislative session was ending.

### Reply to paragraph 34

212. Under article 105 of the Criminal Code, anyone who incurs criminal liability for an offence is also civilly liable. Hence, separate claims may be made to hold the perpetrator civilly responsible, and a subsidiary claim may be made against the State, or an administrative complaint may be lodged against the actions of the person responsible, in accordance with article 324 of the Constitution, which states: "If in the performance of his duties, a civil servant infringes the law to the detriment of private individuals, he shall be civilly and jointly responsible together with the State and the State institution in whose service he is working."

213. With regard to the number of victims who have been compensated even though the perpetrator has not been identified, among the cases brought before the Inter-American Court of Human Rights, the case of *López Álvarez v. Honduras* falls within this category. In that case, the State was ordered to pay compensation for pecuniary and non-pecuniary damages, loss of income and indirect damage and to continue investigating the events and attribute responsibility to the perpetrators.

214. Pursuant to articles 49, 50, 51 and 52 of the Code of Criminal Procedure, civil action for compensation is independent from the criminal procedure. Thus, in the cases of torture reported to the authorities, investigations must continue until they are completed, in order to attribute the criminal responsibilities that may apply (articles 92, 93, 272 and 284 of the Code of Criminal Procedure).

215. Article 80 of the Constitution guarantees the right to petition and to obtain a prompt reply; any victim of torture may submit a request for compensation if the perpetrator has been subjected to a disciplinary penalty.

### Reply to paragraph 35

216. For budgetary reasons, the State has not implemented reparations programmes for victims of torture.

217. The Special Prosecutor for Human Rights in the Public Prosecution Service transmitted to Congress a document suggesting that a study should be carried out to establish penalties for the psychological impact of torture on victims.

218. With regard to non-governmental organizations, the Centre for Prevention, Treatment and Rehabilitation of Victims of Torture and their Families works in Honduras and collaborates with State agencies such as the *juzgados de ejecución*, the Special Prosecutor for Human Rights, and the Ministry of Human Rights, Justice, the Interior and Decentralization. However, this organization does not receive financial support from the State.

## Article 16

### Reply to paragraph 36

219. The Ministry of Human Rights, Justice, the Interior and Decentralization issued Executive Decree No. 027-2011 of 26 April 2011, creating the Directorate General for Protection Mechanisms for Human Rights Defenders, Judicial Personnel, Journalists and Social Communicators.

220. The National Plan for Protection of Human Rights Defenders, Journalists, Social Communicators and Judicial Personnel and the Advocacy Plan for raising awareness of authorities were drawn up and presented for discussion with stakeholders.

221. An output of the Plan is the bill on protection of human rights defenders, journalists and judicial personnel. It is currently under discussion in Congress.

222. The National Network for the Protection of Human Rights Defenders, Journalists and Communicators is being promoted. The Network of Human Rights Defenders of Bajo Aguán was established on 2 and 3 October 2014, and an embryonic effort is under way in the north-western region, La Ceiba, Tocoa and Trujillo.

223. The Public Prosecution Service set up a specialized unit within the Office of the Special Prosecutor for Crimes against Life. The unit is responsible for investigating deaths of journalists.

224. Following is information on the outcome of investigations:

- The murder of Nahún Elí Palacios Arteaga, recorded as case No. 058-2010 in the Public Prosecution Service. Defendants: unknown. Offence: murder;
  - Steps taken: Administrative statements, wiretapping, expert ballistics report on bullets recovered from the victim's body; artist's sketch of the suspect made from a description given by a protected witness and investigations with informants to identify him; survey of coordinates at the crime scene to determine which cells were activated; appointment of an expert to analyse telephone calls, results pending;
  - From the steps taken so far, it is assumed that the act was committed by persons not involved in the political conflict in the country; however, the investigation has not been concluded;
- Threats received by Leo Valladares, recorded as case 0801-2011-09595. Defendants: unknown. Offence: threats.
  - Steps taken: Review of landline and mobile telephone records of the victim; name and address of the owner of the taxis bearing the numbers mentioned by the victim. Inspection of the logbook of Police District 1, to determine the name of the agent who took the statement from the victim. The police officer was interviewed, a copy was made of the video of the television programme on which the victim spoke, who allegedly was the victim of threats. Statement by the witness, who said that while she was meeting with the



victim, he received a phone call, and when he hung up, he said that for several days, a taxi had been coming near his house, and that the same taxi was parked in front of the place where they were that day. The witness asked him if he had reported the fact to the police, and he said he had, and that in fact, the Commissioner had told him that they were escorting him to his house and that he was receiving security; statements were taken from the taxi drivers who were pointed out as suspects and from the victim;

- As a result of the steps taken, the Public Prosecution Service reached the conclusion that there was no evidence that threats had been made by the taxi drivers against the victim;
- Regarding the threats by telephone, it has not been possible to establish what phone number they came from, since the telephone records do not show such calls at the times that the victim claims they were made;
- A new report of phone calls was requested, since the victim stated that on 29 October 2011, his wife received a call from someone who identified himself as a member of organized crime. There are no reports of subsequent calls. The preliminary investigation has not been concluded;
- Attacks on Gonzalo Cruz, on 7 January 2012. Offence: injuries. Defendant: police officer Danilo Hernández. Case 0801-1824-2012;
  - Steps taken:
    - On 8 January 2012, police officer Danilo Hernández was arrested for the offence of injuries against Gonzalo Cruz;
    - On 9 January 2012, the prosecution allowed the temporary release of Mr. Hernández because there was insufficient evidence to charge him; given the serious condition of the victim, he was not able to describe how the events had occurred. The case was sent to the National Criminal Investigation Directorate to conclude the investigation;
    - On 8 June 2012, the medical examiner examined the body of Danilo Hernández, who had died from suicide. Cause of death: closed encephalo-cranial trauma, produced by a bullet shot from a firearm. Because of the death of the defendant, the proceedings against him did not have penal effect, and hence, the criminal case was closed;
- Attacks on Father Marco Lorenzo, recorded as case 0501-2011-143 in the Public Prosecution Service. Offences: torture, abuse of authority and unlawful arrest. Victims: Father Marco Lorenzo and his brothers Dagoberto and Adolfo Lorenzo. Suspects: crime-prevention police;
  - Steps taken: Statements by Father Marco Lorenzo, María Vásquez, Eleonora Lorenzo, Oscar Lorenzo, Dagoberto Lorenzo, José Lorenzo, Claudia Méndez, Jesús Gómez, Felipe Cantarero, José Lemus, Felipe Sánchez, Belarmino Rodríguez, Lorenzo Sánchez and Juan Rodríguez. Request for report from the traffic police of La Esperanza, obtained copy of case file 5983 issued by the Ministry of Health, visual inspection and photographs taken by the National Criminal Investigation Directorate at the crime scene;

Psychological and psychiatric evaluation of Father Lorenzo, who presents post-traumatic stress and symptoms of depression. Request for physical evaluation of the three victims. Request for report from the Santa Bárbara police. Copy of the traffic report showing the vehicle that was being driven by Father Lorenzo as participant No. 1 and indicating that he was driving his vehicle and not paying attention to

traffic conditions, without any precaution as to speed. As a result of the crash, he and his passengers were trapped inside the vehicle and suffered injuries; they were assisted by the police and subsequently transferred to the hospital. His guilt is established based on articles 60, paragraphs 2 and 5, and 106 of the Traffic Act. A copy of the report on the alcohol test on Father Lorenzo showed a result of 4 degrees. This test consisted of taking a breath sample; it was conducted by staff of the Traffic Directorate as a routine test in vehicular accidents, and clearly showed that the driver and the occupants of the vehicle were drunk. The hospital doctor who assisted the injured persons also stated that she could smell alcohol on all of their breaths, and she sent a request for investigation to the Directorate for Investigation of the Professional Police;

- The investigation has not yet been concluded.

**Reply to paragraph 37**

225. This question does not apply because, pursuant to article 47 of the regulations to the Migration and Aliens Act, asylum seekers are left at liberty during the processing of their request for asylum. Pending a decision on their case by the National Institute for Migration, foreign asylum seekers are authorized to stay in the country for a maximum period of 90 days, renewable for another 30 days.

**Reply to paragraph 38**

226. Legislative Decree No. 35-2013 was enacted to provide for comprehensive reforms in matters pertaining to children and families. The decree amends article 191 of the Family Code, which had previously stipulated that parents were entitled to reprove and correct, in an adequate and moderate manner, the children over whom they had parental control. That provision was amended to read as follows: "Parents shall refrain from applying to the children under their parental authority any corrective or disciplinary measures that are contrary to the children's dignity and their fundamental rights established in the Convention on the Rights of the Child, the Code on Children and Adolescents and other laws."

227. This legislation supplements the Code on Children and Adolescents, article 168 of which reads as follows:

Ill-treatment by transgression occurs whenever behaviour towards a child is hostile, indicative of rejection or destructive, such as subjecting the child to physical abuse; providing him or her with drugs or medications that are harmful or not necessary for the child's health; subjecting a child to unnecessary medical or surgical procedures that put his or her physical, mental or emotional health at risk; making the child a victim of emotional or verbal aggression, including through offence and humiliation; a lack of communication that conveys rejection; punishment through hard labour and other similar transgressions or discriminatory actions. Acts of violence in the family nucleus, even if they do not directly affect the child, shall also be considered ill-treatment by omission.

228. Corporal punishment in the home and alternative care settings are expressly prohibited in the Code on Children and Adolescents and may be criminally prosecuted as ill-treatment by transgression.

## Other issues

### Reply to paragraph 39

229. The State is not considering making the declaration provided for under articles 21 and 22 of the Convention.

### Reply to paragraph 40

#### *Recommendation in paragraph 9 of the previous concluding observations*

230. The reply on the rights of detainees and the establishment of an independent oversight mechanism is contained in the replies to paragraphs 3 and 32.

231. With regard to medical professionals, article 269.2 of the Code of Criminal Procedure provides the following:

The Obligation to Report: The following are under an obligation to report publicly actionable offences: ... 2. Doctors, pharmacists, dentists, students of medicine or dentistry, nurses, paramedical staff, midwives and other persons involved in health-related professions, trades or techniques, who obtain information concerning criminal acts or omissions during the performance of their activities.

232. Articles 27.6 and 64.5 of the Organic Act on the National Police stipulate that, in the act of arrest or detention of a person, the police authority shall have the person examined by a doctor or the medical examiner, when he or she requests it, so as to record the person's physical or psychological state upon entering the detention centre; and that when there are wounded persons, the police authority shall take the necessary measures to provide urgent medical assistance, ordering their immediate transfer to places where they can receive such care.

#### *Recommendation in paragraph 11 of the previous concluding observations*

233. Between 2009 and 2014, there were no reports of enforced disappearance at the hands of law enforcement personnel. The situation with regard to disappearances before 1982 is explained in the reply to paragraph 30.

234. As a dissuasive measure, this was included as an offence; it is punishable with imprisonment for a term of 15 to 20 years.

#### *Recommendation in paragraph 13 of the previous concluding observations*

235. This offence is already included in the Criminal Code. On this matter, the Inter-Agency Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons conducted 9 campaigns to raise awareness and inform and educate the public. It conducted 3 diplomate courses, 85 workshops, 55 forums, 27 awareness-raising sessions and 6 lectures, providing training for a total of 17,168 persons. The Ministry of National Defence trained 597 persons, and the Ministry of Security, 39. The Office of the Special Prosecutor for Human Rights provided training for judicial personnel, and the National Institute for Migration offered training on the subject of refugees (appendix XI).

236. On 20 June of each year, the Centre for Research and Promotion of Human Rights and the Office of the United Nations High Commissioner for Refugees hold seminars in Tegucigalpa, San Pedro Sula and Choluteca for all migration staff and border police. This is followed by a forum in commemoration of World Refugee Day.

237. During this period, the following instruments were signed:

- The Convention on the Reduction of Statelessness, adopted by Legislative Decree No. 102-2012, of 25 July 2012;
- The Convention relating to the Status of Stateless Persons, adopted by Decree No. 94-2012, of 20 June 2012;
- Memorandum of Understanding between the Governments of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, providing for the Implementation of the Regional Framework for Action for a Comprehensive Approach to Trafficking in Persons in Central America;
- Memorandum of Understanding between Colombia and Honduras on working together to combat trafficking in persons.

*Recommendation in paragraph 14 of the previous concluding observations*

238. The Manual on the Use of Force provides for measures to be used to determine when force is necessary and to prevent law enforcement agents from engaging in excessive use of force.

239. Article 31 of the Organic Act on the National Police provides that the use of force shall only be considered legitimate when it is used to the extent strictly necessary for the effective performance of duties by the police. They shall use weapons only in the event of a serious, imminent or reasonably foreseeable risk to the life or physical integrity of the officer, a detainee or third parties or of a serious threat to law and order, or where their use is necessary to prevent the commission of a crime and no other equally effective and less dangerous means are available, as well as to repel an attack under the circumstances established in the Criminal Code with regard to legitimate self-defence. In any event, force and weapons shall be used to the extent required by police practice in each case and in actions that are within the law and aimed at causing the least possible damage, both physical and mental. The unlawful use of force and weapons shall be punished in accordance with the law. The lawful use of force and weapons shall be developed in the special regulations and shall include clear guidelines relating to the action and the type of firearms to be used.

240. The Ministry of Security is drafting a bill to govern the use of force by the police.

241. Owing to the high levels of violence and crime in the country, the Congress adopted Decree 56-2013, amending article 184 of the Code of Criminal Procedure, which governs the substitution of pretrial detention, providing among other things that alternatives to pretrial detention shall not be allowed for the following offences: homicide, murder, patricide, rape, trafficking in persons, child pornography, kidnapping, forgery of currency, bank notes, theft of land-based motor vehicles, aircraft, ships and other similar property; theft of large cattle; assassination of a head of state or of a national or foreign government; genocide; unlawful association; extortion; offences with weapons of war; terrorism; smuggling; tax fraud; crimes related to illegal trafficking of drugs and narcotic substances; money laundering; malfeasance in office, and femicide.

242. To ease overcrowding in prisons, Decree No. 30-2011, of 29 March, 2011, amending article 53 of the Criminal Code, was adopted. The new legislation reads as follows:

Substituting fines with community service. If the fine is not paid in full or in part, either voluntarily or by means of arrest, it shall be commuted, provided the economic insolvency of the convict is demonstrated in the report on the socioeconomic study to be issued by the social worker assigned to the case or, in the

absence of such a report, by the *juez de ejecución* (enforcement judge), for community service.

243. The Pardons Act, which provides that pardons may be granted for humanitarian reasons, was adopted by Legislative Decree No. 31-2013, of 28 February 2013. Between 2011 and 2013, 71 pardons were granted under this Act.

244. The Public Defence Service of the judiciary created the Unit on the Enforcement Phase, which is responsible for processing, free of charge, benefits such as pre-release treatment, parole, commutation for community service, commutation of cash penalties and pardons.

245. Beginning in 2009, the judiciary has appointed 26 *jueces de ejecución*, who work under a national coordinating board. In 2013, three judges were appointed to deal with cases of domestic violence in Tegucigalpa, San Pedro Sula and La Ceiba.

*Recommendation in paragraph 18 of the previous concluding observations*

246. All the prisons have infirmaries where first aid is provided to inmates. The Marco Aurelio Soto National Penitentiary also has medical and dentistry services. A general practitioner and a psychiatrist are on duty at Comayagua, and the prisons in La Ceiba, Puerto Lempira, Choluteca, Danli, San Pedro Sula and Tela have medical services; however, all the prisons have to use the medical services of State hospitals.

247. The National Prison Institute signed a coordination and collaboration agreement with the Ministry of Health and the International Committee of the Red Cross.

248. The Ministry of Health provides general and specialized health care and has two residential centres for psychiatric patients, as well as a day hospital in that field.

249. The Ministry of Health provides primary care at a health centre in the Marco Aurelio Soto National Penitentiary, which also has a wing for psychiatric patients.

250. When inmates need specialized care, they are referred to primary-level hospitals, namely, the Teaching Hospital, the San Felipe Hospital, the National Cardiopulmonary Institute and the Mario Mendoza and Santa Rosita psychiatric hospitals. Santa Rosita Hospital serves chronic psychiatric patients.

*Recommendations in paragraph 19 of the previous concluding observations*

251. In January 2014, the Office of the Deputy Minister of Security for Prevention was created with the mandate to draft the Public Policy on Prevention of Violence.

252. To coordinate the work in this area, the Prevention Office was created by Executive Decree No. PCM 021-2014, of 16 July 2014. It is made up of State agencies and civil society organizations and serves as Technical Secretariat for the Office of the Deputy Minister of Security for Prevention.

253. Several projects on prevention of violence, especially on prevention of *maras* (youth gangs) and gangs, are under way.

- *Prevenir-GIZ*. This programme provides a self-employment kit to help young people living in extremely violent neighbourhoods in the Central District and La Esperanza to improve their prospects for a better life by encouraging them to start their own business;
- *Por Mi Barrio* (For My Neighbourhood) Outreach Centres. These centres, which work to prevent juvenile violence, are set up in high-violence communities and involve the participation of churches, municipalities and local communities. The aim is to reduce risk factors among young people through creative use of leisure time,

job training, remedial instruction for school children and educational equivalency certification, management of opportunities, the *Soñar mi Vida* (A dream for my life) challenge and promotion of volunteer work. Eleven centres are being financed by the citizen security tax; three have been inaugurated, and three more are expected to be ready before the end of the year;

- *Convive* (Living together in harmony). This programme seeks to generate public spaces (parks) for the enjoyment of citizens and strengthening of social cohesiveness. Over the next 18 months, 20 parks will be built in high-crime areas throughout the country. Construction has begun in Chamelecón, and 19 are still pending. Financing is provided by private companies (40 per cent) and by the State (60 per cent);
- Division on Prevention of *Maras* and Gangs. This division was set up in 2012 by the Ministry of Security with the support of the United States Embassy as a unit within the Strategic Directorate for Community Police, which developed and is implementing the Programme on Prevention of *Maras* and Gangs (GREAT – Gang Resistance Education And Training). The first GREAT centre was inaugurated in El Molinón in Tegucigalpa. It has its own bus, motorcycles and patrol cars, among other things. It is a study plan taught in educational centres in conjunction with the police. The objective is to prevent youth from falling into crime, juvenile violence and membership of *maras* and gangs. The instructors are police officials from metropolitan units and offices of departmental chiefs. The idea is for each unit to have its own training team. There are 49 instructors in Tegucigalpa, Danli, Puerto Cortés and San Pedro Sula. Training was provided to students in their classrooms, and activities included erasing graffiti, creating murals with recycled materials, painting, crafts and exhibits showing what they had learned. The Vacation Programme was carried out with community participation and included games and teaching of trades. In 2013, training was provided to 14,155 students, and in 2014, to 16,000;
- National Prevention, Rehabilitation and Social Reintegration Programme. This programme is carried out by a deconcentrated unit in the Office of the President which was created by Executive Decree No. 141-2001. It is comprised of three units, namely, prevention, rehabilitation and social reintegration;
  - The Prevention Unit promotes the organization of community networks and methodologies and programmes such as *El Desafío de Soñar mi Vida* (The Challenge of a Dream for My Life), *Piénsalo Bien* (Think About It Carefully) and *Familias Fuertes* (Strong Families), which are designed to counteract the risk factors that generate violence in families and communities. The *Rompiendo Barreras* (Breaking Down Barriers) project is aimed at promoting entrepreneurship and self-sustainable development through the arts and technical trades. More than 250 young people in the most underprivileged communities have been helped through training workshops in pyrography, embossing, easel painting, electricity and mechanics;
  - The Rehabilitation Unit coordinates, arranges for and manages counselling programmes, crisis intervention, group management and family therapy. In the prisons, it helps train inmates through workshops on leadership, self-esteem, group work, sexual and reproductive health, conflict resolution and life planning. It is also developing the *Manual Integral Habilidades para la Vida* (Life Skills Manual) for personnel who work with prison populations;
  - The Social Reintegration Unit coordinates projects carried out by institutions that offer opportunities for young people who previously belonged to

unlawful groups to become reintegrated into society. One such project is *Borrón y Vida Nueva* (Starting Over Again), which arranges for the removal of tattoos that linked young people to *maras* and gangs. To date, this service has been provided to 6,000 youths;

- The Model Community Project on Prevention of Violence is designed to strengthen communities with high rates of violence, recover public spaces and create safer routes for children to go to and come from school. This project includes the allocation of seed capital for young people who have left unlawful associations and wish to rebuild their lives by setting up microenterprises.

#### **Reply to paragraph 41**

254. The Financing of Terrorism Act was adopted by Legislative Decree No. 241-2010, of 18 November 2010. It amends article 335 of the Criminal Code, defining the offence of terrorism as any action that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population or to compel a Government or an international organization to do or to abstain from doing any act, as well as any of the behaviours established as offences in international treaties or instruments ratified by Honduras, with respect to terrorism.

255. This offence is punishable by 40 to 50 years imprisonment.

256. The offence of financing terrorism is defined as follows:

The offence of financing terrorism is committed by anyone who by any means, directly or indirectly, provides or collects assets or funds or provides or tries to provide financial or other services that were used or will be used, totally or partially, to finance terrorist persons or terrorist organizations, who, with the intent to facilitate the commission of criminal activities related to terrorism, provides financial securities, financial services, lodging, training, false documentation or identification, communication equipment, facilities, arms, lethal substances, explosives, personnel, means of transport and any other type of material or personal support, who, with the intent of facilitating the commission of criminal activities related to terrorism, provides support or services with the intent that they should be used or knowing that they will be used with the intent of committing terrorist acts or who transfers, administers, safeguards or conceals material support for terrorist persons or organizations and who, knowing of the intention of the terrorist organization to carry out terrorist acts, contributes to this organizations, through any means or form of collaboration.

257. This offence is punishable by 30 to 40 years imprisonment.

258. This Act does not violate human rights; since its adoption, no order has been given to investigate or charge anyone with any of these offences.

259. In 2012 and 2013, three training programmes on financing of terrorism were organized for investigators and financial analysts of the Public Prosecution Service, sponsored by the National Banking and Insurance Commission.

260. Regarding the offence of terrorism, in August 2014, 12 officials with the rank of colonel in the Ministry of National Defence received training in this area in Colombia. They were also trained at a seminar on human rights, terrorism and counterterrorism.

#### **Reply to paragraph 42**

261. The National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment (CONAPREV) was set up on 17 September 2010.

262. The Ministry of Justice and Human Rights was created by Executive Decree No. 177-2010, of 20 September 2010. It is responsible for formulating, implementing and evaluating policies in the area of justice and human rights. Executive Decree No. 266-2013, of 16 December, 2013, provided for the merger of some ministries, and thus, all the original powers of the Ministry of Justice and Human Rights were taken over and are being implemented by the new Ministry of Human Rights, Justice, the Interior and Decentralization.

263. Executive Decree No. PCM-011-2010, of 13 April 2010, created the Truth and Reconciliation Commission which, on 17 June 2011, submitted the report entitled *Para que los hechos no se repitan* (So that history will not repeat itself).

264. The Unit on Follow-up to the Recommendations of the Truth and Reconciliation Commission was created by Executive Decree No. PCM-071-2011, of 8 November 2011.

265. The Act on the National Prison System was adopted by Legislative Decree No. 064-2012, of 14 May 2012. The General Regulations on Discipline and on Service Personnel of the Prison System have been drafted and are pending adoption by the President of the Republic.

## **General information on the human rights situation in the State party, including information on new measures and developments relating to the implementation of the Convention**

### **Reply to paragraph 43**

266. Article 209-A of the Criminal Code, defining the offence of torture, was amended to bring it in line with article 1 of the Convention.

267. Article 333-A, criminalizing enforced disappearance of persons, was added to the Criminal Code.

268. Article 321 of the Criminal Code was amended to add an aggravating circumstance, as follows: "Committing the offence with hatred or disparagement based on sex, gender, religion, national origin, membership of an indigenous or Afro-Honduran people group, sexual orientation or gender identity, age, civil status or disability, ideology or political opinion of the victim." An amendment was also added in respect of the offence of discrimination when individual and collective rights are arbitrarily and illegally obstructed, limited, hindered or annulled or when a professional service is denied because of sex, gender, age, sexual orientation or gender identity, political activism, civil status, membership of an indigenous or Afro-Honduran people group, language, religion, physical appearance, disability or health, among others.

269. A comprehensive amendment in the area of children and families was adopted by Congress by means of Decree No. 35-2011, of 27 February 2013.

270. The Criminal Code was amended by adding article 118-A, defining the offence of femicide.

271. Documents of accession to the following instruments were deposited with the Organization of American States:

- The Protocol to the American Convention on Human Rights to Abolish the Death Penalty. Legislative Decree No. 5-2009, ratified on 14 September 2011;



- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. Legislative Decree No. 18-2009, of 8 February 2009;
- Optional Protocol to the Convention on the Rights of People with Disability. Legislative Decree No. 16-2009, of 8 February 2009, ratified on 30 June 2010;
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. Legislative Decree No. 15-2009, ratified on 14 September 2011.

#### **Reply to paragraph 44**

272. The first Public Policy and National Plan of Action on Human Rights was adopted by Executive Decree No. PCM 003-2013, of 22 January 2013. The Plan of Action covers the period 2013-2022 and includes four strategic lines of action, namely, human security, the justice system, democracy and vulnerable population groups.

273. The Plan of Action is being implemented by 70 public sector agencies in the three branches of government, as well as by civil society organizations and academia.

274. The Ministry of Human Rights, Justice, the Interior and Decentralization has developed a road map for implementation of the Policy and Plan of Action with a view to obtaining commitments from all sectors to carry out specific actions in 2014, as well as to incorporate strategic activities in the annual plans of operation of public agencies for 2015 and in the General Budget of Income and Expenditures of the Republic.

275. To ensure the continuity of the Policy and Plan of Action, the Council of Ministers signed an interagency agreement, and a liaison committee comprised of 30 State agencies was set up in 2014.

276. The agencies reported on implementation of 150 actions in 2013 and 267 in 2014. Two hundred actions are planned for 2015, including 26 relating to the prevention of torture.

277. The Comprehensive Policy on Social Harmony and Citizen Security 2011-2022 was adopted by Executive Decrees No. PCM-057-2011, of 1 October 2011, and No. PCM-016-2012, of 26 June 2012. The Policy is designed to strengthen the State's capacity in the area of security and justice so as to prevent, monitor and punish behaviour that infringes the law.

278. The Road Map for the Prevention and Eradication of Child Labour and Its Worst Forms was adopted by Executive Decree No. PCM-011-2011, of 15 February 2011. Its objectives are to prevent and eradicate child labour among children under 14 years of age, to prevent and combat the worst forms of child labour among persons under 18, and to protect the wellbeing and the rights of working adolescents between the ages of 14 and 18.

279. The National Policy on Prevention of Violence against Children and Young People was adopted by Executive Decree No. PCM-11-2013, of 12 February 2013. The objective of this policy is to strengthen the capacities and the action of the State, in collaboration with civil society, to prevent the risk factors that generate violence and its linkage to crime and conflict by providing assistance to children and young people living in areas of social conflict who are vulnerable and become victims of violence, through consistent and well-coordinated strategies and actions involving all sectors of society.

280. The Office of the National Commissioner for Human Rights launched the Action Plan entitled *Vanguardia de la Dignidad Humana* (Leading the Way for Human Dignity).

281. The overall objective is to foster respect and promote the human dignity of all citizens and immigrants.

282. The Action Plan pursues four specific objectives: (a) a democratic culture of human rights; (b) the effective enjoyment by all people of their right to public services; (c) compliance with, respect for and defence of the human rights and fundamental freedoms of all citizens and immigrants; (d) a democratic State under the rule of law.

**Reply to paragraph 45**

283. National Violence Prevention Year was declared in 2013, by Executive Decree No. PCM-01-2013, of 8 January 2013.

284. The Inter-Agency Commission for the Protection of Persons Displaced by Violence was established by Executive Decree No. PCM-053-2013, of 5 November 2013. This Commission is made up of representatives of State agencies and four civil society organizations that are concerned with this issue. The Ministry of Human Rights, Justice, the Interior and Decentralization serves as the Executive Secretariat and Coordinator for the Commission. A survey of households affected by displacement was conducted with the support of the National Institute of Statistics to obtain primary information. The findings of the survey will be available in February 2015.

285. Accession to ILO Convention 102, on Social Security (Minimum Standards), was completed by Legislative Decree No. 246-2011; it was ratified on 28 August 2012, and the instrument of ratification was deposited on 1 November 2012. ILO Convention 144, on Tripartite Consultation (International Labour Standards), was adopted by Legislative Decree No. 122-2011, of 29 July 2011.

286. Steps are being taken to promote ratification of the following instruments:

- The Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The Ministry of Foreign Affairs drafted Executive Decision No. 02 DGTC of 1 February 2013, for discussion and adoption;
- The ILO Domestic Workers Convention, 2011 (No. 189); the Ministry of Labour issued Note STT-022-13;
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Ministry of Foreign Affairs urged that action be taken on the matter by Note 300 DGTC, of 4 September 2013.
- The Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption, by Executive Decision No. 11-DGTC, of 4 April 2011. The ratification bill has been submitted to Congress for adoption. It is currently on the agenda of the Family and Child Committee for discussion and adoption.

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