

HONDURAS

Follow-Up: State Reporting

i) Action by Treaty Bodies

CCPR, A/62/40 vol. I (2007)

CHAPTER VII. FOLLOW-UP ON CONCLUDING OBSERVATIONS

220. In chapter VII of its annual report for 2003 (A/58/40, vol. I), the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/61/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2007.

221. Over the period covered by the present annual report, Mr. Rafael Rivas-Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State. In view of Mr. Rivas-Posada's election to the Chair of the Committee, Sir Nigel Rodley was appointed the new Special Rapporteur for follow-up on concluding observations at the Committee's ninetieth session.

222. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹ Over the reporting period, since 1 August 2006, 12 States parties (Albania, Canada, Greece, Iceland, Israel, Italy, Slovenia, Syrian Arab Republic, Thailand, Uganda, Uzbekistan and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 12 States parties (Brazil, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Mali, Moldova, Namibia, Surinam, Paraguay, the Gambia, Surinam and Yemen) and UNMIK have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

223. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided before 1 August 2006 to take no further action prior to the period covered by this report.

...

Eighty-eighth session (October 2006)

...

State party: Honduras

Report considered: Initial (due since 1998), submitted on 21 February 2005.

Information requested:

Para. 9: Investigations into all extrajudicial executions of children; prosecution of those responsible; compensation for victims; establishment of an independent mechanism, possibly children's ombudsman; training for officials dealing with children; public awareness campaigns (arts. 6 and 24).

Para. 10: Monitoring of all weapons issued to the police; human rights training for the army; detailed investigations into excessive use of force; prosecution of those responsible; compensation for victims (arts. 6 and 7).

Para. 11: Causes of the growing numbers of street children; programmes to address those causes; identification, compensation of and assistance to victims of sexual abuse; prosecution of those responsible (arts. 7, 8 and 24).

Para. 19: Guaranteed exercise by members of indigenous communities of their cultural rights; settlement of problems related to ancestral indigenous lands (art. 27).

Date information due: 1 November 2007

7 January 2007 Information on paragraph 18 (art. 16), which the Committee did not rate as a priority in its concluding observations.

Next report due: 31 October 2010

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Note

1/ The table format was altered at the ninetieth session.

CCPR, CCPR/C/SR.2564/Add.1 (2008)

HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 2564th MEETING

Held at the Palais Wilson, Geneva,

on Wednesday, 23 July 2008 at 11.25 a.m.

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FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO
VIEWS UNDER THE OPTIONAL PROTOCOL

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Report of the Special Rapporteur for follow-up on concluding observations (CCPR/C/93/R.1)

1. Sir Nigel RODLEY, Special Rapporteur for follow-up on concluding observations, introduced his report contained in document CCPR/C/93/R.1.

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4. ...If no information was received from Honduras, consultations should be scheduled for the ninety fourth session...

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39. The draft report of the Special Rapporteur for follow-up on concluding observations was adopted.

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CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

194. In chapter VII of its annual report for 2003,²⁰ the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/62/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2008.

195. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-first, ninety-second and ninety third sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

196. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.²¹ Over the reporting period, since 1 August 2007, 11 States parties (Bosnia and Herzegovina, Brazil, Hong Kong Special Administrative Region (China), Mali, Paraguay, Republic of Korea, Sri Lanka, Suriname, Togo, United States of America and Ukraine), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 10 States parties (Barbados, Central African Republic, Chile, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Honduras, Madagascar, Namibia and Yemen) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

197. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2007 to take no further action prior to the period covered by this report.

198. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

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Eighty-eighth session (October 2006)

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| State party: Honduras |
| Report considered: Initial (due since 1998), submitted on 21 February 2005. |
| Information requested: Para. 9: Investigations into all cases of extrajudicial executions of children; prosecution of those responsible; compensation for relatives of victims; establishment of an independent mechanism, such as a children's ombudsman; training for officials dealing with children; public awareness-raising campaigns (arts. 6 and 24). Para. 10: Monitoring of all weapons belonging to the police; human rights training for the police in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; investigations into allegations of excessive use of force; prosecution of those responsible; compensation for victims of their relatives (arts. 6 and 7). Para. 11: Identification of the causes of the growing numbers of street children; programmes to address those causes; provision of shelter to street children; identification of, compensation for and assistance to victims of sexual abuse; prosecution of those responsible (arts. 7, 8 and 24). Para. 19: Ensure the full exercise by members of indigenous communities of the right to enjoy their own culture; settlement of problems related to ancestral indigenous lands (art. 27). |
| Date information due: 1 November 2007 |
| Date information received: <u>7 January 2007</u> Information on paragraph 18 (art. 16), which the Committee did not identify as a priority in its concluding observations. |
| Action taken: |

17 January 2008 A reminder was sent.

11 June 2008 A further reminder was sent.

Recommended action: If no information is received, consultations should be scheduled for the ninety-fourth session.

Next report due: 31 October 2010

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VII. FOLLOW UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,²⁰ the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/63/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2009.

238. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-fourth, ninety-fifth and ninety-sixth sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

239. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.²¹ Over the reporting period, since 1 August 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.²²

240. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2008 to take no further action prior to the period covered by this report.

241. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

...

Eighty-eighth session (October 2006)

...

State party: Honduras

Report considered: Initial (due since 1998), submitted on 21 February 2005.

Information requested:

Para. 9: Investigations into all cases of extrajudicial executions of children; prosecution of those responsible; compensation for relatives of victims; establishment of an independent mechanism, such as a children's ombudsman; training for officials dealing with children; public awareness-raising campaigns (arts. 6 and 24).

Para. 10: Monitoring of all weapons belonging to the police; human rights training for the police in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; investigations into allegations of excessive use of force; prosecution of those responsible; compensation for victims of their relatives (arts. 6 and 7).

Para. 11: Identification of the causes of the growing numbers of street children; programmes to address those causes; provision of shelter to street children; identification of, compensation for and assistance to victims of sexual abuse; prosecution of those responsible (arts. 7, 8 and 24).

Para. 19: Ensure the full exercise by members of indigenous communities of the right to enjoy their own culture; settlement of problems related to ancestral indigenous lands (art. 27).

Date information due: 1 November 2007

Date information received:

7 January 2007 Information on paragraph 18 (art. 16), which the Committee did not identify as a priority in its concluding observations.

15 October 2008 Partial reply (responses incomplete with regard to paragraphs 9, 10, 11 and 19).

Action taken:

17 January 2008 A reminder was sent.

11 June 2008 A further reminder was sent.

22 September 2008 The Special Rapporteur requested a meeting with a representative of the State party.

10 December 2008 A letter was sent to request additional information.

6 May 2009 A reminder was sent to the State party.

Recommended action: If no information is received, a further reminder should be sent.

Next report due: 31 October 2010

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20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

22/ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

CCPR, CCPR/C/SR.2738/Add.1 (2010)

Human Rights Committee
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting
Held at Palais Wilson, Geneva,
on Wednesday 28 July 2010, at 11:25 am

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Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Report of the Special Rapporteur for Follow-up on Concluding Observations (CCPR/C/99/2/CRP.1)

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2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

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10. He proposed sending Honduras a further reminder and a request for a meeting with a representative of the State party.

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24. **The Chairperson** said that, if there was no objection, he took it that the Committee wished to adopt the Special Rapporteur's recommendations.

25. *It was so decided.*

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...

Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,¹⁶ the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,¹⁷ an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹⁸ Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.¹⁹

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in

the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

...

Eighty-eighth session (October 2006)

...

State party: Honduras

Report considered: Initial (due since 1998), submitted on 21 February 2005

Information requested:

Para. 9: Investigations into all cases of extrajudicial executions of children; prosecution of those responsible; compensation for relatives of victims; establishment of an independent mechanism, such as a children's ombudsman; training for officials dealing with children; public awareness-raising campaigns (arts. 6 and 24).

Para. 10: Monitoring of all weapons belonging to the police; human rights training for the police in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; investigations into allegations of excessive use of force; prosecution of those responsible; compensation for victims or their relatives (arts. 6 and 7).

Para. 11: Identification of the causes of the growing numbers of street children; programmes to address those causes; provision of shelter to street children; identification of, compensation for and assistance to victims of sexual abuse; prosecution of those responsible (arts. 7, 8 and 24).

Para. 19: Ensure the full exercise by members of indigenous communities of the right to enjoy their own culture; settlement of problems related to ancestral indigenous lands (art. 27).

Date information due: 1 November 2007

Date information received:

7 January 2007 Information on paragraph 18 (art. 16), which the Committee did not identify as a priority in its concluding observations.

15 October 2008 Partial reply (responses incomplete with regard to paras. 9, 10, 11 and 19).

Action taken:

17 January 2008 A reminder was sent.

11 June 2008 A further reminder was sent.

22 September 2008 The Special Rapporteur requested a meeting with a representative of the State party.

10 December 2008 A letter was sent to request additional information.

6 May 2009 A reminder was sent to the State party.

27 August 2009 A further reminder was sent.

2 February 2010 The Special Rapporteur requested a meeting with a representative of the State party.

25 June 2010 The Special Rapporteur requested a meeting with a representative of the State party.

Recommended action: A reminder should be sent requesting a meeting with a representative of the State party.

Next report due: 31 October 2010

...

¹⁶ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40*, vol. I (A/58/40 (vol. I)).

¹⁷ *Ibid.*, *Sixty-Fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)).

¹⁸ The table format was altered at the ninetieth session.

¹⁹ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

Follow-Up: State Reporting

ii) Action by State Party

CCPR, CCPR/C/HND/CO/1/Add.1 (2008)

Information supplied by Honduras on implementation of the concluding observations of the Human Rights Committee (CCPR/C/HND/CO/1)**

[16 October 2008]

Paragraph 5. The State party should amend the Criminal Code in order to include the crime of enforced disappearance. It should also ensure that the cases of enforced disappearance are duly investigated, that those responsible are prosecuted and, where appropriate, punished and that the victims or their relatives receive fair and adequate compensation.

1. Article 219 of the Constitution of the Republic provides that no bill to amend or repeal any provision of a national code may be debated without hearing the opinion of the Supreme Court of Justice unless the bill itself derives from a Supreme Court initiative.
2. In January 2008, the Supreme Court submitted to the sovereign National Congress its opinion on reform of the new draft criminal code whereby it added to article 333-A the offence of enforced disappearance of persons.
3. As regards cases of disappearance and prosecution of those responsible for them, criminal cases have been brought by the Public Prosecutor's Office even though the offence as such does not form part of Honduran law. For its part, the judiciary has brought prosecutions *proprio motu* against persons suspected of acts having contributed to disappearances.
4. In addition, following complaints to organs of the inter-American system for the protection of human rights, Honduras has reached amicable settlements in a number of cases of disappearance and has therefore taken action to compensate the victims' families.

Paragraph 6. The State party should ensure adequate financing for the National Women's Institute, as well as the effective implementation of the legislative measures adopted to increase the participation of women in all areas of public life.

5. In application of international agreements to which Honduras is a party, the Ministry of Finance was instructed to increase the 2008 budgetary allocation to the National Women's Institute (INAM) by 12 million lempiras, to a total of 24,420,079 lempiras. That, together with international cooperation, will help the Institute better to fulfil its duties. Agreement is now being sought with the Executive on reforming the INAM Act to raise the Institute's status to that of a government ministry to give it greater influence in decision-making on behalf of the women of Honduras. With the approach of the primary elections in preparation for the general election, closer contacts are being maintained with the potential presidential candidates to ensure that they give the Institute its proper place in the context of national integration and are aware of the

country's international obligations.

6. The actions the Institute has taken in discharge of its duties under the INAM Act to ensure equal opportunities for women in social and political life are described below.

7. In a strategic alliance with the Civic Movement for Democracy and the Women's Movement, INAM has promoted action to submit proposals for amendment of the Electoral and Political Organizations Act, with the following results:

Legal reforms

8. The following article has been proposed:

"Article 82. Public financing of political parties (Execution, supervision and auditing). The State shall contribute the following amounts from the central Government's General Income and Expenditure Budget towards the financing of the permanent operating costs of political parties:

In the first year after a general election, an amount equivalent to 0.4%;

In the second year after a general election, an amount equivalent to 0.4%;

In the third year after a general election, an amount equivalent to 0.5%; and

In the fourth year after a general election, an amount equivalent to 0.8%.

(...)

Every political party shall be obliged to invest at least 10% of its allotment in the motivation and training of women and young people..."

9. With international cooperation, INAM has trained 54 political trainers who will in turn train 125 women leaders in the departments selected by the observatories for the Millennium Development Goals (Lempira, Copán, Intibucá and Valle). The training will employ tools designed in the context of the project, including a political participation handbook for women (facilitators) and a participants' logbook. In addition, a draft agreement aimed at developing joint activities to promote and guarantee effective exercise of women's political rights as contained in national law and the associated public policies has been submitted to the Supreme Electoral Court.

10. The revised Electoral and Political Organizations Act published in the official gazette, *La Gaceta*, issue No. 31523, dated 1 February 2008, provides in article 116 that "To comply with the provisions of article 105 of the present Act, women shall comprise at least 30% of the candidates on lists for departments, municipalities and the Central American Parliament". It further provides that "To ensure effective participation by women, the minimum proportion of female candidates for leadership posts in political parties, for seats as principal and alternate deputies in the National Congress and the Central American Parliament and for positions as mayors, deputy mayors and municipal councillors shall be 30%...". It should be noted in this regard that the number of women elected as principal deputies in the National Congress rose from nine in the 2001 elections to 31 in the 2005 elections, a highly significant fact in the history of Honduran women's participation in politics. The opposite happened in the case of local governments: instead of increasing, the number of women declined.

Paragraph 7. The State party should take appropriate steps to combat domestic violence and ensure that those responsible are prosecuted and appropriately punished. The State party is invited to educate the general public about the need to respect women's rights and dignity, with a view to changing cultural patterns. The Committee also invites the State party to provide statistics on the number of interventions carried out in response to telephone hotline 114.

11. Following the adoption of the Domestic Violence Act, the judiciary has taken and endorsed initiatives in support of domestic violence courts and the application and socialization of the Act.

12. Specialized courts against domestic violence in the departments of Francisco Morazán and Cortés were set up under Agreement No. 1 of 7 March 2007. They have their own infrastructure within the Centro Civico Gubernamental (Government Centre), with a variety of public service departments and areas, including a crèche, an office for the prosecutors and forensic doctor of the Public Prosecutor's department, an archive, and an area for the psychological and socio-economic assessment of complainants and accused persons.¹

13. The number of judges specializing in domestic violence cases, including enforcement judges, has been increased and records clerks have been appointed to follow up on complaints of domestic violence, monitor the application of any protective measures ordered and investigate the reasons for the withdrawal of complaints before they close the case files. In addition, a clerk-general and deputy clerks have been appointed to provide direct assistance to the courts, taking part in the hearings together with the judges, judicial marshals, archivists and security guards, and new equipment has been installed.²

14. In conjunction with INAM, all staff working in the courts have been given practical and awareness training regarding the issue of domestic violence. The judges have taken part in various meetings of the Domestic Violence Act Enforcement Monitoring Commission. Training has also been given to police officers, judges and justices of the peace at the national level who have to deal with complaints of domestic violence.³

15. According to figures in the Judicial Yearbook, a total of 14,650 cases have been filed with the domestic violence courts and 5,325 cases with the general courts that resolve cases of domestic violence where no specialized courts exist.

16. As regards 2008, in the nine months to date a total of 5,851 complaints have been filed with the special domestic violence court in Tegucigalpa alone. In September, the judiciary implemented the system for monitoring cases of domestic violence that, together with the system for monitoring criminal cases already in effect, forms part of its policy of transparency and access to information.

17. Mobile justice-of-the-peace courts have been set up under a World Bank project within the overall framework of the project for modernization of the Supreme Court. The mobile courts can go to districts, settlements, villages and other places that do not have courts, so

making the law accessible to people in general and to women in particular. In the mobile courts, there is no need of a lawyer to file a complaint about violence or abuse of civil or labour rights, etc.. The service is direct, transparent and fast, since the courts have all the necessary staff, such as a judge, a marshal and a clerk, and are empowered to summons accused persons immediately through the police. The results to date are satisfactory, since the courts make for swift resolution of the problems brought before them.

18. A hotline complaints service under the title "Vivir con respeto y sin violencia" (Live with Respect and without Violence) was set up on 4 April 2005.

19. In February 2006, an integrated women's care office was set up in regional police headquarters No. 8 in Talanga (Francisco Morazán) with financial and technical support from the Institución Globo Utreatac.

20. In September 2007, a female homicide unit and the Clase 2 de Policía Juan Blandin Almeyda integrated women's care office were set up in regional police headquarters No. 14 in Ocoatepeque with financial support from the United Nations Development Fund for Women (UNIFEM).

21. Strategic alliances between the Ministry of Security, non-governmental organizations and the International Cooperation Board have established and strengthened the gender process in the National Police.

22. The figures show that from the time of the establishment of the 114 hotline in 2005 until mid-February 2008 there was a total of 5,038 instances of police action.

23. The hotline is serviced by 16 female operators trained to deal sensitively with the subject of gender violence. There has been a significant increase in the number of complaints, most of them concerning domestic violence, but some concerning intrafamily violence, which, unlike domestic violence, comes under criminal law and is punishable by one to three years' imprisonment or, in serious cases, by one to four years' imprisonment.

| Year | Total complaints | Counselling | Arrests | Requests for patrols (violence in progress) |
|-------|------------------|-------------|---------|--|
| 2005 | 1 725 | 96 | 144 | 546 |
| 2006 | 1 477 | 83 | 250 | 901 |
| 2007 | 1 742 | 99 | 190 | 640 |
| 2008 | 94 | 10 | 22 | 94 |
| Total | 5 038 | 288 | 606 | 2 181 |

24. INAM recently signed an inter-institutional memorandum of understanding with the

Supreme Court, the Public Prosecutor's Office, the Ministry of Health, the Ministry of Security, the National Statistical Institute and the Violence Observatory of the National Autonomous University of Honduras for the implementation of a unified system of statistics of gender violence and violence against women.

25. It has also signed a cooperation agreement with the Supreme Court for the effective adoption of international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (the Convention of Belén do Parâ) by integrating in the programmes for the modernization and reform of the judiciary, as an essential element, the obligations laid down in human rights instruments and the commitments made by Honduras at multilateral summits and meetings.

Paragraph 8. The State party should amend its legislation so as to help women avoid unwanted pregnancies and ensure that women need not resort to clandestine abortions, which could endanger their lives. The State party should also amend its legislation on abortion in order to bring it into line with the Covenant.

26. There has been no change in the law on this matter. However, the Supreme Court recently submitted to the National Congress a document entitled "Revision of family and child law in Honduras". This project involved a review of the whole body of family and child law and an analysis of national and international standards and established the following as regards the individual: in our legal tradition, the life of the unborn child (*nasciturus*) embodies a fundamental value because of the hope of his/her existence as a person and because, given his/her state of manifest defencelessness, he/she requires the special protection of the State. Our legislation protects the unborn person from the moment of conception, in keeping with the humanist principle of respect for life laid down in article 65 of the Constitution, which states "The right to life is inviolable".

Paragraph 9. The Committee urges the State party to investigate all cases of extrajudicial executions of children, prosecute those responsible and ensure that the relatives of the victims receive fair and adequate compensation. The Committee recommends that the State party consider the possibility of establishing an independent mechanism, such as a children's ombudsman. The State party should ensure that incidents of this kind do not occur in the future. It should hold training courses for officials who deal with children. It should also conduct campaigns to raise awareness of this problem among the general public.

27. The judiciary is an active participant in the Commission for the Protection of Children's Physical and Moral Integrity and it was at the Commission's urging that the Special Unit for Investigation of Deaths of Minors was set up on 6 September 2002.

28. Through its own Technical Reform Unit, the judiciary has carried out various activities in support of this investigative body. For this purpose, it approved the Project for Support of the Special Unit for Investigation of Deaths of Minors, execution of which is under way.

29. A consultancy project covering technical assistance and an initial training workshop in the field of human rights and access to justice has been carried out on the initiative of the judiciary in pursuance of the verdict handed down by the Inter-American Court of Human Rights on 21 September 2006 in *Servellón Garcá et al. v. Honduras*.

30. This case, also known as the "four cardinal points" case, arose out of the alleged execution of a number of young men by Honduran police officer. The Inter-American Court ordered that the victims' families should be compensated and the persons responsible for the deaths punished.

31. The consultancy project's central objective was to support the implementation of a programme to improve access to justice through a process of training and action to ensure continuity in, and monitoring of respect for the promotion and application of the conventions and treaties concerning human rights and access to justice.

32. The topics to be covered in the future training programme include:

- (a) Special protection for children and adolescents;
- (b) Special jurisdiction for minors;
- (c) The rights of minors in Honduran law and practice;
- (d) International jurisprudence regarding minors' rights in relation to Honduras and other countries;
- (e) The current situation regarding children's and adolescents' rights in Honduras;
- (f) The judiciary's institutional capacity for improving minors' access to justice.

33. The training module for instructors was held early in 2008 and was aimed at members of the police, judiciary and prosecution service.

34. The Special Unit for Investigation of Deaths of Minors comes under the Ministry of Security's Directorate-General of Criminal Investigation. Its permanent and sole duty is to investigate, in conjunction with the Special Prosecutor's Office for Children, all violent deaths of children in Honduras.

35. The Unit's objectives are to: (a) elucidate the cases of violent, execution-like deaths of children and minors in Honduras from 1998 to the present; (b) adopt measures conducive to better coordination between the agencies responsible for combating this kind of offence; (c) propose a sound, workable plan for swift action to remedy the deficiencies in the investigation of violent deaths of children in Honduras, and (d) carry out the plan of action, focusing on reducing delays in investigations and in the execution of arrest warrants.

36. In 2007, the Special Unit registered the following deaths: ⁴

- (a) Deaths of street children: 3;
- (b) Deaths of members of criminal youth gangs: 30;
- (c) Deaths of other minors: 83.

37. In 2007, the figures for cases received by the Special Unit, cases passed on to the Prosecutor-General's Office and verdicts obtained were as follows:

- (a) Cases received in Tegucigalpa: 73;
- (b) Cases received in San Pedro Sula: 43;
- (c) Total cases received: 116;
- (d) Total cases passed to the Prosecutor's Office: 73;
- (e) Verdicts obtained: 11.

38. With the support of the Special Unit for Investigation of Deaths of Minors, the Prosecution Unit for Deaths of Minors in the Special Prosecutor's Office for Children investigates cases of the violent death of minors and, where appropriate, brings prosecutions. In many instances these result in guilty verdicts from the courts.

Paragraph 10. The State party should supply and keep track of all weapons belonging to police forces and provide them with appropriate human rights training in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The State party should ensure that allegations of excessive use of force are thoroughly investigated and that those responsible are prosecuted. The victims of such practices, or their relatives, should receive fair and adequate compensation.

39. In this connection, the police force has, for use by the National Police and the Drugs Trafficking Control Directorate within the Public Prosecutor's Office, a manual on "use of force for police agencies". It provides instructions on the use of force and distinguishes between non-lethal force and lethal force, described as follows:

- (a) Non-lethal force: force that, when correctly applied, will not cause physical injury to, or the death of the person against whom it is used;
- (b) Lethal force: force that can cause or gives rise to a reasonable risk of causing the death of, or serious physical injury to the person against whom it is used.

40. The manual describes the permitted levels of force and the circumstances in which they may be used, as well as the basic principles governing the use of service weapons and the official policy on the use of firearms.

41. In addition, Honduran law includes the Firearms, Munitions, Explosives and Similar Substances (Control) Act of 2001. The purpose of the Act is to regulate trade in, and the carrying and use of firearms, explosives and the like (possession and carriage of firearms and acquisition and use of explosives and other clearly dangerous substances) so as to ensure that they are responsibly and safely employed. The National Weapons Registry is kept by the Ministry of Security; the import and export of explosives and arms import permits are under the control of the Ministry of Defence.

42. Human rights training for members of the National Police is provided at every level of police instruction, i.e., in the Police Instruction Centre (CIP), the Junior Officers School (ESO), the Prison Officers School, the National Police Academy (ANAPO) and the Higher Institute of Police Education (ISEP).

43. As already stated, the excessive use of force is regulated by the manual on "use of force for police agencies". Investigations into the improper or excessive use of force are the responsibility of the Ministry of Security's Inspectorate-General, which is charged with overseeing and monitoring the activities of the police force's operational and management departments. One of its principal objectives is to ensure the strict observance of human rights in all judicial proceedings.⁵

Paragraph 11. The State party should take urgent and appropriate steps to identify the causes of the growing number of street children, develop programmes to address those causes, provide shelter for the children, identify, compensate and assist the victims of sexual abuse and bring those responsible to justice.

44. The Honduran Children and Family Institute (IHNFA) is the lead agency and the policy setter with regard to children. It currently has projects for the care of children at social risk with a variety of institutions and NGOs. It has six regional offices providing national coverage of children and adolescents at social risk, and the problem of street children is a high priority.

45. Its activities under the Protection and Social Intervention Programme, which focuses on providing integral prevention and protection through a number of subprogrammes (foster homes, foster families, family counselling, and restoration and protection of rights), include supervision and monitoring of the application of protective measures for children and adolescents from zero to 18 years of age who are at social risk.

46. The subprogramme for the restoration and protection of rights was launched in 2007 and is aimed at ensuring that street children and adolescents are able to enjoy their human rights. To this end, it provides, as appropriate, coordination, assistance and advice for the relevant agencies and NGOs regarding the design and implementation of programmes in areas such as restitution and protection of rights and care for victims of commercial sexual exploitation. These programmes cover children throughout the country, providing them with integral protection when they leave care centres, following up on any special care needs they may have and, if their families are too poor, feeding them for from six months to a year.

47. One of the basic ways of reaching out to street children is the "friendly approach" policy

being pursued in certain areas of Tegucigalpa and Comayagua and in the places where IHNFA has regional offices. The policy is carried out in coordination with the Special Prosecutor's Office for Children, municipal authorities, the Preventive Police, official human rights bodies, the Directorate-General of Criminal Investigation, the children's courts and non-governmental organizations.

48. In addition, roundups of street children and adolescents are carried out in coordination with law enforcement agencies (the police, prosecutors and judges) with the aim of saving as many of these young people as possible. Those who are found are transferred by order of a children's judge to an IHNFA protection centre, where trained staff assess them from the medical, social, psychological and legal standpoints. If the assessment reveals that there are problems in a minor's family, he or she is placed in an IHNFA counselling programme with a view to discussing, analysing and resolving the conflict situation.

49. Other activities carried out directly by IHNFA include the execution together with an NGO, Casa Asti, of the "Restoring rights to street children and adolescents" project, which is aimed at a hundred young people who wander the streets at a number of points in the country's Central District. A network of street educators is being formed from staff of Casa Asti, Casa Domingo, Casa Alianza, Médecins sans Frontières and IHNFA.

50. The Inter-Institutional Committee for the Care of Street Children was set up in 2007 and comprises State agencies and NGOs. Its aims are the rescue and social reinsertion of street children, their placement in care centres, and the provision of training in vocational workshops and of alternative informal education through special programmes developed by the Ministry of Education.

51. To strengthen the integral care process for street children, Honduras pursues a policy of negotiation with international cooperation agencies to obtain funds for the following projects in particular:

(a) An IHNFA/UNESCO project for the strengthening of networks and services with a child-focused integrated care model;

(b) An IHNFA/IADB project for the integrated protection of street children;

(c) A project for prevention and integrated care of street children currently under discussion with the cooperation department of the HSBC bank;

(d) Negotiations with the Office of the First Lady to obtain funding to provide effective care for street children and their families.

52. Regarding sexual abuse of minors, the State has created a judicial system to protect and assist the victims of this offence and perpetrators are brought to trial and punished. It has a hierarchy of rules that govern the offence of rape and guarantee victims protection: the Constitution of the Republic, international treaties or conventions, the Children and Adolescents Code, the Family Code, the other general or special laws, the case law of the Supreme Court, the

General Principles of Law and the Code of Criminal Procedure.

53. The State has achieved significant success in the application of the law concerning the offence of rape, since the majority of the reported cases have resulted in punishment. In 2000-2001, because of its concern for the security and protection of children and adolescents, the State carried out, through IHNFA, a campaign to identify minors being held in adult prisons, transfer them to re-education centres so as to give them the necessary integral protection, and compensate them.

54. The offence of rape is defined in the Criminal Code, the Code of Civil Procedure and the Children and Adolescents Code. In duly verified cases of rape, the culprits are tried and sentenced.

Paragraph 12. The State party should take urgent steps to eliminate child labour and ensure that all children of school age attend school.

55. The Ministry of Labour and Social Security has made significant efforts in connection with the undertakings to achieve the gradual and progressive elimination of child labour in Honduras. These include:

(a) Elaboration of the Second National Action Plan to address the problem of child labour in Honduras. In drawing up the Plan, account was taken of:

(i) The Ministry's policy and technical guidelines for official bodies and the efforts of the National Commission for the Gradual and Progressive Elimination of Child Labour, in monthly meetings, to have the Plan given the status of a National Policy;

(ii) The assessment of the execution of the First National Action Plan for the Gradual and Progressive Elimination of Child Labour (2001-2005);

(b) Quadripartite consultations with the sectors concerned (the Government, workers, employers and civil society) in order to identify hazardous child labour in the country. These led to a proposal to broaden, develop and conceptualize the understanding of what work is, in the case of child labour, considered hazardous by its nature and the circumstances in which it is carried out: the Technical Council proposed that article 8 of the Child Labour Regulations be broadened and revised by Executive Agreement to include, with the agreement of the above four sectors, a list of work that is hazardous by its nature and circumstances that children and adolescents will be unable to perform once the list is published in *La Gaceta*;

(c) Support for projects within the framework of domestic law by ILO/IPEC, CARE Honduras and the COIPRODEN network to prevent, punish and eradicate child labour and assist child workers at the regional level;

(d) Inclusion of the topic of child labour in the National Statistical Institute's Multi-purpose Household Survey;

(e) Establishment of regional subcommittees for the eradication of child labour and strengthening of them through a variety of training events dealing with Honduran law and international conventions;

(f) Establishment in August 2006 of the Child Labour Technical Coordination Unit, comprising representatives of the Government, workers, employers and civil society (records of the Technical Council for the Gradual and Progressive Elimination of Child Labour);

(g) Elaboration of the Basic Manual for the full incorporation of the Child Labour Inspectorate into the Ministry of Labour and Social Security's General Labour Inspectorate;

(h) Elaboration of protocols for the integrated care of child and adolescent workers;

(i) Support for the "I'd Rather Learn" project (with local and regional partners such as CARE), which has as its objectives to defend and protect the right to education of child workers between the ages of six and 15 and to bring about real policy changes so that they do not drop out of school;

(j) Implementation of the "My First Job" programme, which aims to provide skills training and apprenticeships for 6,000 poor young people aged between 15 and 19 from disadvantaged neighbourhoods in the country's main cities;

(k) In July and August 2007, provision of advice and training relating to labour rights and duties and the administrative procedures for obtaining permission to work for young people aged between 14 and 18;

(l) The Ministry's Programme for the Gradual and Progressive Eradication of Child Labour has given 560 talks on the rights, duties and administrative procedures connected with youth employment and has carried out home visits, 85 assessments, monitoring and inspections on its own initiative and authorized 188 young people to work.

56. In 2007, advice and training relating to labour rights and duties and the administrative procedures for obtaining permission to work for young people aged between 14 and 18 were given to 289 young men and women who were completing apprenticeships in the towns of La Ceiba (Atlántida) and Villanueva (Cortés).

57. In the final quarter of 2007, the first and second enrolment campaigns for vocational training took place in the areas of Comayagua, Chamelecón, Villa Nueva, Pulapanzak, San Pedro Sula and Tegucigalpa.

58. The third such campaign took place from January to February 2008 and to date 1,050 young people have signed up in the areas of cabinet-making, beauty, computing, trouser-making, cosmetology, shirt-making, kitchen work, tourist guiding, bakery, dental clinic work, basic carpentry, basic welding, radio, electrics, plumbing and carpentry.

59. In keeping with the report on the Millennium Development Goals, there is a possibility that Honduras will achieve the goal of ensuring that, by 2015, all the country's boys and girls will be able to complete a full course of primary schooling. Net primary school enrolment has increased in the past decade. Notwithstanding, to maintain this positive trend the Ministry of Education is stepping up the current efforts in the field of education, improving coordination between the many actors working for the education of the Honduran people, and striving to ensure that education policy is based on strategies that will maximise the benefits from the work being done by the government sector, civil society and international cooperation.

Paragraph 13. The State party should ensure that detentions are carried out in accordance with the provisions of article 9 of the Covenant and that those detained are brought before a court without delay. It should also consider the possibility of amending article 332 of the Criminal Code so as to restrict the definition of the offence of unlawful association.

60. Honduran law can be said already to embody implicitly the requirements of article 9 of the International Covenant on Civil and Political Rights and its constituent paragraphs. Those requirements are discussed below.

61. With respect to article 9, paragraph 1, of the Covenant, the Constitution of the Republic provides, in Title III, Chapter II (Individual rights), that:

(a) "Article 68: Everyone has the right to the respect of their physical, mental and moral integrity. No one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Everyone deprived of liberty shall be treated with the respect due to the inherent dignity of the human person.";

(b) "Article 69. Personal liberty is inviolable and may only be restricted or suspended in accordance with law.";

(c) "Article 84. No one may be arrested or detained except under a legally issued written warrant from a competent authority and on grounds already established in law. Notwithstanding, an offender in flagrante delicto may be apprehended by anyone for the sole purpose of being handed over to the authorities".

62. With respect to article 9, paragraph 2, of the Covenant, article 101 of the Code of Criminal Procedure provides as follows:

"Accused persons and their rights. An accused person is someone who, on the basis of a complaint or an application by the public prosecutor, is held to have participated in the commission of an offence or misdemeanour, whether he or she is in custody or at liberty; or someone who has been deprived of his or her liberty as a precautionary measure by arrest, detention or pre-trial imprisonment. As such, he or she may from the time of the accusation exercise all the rights recognized by the Constitution of the Republic, international treaties and this Code, from the first stage of proceedings until their completion. All accused persons are guaranteed the right to a defence. Hence they have the right:

(a) To be informed by the competent authority, in clear and precise terms, of the acts constituting the offence with which they are charged;".

63. With respect to article 9, paragraph 3, of the Covenant, the Constitution provides as follows:

(a) "Article 71: No one may be detained or held incommunicado for more than 24 hours without being brought before a competent legal authority. Judicial detention pending inquiries may not exceed six days from the time of its commencement."

(b) "Article 97. No one may be sentenced to degrading, proscriptive or confiscatory punishment. There is hereby established the penalty of life imprisonment. Criminal law shall determine its application for offences that are committed in serious, offensive or degrading circumstances that by their impact cause shock, repulsion, indignation or disgust in the national community. The penalties of deprivation of liberty for single offences and the cumulative such penalties for multiple offences shall be set in criminal law."

64. Article 173 of the Code of Criminal Procedure, entitled "Applicable precautionary measures", provides that a court may, where there is just cause, adopt *proprio motu* one or more of the following precautionary measures:

- (a) Arrest or capture;
- (b) Preventive detention;
- (c) Preventive imprisonment;
- (d) House arrest, under surveillance or otherwise, at the individual's own home or, subject to some other person's consent, at the home of that person;
- (e) Placing of the accused under the care or supervision of a particular person or institution, such person or institution to report periodically to the court;
- (f) Ordering of the accused to appear periodically before a court or authority of the court's choice;
- (g) Banning of the accused from leaving the country or his or her place of residence or such other area as the court may determine;
- (h) Banning of the accused from attending specified meetings or going to specified places;
- (i) Banning of the accused from communicating with specified persons, providing that does not affect the right of defence;

(j) The constitution for the benefit of the State by the accused or some other person of any of the following guarantees: the deposit of money or valuables, a mortgage, bail or personal surety;

(k) Following a report by a qualified authority, provisional detention in a psychiatric institution;

(l) Suspension from office when the accusation is of an offence against the public administration".

65. For the purposes of the above article and of an investigation, the Public Prosecutor's Office may, in the event of urgent need that prevents obtaining permission from a court, adopt one or more of the precautionary measures provided for in paragraphs 1, 2, 7, 9 and 11 of article 9 of the Covenant. In such instances, it must immediately notify the court and inform it of the reasons why the permission cannot be obtained. After hearing the accused and his or her counsel, the court will confirm or annul the measure ordered by the prosecutor's office.

66. With respect to article 9, paragraph 4, of the Covenant, the Constitution provides in article 80 that "Every person or association of persons has the right to submit petitions to the authorities for reasons of particular or general interest and to obtain a prompt response within the legal period". Article 94 of the Constitution provides that "No one may be subjected to any penalty without having been heard and convicted in a trial and without the penalty having been imposed by a final judgment of a judge or competent authority. In the event of enforcement orders or like measures in civil or labour matters and of fines or arrest in police matters, the defendant must always be heard".

67. As regards the possibility of amending article 332 of the Criminal Code, there has been no move as yet to alter this provision so as to restrict the definition of the offence of unlawful association.

Paragraph 14. The State party should continue to take the necessary steps to reduce the number of persons in pre-trial detention as well as the duration of such detention.

68. Under Honduran law, the judiciary is competent to order, regulate and monitor pre-trial detention.

69. The Code of Criminal Procedure defines pre-trial detention as deprivation of liberty that commences during proceedings as the result of an order issued by the competent court and lasts until the verdict becomes final. For pre-trial detention to be ordered, one or other of the following circumstances must obtain:

(a) Risk that the accused will abscond;

(b) Risk that the accused will impede the investigation;

(c) Demonstrable risk that the accused will rejoin the criminal organization to which

he/she is suspected of belonging or will use the resources the organization affords in order to hinder the investigation or help other accused persons to abscond;

(d) Demonstrable risk that the accused will take or attempt to take reprisals against the accuser or plaintiff.⁶

70. The Code requires that in ordering pre-trial detention courts shall expressly state in their orders the ground or grounds on which they do so.

71. Unlike the 1985 Code of Criminal Procedure, the present Code, which dates from the year 2000, limits the duration of pre-trial detention.

72. Article 181 of the present Code provides that pre-trial detention may last for up to one year as a general rule and for up to two years in the case of offences subject to a penalty of more than six years.

73. The Code states clearly that in no case may pre-trial detention exceed half the duration of the minimum penalty for the offence in question.⁷

74. The "Prison Auditing Programme " is now operating within the judiciary. It is coordinated by the Electronic Judicial Information and Documentation Centre and designed to ensure effective monitoring of the activity of the prison system and of prisoner numbers. It has rapidly made possible the compilation of a reliable national register of the prison population, the collection of statistics on the condition of detainees and the monitoring of the legal situation of persons deprived of liberty.

75. According to figures obtained under the Programme, the prison population totals 10,906 persons, of whom 10,572 are men and 334 are women.

76. While information collected under the Programme shows that there are still considerable numbers of people in pre-trial detention (49.97% of the prison population), the introduction of the 2000 Code of Criminal Procedure, which allows for such detention to be replaced by alternative precautionary measures, has contributed appreciably towards reducing the size of the prison population, which would be much larger if the previous system, under which there was no possibility of replacing pre-trial detention by a surety or bail, was still in force.

77. In 2007, courts applied a total of 16,634 precautionary measures, 13,941 of them in a form other than pre-trial detention. In percentage terms, 84% of the measures applied were not pre-trial detention and, as the attached tables show, the percentage seems likely to be the same in 2008.

78. Mention must also be made of the important work being done by the national Public Defenders' Service, which is currently representing 4,177 persons deprived of liberty, or 38.3% of the total prison population.

Paragraph 15. The State party should improve prison conditions in order to bring them

into line with the provisions of article 10 of the Covenant. It should also ensure the application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.

79. In 2006, the Constitutional Chamber of the Supreme Court ruled on five appeals for habeas corpus filed by the Human Rights Division of the Office of the Public Prosecutor on behalf of all child detainees in the Renacimiento and El Carmen detention centres and of adult prisoners at the Marco Aurelio Soto National Penitentiary, the San Pedro Sula National Penitentiary and the Puerto Cortés Penal Centre. It approved the appeals and (a) ordered the Ministry of Security to take the necessary steps to halt the violations of detainees' human rights by respecting the provisions of its verdict; (b) called on the executive branch and the legislature to draw up and implement a public penal policy consistent with the requirements of the Constitution and of international human rights instruments, and (c) called on the Office of the Public Prosecutor and the National Human Rights Commissioner to oversee the formulation and implementation of that policy, in exercise of their constitutional and legal powers.

80. In addition to the improvements of which the Committee is aware and of those made in compliance with the above-mentioned verdict at the Marco Aurelio Soto and San Pedro Sula national penitentiaries and the Puerto Cortés Penal Centre, Honduras has continued taking corrective measures such as the following: (a) relief of overcrowding in some cells by the transfer of detainees to other centres; (b) enlargement and remodelling of some facilities, with the provision of sanitation services, a drinking water supply and sleeping mats; (c) pursuit by the Ministry of Health of programmes for mentally disturbed detainees and prisoners with HIV/AIDS or other health disorders. In addition, their diet has been improved and the electrical system has been overhauled; (d) hygiene has been improved by means of periodic fumigation and cleanup campaigns.

81. As regards the Renacimiento and El Carmen detention centres, improvements have been made in the following areas: (a) two units have been enlarged to reduce overcrowding; (b) bunks and sleeping mats have been installed; (c) the drinking water supply has been improved; (d) repairs have been made to the electrical system; (e) equipment has been provided for the training workshops and classrooms; (f) internal rules specifying what disciplinary measures may be applied have been approved.

Paragraph 16. The State party should take effective action to safeguard the independence of the judiciary, including the prompt establishment of an independent body to safeguard the independence of the judiciary and to supervise the appointment, promotion and regulation of the profession.

82. The Supreme Court of Justice was represented in the delegation that described in Geneva how the United Nations principles on the independence of the judiciary are applied and observed in Honduras. In view of its great relevance to the above recommendation, part of the report in question is reproduced below.

Selection process for Supreme Court judges

83. The constitutional reform of 2001 brought about an important change in the method of selecting Supreme Court judges.

84. In addition to an increase in their number from nine to 15, the judges' term of office was extended from four to seven years, so that it no longer coincides with the terms of office of the national authorities (the President and Vice President of the Republic and members of the National Congress). This was done with the aim of reducing the impact of the political allegiance and leanings of the persons (members of the National Congress) responsible for appointing the judges.⁸

85. The reform made it obligatory for the members of the Supreme Court to be chosen from a list of 45 candidates themselves selected from a list submitted to the National Congress by a Nominations Committee comprising representatives of various sectors of the country, including in particular the National Human Rights Commissioner and representatives of civil society.

Domestic law

86. It is beyond doubt that, as is provided in Honduran law as well, true independence of the judiciary is a vital prerequisite for the realization of human rights in general.

87. The new Code of Criminal Procedure therefore contains a number of rules whose purpose is to guarantee the independence of the judiciary in the face of inside and outside pressure. Article 22 of the Code, for example, categorically prohibits private persons, civil servants and public employees from action aimed at limiting or hindering the exercise of judicial authority. It also provides that private persons, civil servants and public employees may not make to judges or magistrates insinuations or recommendations of any kind that may interfere with or restrict the judicial official's freedom of action or judgment. Behaviour to the contrary incurs the penalties laid down in the Criminal Code.

88. Article 7 of the new Code of Criminal Procedure establishes a protective mechanism for maintaining the independence of the judiciary by providing that: other State bodies may not may not interfere in proceedings for any reason, that in the event of interference the judge must inform the Supreme Court of the circumstances affecting his/her independence and that, should the interference or pressure come from the Supreme Court itself or from a member of the judiciary or another court, it must be reported to the plenum of the Supreme Court through the medium of the Prosecutor-General of the Republic.

89. In addition, article 186 of the Constitution provides that no power or authority may take over pending cases or reopen completed proceedings other than in the event of an appeal for review of a civil or criminal judgment. The purpose of this rule is to ensure (without, of course, prejudice to the exercise in connection with the remedy of appeal of the verificatory role of higher courts) that no authority may arrogate cases submitted to the jurisdiction of another judge or court .

Financial autonomy

90. Pursuant to article 306 of the Constitution, the judiciary enjoys full administrative and financial autonomy. The article provides that the judiciary shall be given an annual allotment of not less than 3% of current revenue in the General National Budget of Income and Expenditure. This constitutes an obligation for the executive to earmark funds for the relevant budget items quarterly and in advance.

91. It is important to note that in 2004, for the first time in its history, the current Supreme Court obtained the inclusion in the National Budget of the percentage of national income specified in the Constitution. In this connection, we consider the financial autonomy and solvency of the judiciary to be a key element in the consolidation of a genuinely independent justice system as required by the seventh of the Basic Principles on the Independence of the Judiciary adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan in August and September 1985, according to which it is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

Freedom of expression and association

92. The eighth of the above Basic Principles provides that members of the judiciary are like other citizens entitled to freedom of expression, belief, association and assembly; provided, however, that in exercising such rights judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.

93. The ninth of the Basic Principles provides that judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence.

94. The Honduran Constitution, in its article 78, recognizes the freedoms of assembly and association without distinction, provided they are not contrary to public order or good morals.

95. The Constitution establishes the general rule that the freedom of dissemination of opinions by any means shall be free and states that the law regulating this freedom may only provide for prior censorship in order to protect society's ethical and cultural values or personal rights, especially those of children, adolescents and young people.

96. There is no law or regulation in Honduras that contains arbitrary or unjustified restrictions on judicial officials' freedom of expression. The restrictions that have been imposed by law or regulation are aimed at preventing and, in the case of some of them, punishing abuse of this fundamental right to the detriment of the administration of justice or of the rights or lawful interests of third parties. That is consistent with the eighth of the above Basic Principles, pursuant to which restrictions are legitimate if they preserve the dignity of the office and the impartiality and independence of the judiciary.

97. It should be noted that on 29 April 2005 the Constitutional Chamber of the Supreme Court declared the offence of *desacato* (offending, insulting, or threatening a public functionary in the performance of his or her official duties) recognized in article 345 of the Criminal Code

unconstitutional . It took into account in doing so the recommendations made by the Inter-American Commission on Human Rights in chapter V of its annual report for 1994 to the effect that laws containing that offence should be completely eliminated because a "State's use of its coercive powers to restrict speech lends itself to abuse as a means to silence unpopular ideas and opinions, thereby repressing the debate that is critical to the effective functioning of democratic institutions. Laws that criminalize speech which does not incite lawless violence are incompatible with freedom of expression and thought guaranteed in Article 13 [of the American Convention on Human Rights], and with the fundamental purpose of the ... Convention of allowing and protecting the pluralistic, democratic way of life.

98. Nor is there any law or regulation in Honduras that restricts the legitimate exercise of judges' freedoms of assembly and association. It should be noted in this regard that a professional body, the Association of Judges and Magistrates of Honduras, operates in Honduras after being granted legal personality on 2 December 2003 by decision No. 3202-2003 of the Ministry of the Interior and Justice.

99. The Association's objectives include innovation in connection with the organizational developments that preceded its formation, support for institutional capacity-building, defence of its members' rights and provision of services to its members.

100. There is also another national organization, the trade union-like National Association of Judicial Employees and Officials. The great majority of its members are auxiliary employees of the country's courts and tribunals.

Independence of lawyers

101. It is stated in the United Nations Basic Principles on the Role of Lawyers that "adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession".⁹

102. These Basic Principles also contain a set of provisions that establish guarantees in this regard: "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics".

103. Honduras has no laws or regulations that unlawfully restrict or limit the free and independent exercise of the legal profession.

104. In Honduras, the authorization needed to practise as a lawyer is granted by the Honduran Bar Association, a civil-society, not a governmental body, after it has checked that applicants have completed the necessary studies and period of professional experience.

105. Nor are there any arbitrary restrictions in Honduras on lawyers' access to case files such

as would compromise their ability to assure their clients' detailed and proper defence, much less any restrictions on lawyers' freedom of movement or travel or access to detainees or others.

106. For lawyers to be able to represent their clients effectively, the competent authorities must respect the confidentiality of communications between them, the cornerstone of the lawyer-client relationship. In this regard, the United Nations Basic Principles on the Role of Lawyers provide that "Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential".

107. In Honduras, the confidentiality of communications is a fundamental right expressly recognized in the Constitution of the Republic¹⁰ and, as specifically concerns lawyer-client communications, in the Code of Criminal Procedure.¹¹

Professional competence, selection and training

108. To ensure suitability for the task, based on professional experience and personal maturity, the Constitution includes among the requirements for becoming a judge of the Supreme Court those of being aged over 35 and having held judicial office for five years or been a lawyer for ten years.

109. As already stated, under the Constitution responsibility for electing the 15 members of the country's highest court, the Supreme Court of Justice, lies with the National Congress.

110. As stated above, pursuant to the reform of the Constitution by Legislative Decree No. 262-2000 of 22 December 2000, the National Congress may only elect the members of the Supreme Court from the list of candidates submitted to it by the Nominations Committee.

111. The Committee, a completely independent collegial deliberative body free to make its own decisions, has as its sole function the drawing-up of a list of at least 45 candidates who meet the requirements and are not debarred by the Constitution or the law.

112. The composition, organization and activity of the Nominations Committee must comply with the principles of openness, transparency, strict adherence to the law, dignity, ethics, suitability, independence and respect for democratic principles. It is obligatory for the authorities and social and professional interest groups to respect the Board's independence in all its decisions. To uphold the principles of suitability and ethics and to avoid conflicts of interest in the process of nominating candidates for membership of the Supreme Court, the law governing the Nominations Committee prohibits the organizations entitled to suggest potential candidates from putting forward persons who represent them on the Committee, lawyers who occupy positions of authority in their senior management organs, the spouses of such people or the relatives of such people to the fourth degree of consanguinity or second degree of affinity. However, the lawyers in question may be nominated by the other organizations that the law governing the Committee entitles to suggest candidates.

Judicial service

113. The current Judicial Service Act covers all aspects of staff selection and the requirements for entry to, and the situations incompatible with the holding of office in the judicial service.

114. The underlying principles of judicial service are that justice should be promptly and fully administered by honest, worthy and honourable judges and magistrates and that the justice system should provide a total guarantee of impartiality, efficiency and good service so as to preserve justice and social peace, the dignity of institutions and the population's trust in the rule of law and to be a clear symbol of the republican, democratic ethos of the Nation.

115. The Judicial Service Act sets out clearly the procedures to be followed in selecting people to hold judicial office and the criteria to be taken into account by the selecting authority.

116. To strengthen the process established by the Act and ensure the suitability of candidates for judicial office, the Supreme Court has authorized the creation of selection boards for admission to the competitive examinations for the offices of trial judge and enforcement judge. It has also approved the process of competitive examination for the offices of justice of the peace, professional judge, court inspector and public defender. In accordance with the Act, the examinations entail a rigorous selection process subject to the principles of equality, merit, experience and competence.

117. The selection board for the process of competitive examination for the offices of professional judge, court inspector and public defender comprises: members of the Supreme Court of Justice and appeals courts; professional judges; the directors of the Public Defence Service, the Judicial Service's Human Resources Department and the Judicial Academy; members of the Faculty of Legal and Social Sciences of the National Autonomous University of Honduras and representatives of the Courts Inspectorate and civil society.

118. The announcements for the competitive exams for the selection of judges, court inspectors and public defenders have referred to the participative nature of the process and the application of the principles of equality, merit, experience and competence. The selection process includes several phases: the review of applicants' curricula vitae; a psychometric examination, and a legal-knowledge assessment phase which includes a written test in the premises of the Bar Association, followed by an oral. The list of the successful applicants is then published so that members of the public can see who they are and submit, together with what they consider relevant evidence, any objections they may have to their being admitted to the judicial profession.

119. The organization and regulation of the judicial profession are aimed at the rigorous selection of staff on the basis of personal merit so as to ensure equal opportunity and the appointment, promotion, long service and in-service improvement of the most able candidates.

120. To secure judicial employees' rights to promotion, the law provides that when a vacancy occurs the Director of the Judicial Service's Human Resources Department must submit to the Supreme Court a list of three candidates chosen by the selection board for the post in question. In drawing up its list, the board will give priority to staff entitled to promotion who already work

in the branch concerned, to persons who have applied to rejoin the service and to applicants who do best in the admission process.

Professional secrecy and immunity

121. Although the Code of Procedure of 1906 and other current adjectival rules do not contain any provisions expressly prohibiting judges from divulging the content of proceedings, disclosure of that kind would clearly infringe the most basic standards of professional ethics and conduct in force in Honduras.

122. Moreover, the Organization and Powers (Courts) Act warns judges to refrain from stating or even hinting at their opinions concerning cases they have to hear and , with respect to conciliation procedures, the Code of Criminal Procedure requires conciliators to maintain secrecy regarding what they learn during the parties' deliberations and discussions.¹²

123. Generally speaking, all legal professionals, including judges and magistrates, are subject to the Code of Ethics for Honduran Legal Professionals and must therefore consistently behave in their personal and professional lives in a proper and dignified manner and strive to act in accordance with the ethical rules typical of honourable and fair professionals.

124. Lawyers must maintain the strictest professional secrecy and can refuse to answer any question that would entail the disclosure of confidential information. They are prohibited from intervening in matters that could lead them to disclose such information and from using for their own benefit confidential information obtained in the exercise of their profession.

125. The body responsible for judging lawyers' conduct is the Bar Association's Honour Court. There is no provision removing judges or lawyers from its jurisdiction and complaints against them may therefore be made to it. It is competent to examine breaches of the code of professional ethics or of the Organic Law of the Bar Association or rules or resolutions adopted by organs of the Association and to impose the established penalties for them.

126. Under the Organic Law of the Association, the Honour Court has, inter alia, power to try and penalize members of the Bar Association against whom complaints are made. It can impose the following penalties on members of the Association:

(a) "(a) A private warning from the Governing Board in the event of grave negligence or inexcusable ignorance in the exercise of the profession;

(b) A public warning before the General Assembly for a breach of professional ethics or an offence against the honour or prestige of the profession;

(c) Exclusion for up to two years from election or appointment to an office in the Association in the event of serious misconduct not previously specified in this article;

(d) As a disciplinary measure, imposition of a fine of from five to 25 lempiras for non-attendance at meetings of the Governing Board or ordinary or extraordinary assemblies of the Association or for failure to perform duties or tasks assigned to them by this Law or entrusted

to them by the authorities of the Association;

(e) Suspension from exercise of the profession for from six months to three years".

127. More specifically, the Code of Ethics for Judicial Employees provides that judges, magistrates, court auxiliaries and other judicial employees must refrain from expressing public or private opinions about cases with which they deal in order to justify their own actions.

128. Similarly, the Judicial Service Act provides that, unless otherwise authorized by the appropriate signatures, judicial employees must keep decisions issued in proceedings secret.

129. Lastly, Honduran criminal law penalizes the conduct of anyone who, to the detriment of another, discloses without due cause or uses for personal benefit or the benefit of a third party confidential information he/she obtained as a result of their office, employment, profession or skill. Hence, the disclosure by officials of matters of which they learn as a result of their office and that should be kept secret constitutes an offence in the category of breach of the duties of public servants.¹³

Immunity of judges and magistrates

130. No provision in the Constitution or secondary legislation grants immunity to judges or magistrates for improper acts or omissions committed in the exercise of their functions such that they could escape civil actions for damages. On the contrary, under the Criminal Code a judge who in a criminal case knowingly issues an illegal verdict in favour of or against the offender is guilty of the offence of prevarication. The same applies to a judge who knowingly makes an illegal finding in a civil case or an illegal ruling in administrative proceedings. It is also an offence when a judge refuses to decide a case on the pretext of obscurity, inadequacy or silence of the law or when because of ignorance or inexcusable negligence a judge issues a manifestly illegal verdict.

131. A judge who takes no action on a legally submitted application or who maliciously delays the administration of justice commits the offence of denial or delay of justice.

132. Honduras has adequate machinery for the disciplinary oversight of judicial officials and the determination of their civil and administrative liability in the form of the Judicial Service Act, which establishes clearly what corrective measures may be taken against, and what liabilities may be incurred by these officials.

133. Notwithstanding, criminal law provides for a special procedure for trying judges and magistrates and determining their criminal liability. It consists in the holding of a preliminary hearing to establish provisionally, without prejudice, whether there is a case to answer. The remedies of appeal and amparo are available against the provisional finding.

134. The question of disciplinary oversight is covered in a variety of legislation that will be discussed in the relevant section below.

Principle: conditions of service and irremovability

135. The current Judicial Service Act recognizes tenure¹⁴ as a right of all judicial officials, providing they have entered the service in the proper manner, and they may only be removed when they give cause for dismissal as provided for in the Act.

136. In Title XIV ("Dismissal") of the Act, article 64 enumerates the reasons for dismissal.¹⁵ Among them are nonfulfilment or serious breach of duty and manifest incompetence. As a security for the official concerned, investigation of the case, including the possibility of appeal against dismissal to one of the organs of the judiciary such as the Judicial Council, must first be completed.¹⁶

137. Among other rights recognized to judicial officials by the Act are the right to enjoy the benefits of social security law and the right to take retirement in accordance with the law.¹⁷

Assignment of cases

138. To ensure a reliable and transparent procedure for assigning cases to judges, the judiciary's Information Technology Directorate, acting on the initiative of the Supreme Court, designed the Random Case Assignment Module, a technological tool for registering cases as they are filed and assigning them randomly to judges for trial.

139. The Module, which forms part of a plan comprising a variety of technological strategies for computerizing the judiciary, was installed in 2003 in criminal courts of first instance in Tegucigalpa and San Pedro Sula and in 2006 in the trial courts of the country's three main cities: Tegucigalpa, San Pedro Sula and La Ceiba.

140. The Module has functioned successfully and very satisfactorily and it is therefore planned to install it in all the country's courts.

Disciplinary measures, suspension and separation from office

141. Reference has already been made to the procedure for dismissal contained in, and governed by the Judicial Service Act. The Act also includes the disciplinary rules and the penalties to which judicial officials, including, of course, the judges and magistrates of appeal courts,¹⁸ are subject.

142. The disciplinary rules apply to what are termed "acts contrary to the dignity of the administration of justice" and "acts contrary to the efficiency of the administration of justice".¹⁹

143. The commission by judicial officials of any of the above acts may give rise to the penalties provided for in the Judicial Service Act. These penalties are applied according to the seriousness of the offence and are: (a) a fine; (b) suspension from office, and (c) removal from office for the reasons and according to the procedure set forth in the Act.

144. As already stated, no penalty may be applied without the prior completion of an

investigation and the production of relevant evidence. In addition, the law provides that that the accused must first be heard and must be informed beforehand of the charges against him/her.

145. The disciplinary oversight of judicial officials is also ensured through other legislation, including:

- (a) The Code of Ethics for Judicial Employees;
- (b) The Regulations of the Inspectorate-General of Courts and Tribunals;
- (c) The Code of Ethics for Honduran Legal Professionals;
- (d) The Organization and Powers (Courts) Act.

The Inspectorate-General of Courts

146. Under the Regulations concerning it, which were approved by the Supreme Court on 22 June 1995,²⁰ the Inspectorate-General of Courts is responsible for overseeing the courts for the purposes of:

- (a) Ensuring the timely, efficient and impartial administration of justice;
- (b) Examining judicial staff's official and public conduct, and
- (c) Ensuring their fully professional discharge of their duties.²¹

147. The Regulations provide that judicial oversight shall be exercised by the Supreme Court through the Inspectorate-General of Courts, which is empowered to examine complaints made against judicial officials for acts falling within the scope of judicial oversight.

148. The Regulations require inspectors to maintain strict secrecy in the performance of their functions and forbid them from using for purposes other than those defined in law any information they obtain in the course of their investigations.²²

149. It should be noted that, on the initiative of the Supreme Court, a study has been carried out for the re-engineering of the process of judicial oversight with a view to maximizing the efficiency of the Inspectorate-General through a process of reform aimed at modernizing and improving its operations for the benefit of the administration of justice.

Criminal liability of judges and magistrates

150. Under Honduran law, there is a special procedure for determining the criminal liability of judges and magistrates: they may not be prosecuted until the process termed *antejuicio* (preliminary proceedings for judicial misconduct) has been completed.²³

151. The requirement to hold such preliminary proceedings constitutes a procedural guarantee

that never places the beneficiary beyond the scope of substantive criminal law.²⁴ The proceedings are conducted by the authority next in rank above the accused official, which will determine, without prejudice as to the substance, whether the accusation or complaint is admissible.²⁵ The remedies of appeal and amparo, as appropriate, are available against the authority's finding.

152. As regards members of the Supreme Court of Justice, the applicable procedure is that for prosecuting senior public servants set out in Book 5, Chapter III of the Code of Criminal Procedure.

153. It will be obvious that the reason for having a special procedure in the above cases is the need to ensure the freedom to discharge their functions of the persons responsible for administering justice, who must not be subjected to unjustified proceedings or to unjustified threats for the decisions they take.²⁶

Reform of the judicial service

154. Significant achievements and progress can justifiably be said to have been made regarding reform of the judicial service. However, the results have been below expectations, since improvements are needed in, above all, the areas of staff selection, staff promotion, and the genuine separation of administrative and jurisdictional functions within the Supreme Court.

155. The search for a system that is reliable and effective in these and other respects has led the Supreme Court to draw up and submit to the National Congress two bills, the draft Council of the Judiciary and Judicial Service Act and the draft Organic Law on the Judiciary, which offer important options for improvement of the judiciary and the administration of justice and presage a thoroughgoing reform of the country's present judicial system. Article 317, subparagraph 8, and article 317 of the Constitution refer to the establishment of the Council of the Judiciary, whose members are to be appointed by the Supreme Court, as the judiciary's highest administrative body, with responsibility for appointing and dismissing magistrates and judges in accordance with the applicable guidelines.²⁷

156. The structure of this body will be vital for the continued reform of the judiciary, not only as regards the selection of judicial officials, but also as regards their training, the improvement of their professional performance and the securing to them of opportunities for tenure and promotion on the basis of objective criteria free from political or other considerations that could impair judges' indispensable sovereignty in the taking of their decisions.

157. Likewise, a legal framework is being devised for the Judicial Academy that will enable it to provide support for the guidelines established by the Council of the Judiciary and the Supreme Court by, in particular, offering courses in specific areas and detecting needs that require its prompt attention, the constant objectives being to strengthen the independence of the judiciary and satisfy Honduran society's need for timely and full justice in strict accordance with the principles of due process whatever the nature of the case concerned. In addition, and in order to encourage their positive participation in the efforts to enhance the dignity of the judicial function, judges' and magistrates' associations will be able to identify and propose to the Council

training activities that will be of help in resolving the problems encountered in the theoretical and practical application of the law.

158. Supervision and monitoring of the functioning of courts and tribunals will remain the responsibility of the Inspectorate-General of Courts and Tribunals as a technical arm of the Council. The Inspectorate will be required to maintain close relations with the other institutions and parts of the judicial system and so serve as a contact point between the users and operators of the system.

159. It should be noted that the legal structure of the above institutions has been created on a minimal, albeit essential normative base so that each institution can arrive through the medium of regulations -- the right technique for ensuring a flexible and efficient response to the needs of the times while remaining under the protection of the law -- at the most effective and modern way of adjusting its activities to what is expected of it. It must also be said that, while work to that end is already in hand, there is a need to strengthen the legal foundation on which the institutions are supposed to develop.

160. It is also very important to point out that the changes will not entail either any excessive burden on the national budget or the creation of more bureaucratic entities so that it will be possible to promote the constitutional and international humanitarian law relevant to the proper exercise of the functions of the courts without sacrificing other equally relevant interests that the Honduran State must seek to satisfy for its citizens. For example, the draft law provides for a single Council of the Judiciary that will also perform the functions of the Judicial Council. That will enable faster and less costly performance of the two bodies' functions and at the same time, in keeping with the model successfully applied in other countries, avoid conflict between separate entities nominally responsible for watching over the same interests. It should be added that this single Council is permissible under the Constitution, since what is guaranteed in its article 3, subparagraph 8, and article 317 are functions rather than separate entities, so that the discharge of both sets of functions by the same body entails no constitutional conflict.

161. In keeping with the precepts of the Constitution and in order to strengthen the democratic concept of the judiciary, the bill provides for the Council of the Judiciary to comprise representatives from the widest possible range of sectors of the judiciary. Hence, it will be not merely a democratic, but also a pluralistic body. It will not be dominated and arbitrarily controlled by the Supreme Court; thanks to the inclusion of members of other courts, including a professional judge, it will have a more objective and decisive view.

162. To ensure that the Council is able to operate in the desirable manner, the bill further provides that its members should devote themselves solely to their duties as members. In addition, to ensure their independence from outside influence and guarantee the transparent, democratic and accountable exercise of their authority in the interests of Honduran society in general and not of a particular group, it proposes that membership of the Council should be incompatible with the holding of any other public office and with participation in the management or administration of social, commercial, trade-union or political organizations, profit-making associations or foundations, professional associations or political parties. The aim is to preserve the good name of the Honduran judiciary by keeping it separate from the

economic and power circles connection with which could mean impairment of the impartiality with which the Council must act in all cases and in every respect. Naturally, the proposal does not apply to participation in the teaching of the law or in legal research, activities that are deemed important for the strengthening of the judiciary since they can help judicial officials to advance in the area of the legal sciences, to the benefit of those for whom the system for the administration of justice exists.

163. Furthermore, the members of the Council must recuse themselves in cases in which they have any personal interest. That will help to ensure transparency in the Council's activities, particularly decision-making.

164. The ongoing reform of the judicial profession is of fundamental importance. It is aimed at ensuring judicial officials' technical competence and hence their suitability for their tasks. Competitive examinations are being held and efforts are being made to attract the largest possible number of candidates. In addition, certificates and other evidence of qualifications will be categorized and subjected to serious examination with the help of academics, thereby realizing the desire for objectivity in the selection and appointment of judges and magistrates. Appointments will thus be based on proper technical opinions and appraisals so that those chosen are suitable for their posts and the arbitrariness associated with appointment on the basis of affinity or patronage is avoided. In this way, the Honduran judicial branch will make a qualitative leap forward towards the sovereignty and independence of its members in the administration of justice.

165. Another outstanding feature of the bill is the importance given to admission to the judiciary through classification into categories. As has been said, this process will be assisted by members of the legal faculties of the country's universities. In addition, the Judicial Academy will conduct important induction courses, evidence of the significance this institution will have for the strengthening of the judiciary. The result will be that judges' and magistrates' formal independence will be accompanied and enhanced by professional soundness, so enabling the satisfaction of one of any democratic society's most ardent desires: to have an honourable judiciary that will uphold the law and the concept of justice.

166. The programme for the selection of judges and magistrates in a number of phases is another of the highlights of the bill, since it is a way of giving true meaning to the idea of a judicial career in as much as, once someone has entered the judicial service, promotion will be achieved through a combination of merit and seniority, so encouraging professional competence and rewarding effort and length of service. For example, justices of the peace will be given preference in filling vacancies as professional judges, without, however, barring entry to this category by other lawyers, for whom there will be a reserved quota of posts. This will prevent the judiciary's being seen as a closed corporation off-limits to significant sectors of society that can undoubtedly help to keep it close to with the country's social reality.

167. The granting of promotions according to this rule will, beyond doubt, satisfy the need for objectivity in the filling of vacancies. As a result, arbitrariness in such instances will be avoided and, in addition, judicial independence will be strengthened both in terms of internal and external form and in practice, so guaranteeing the administration of justice to high professional standards.

168. It is impossible to conceive today of a democratic society in which the irremovability of judges and magistrates is not the rule. These officials must, in principle, remain outside the vicissitudes of politics and of pressure groups. Their mission to stabilise society, which must be discharged in strict accordance with the Constitution and the law, depends on their having legislative support that prevents as far as possible interference by agents who will disturb or distort their work. They must therefore be assured of security of employment such that they can only be sanctioned or removed by means of appropriate disciplinary proceedings (governed by the rules of due process) that must necessarily be based on restrictive legal provisions. This represents a further step towards the preclusion of arbitrariness in their regard and compliance with the precepts of the constitutional, democratic rule of law and, moreover, protects the principle of legal reservation.

169. The foregoing does not, of course, mean that the possibility that judges and magistrates may incur disciplinary, criminal or civil liability has been overlooked. That possibility is recognized in the bill, but it is explicitly delimited so as to avoid opening the way to defeat of the guarantee of judicial independence. Once again, effect is given to the constitutional principle without that principle serving as a refuge, so that judges and magistrates will be answerable when the law -- and not an arbitrary decision by a power centre -- provides that they must be.

170. The economic independence of judicial officials is vital to the success of the proposed new system for the administration of justice, since only if it is guaranteed will the principle of judicial autonomy be fully realized: independence depends on being materially able to maintain a decent standard of living. That is the aim of the proposal, which is profoundly in keeping with the democratic spirit of the Honduran Constitution.

Paragraph 17. The State party should take the necessary steps to prevent any harassment of journalists and human rights defenders and ensure the full implementation of the provisions of article 19 of the Covenant. The State party should also ensure that those responsible for the deaths of journalists and human rights defenders are prosecuted and punished and that the relatives of the victims are duly compensated

171. At the meeting of the Ibero-American Association of Public Prosecutors held in Santiago de Chile from 16 to 18 June 2008, the Public Prosecutor's Office took on, through the adoption by its representative, the Prosecutor-General, of the Santiago Guidelines on Victims and Witness Protection, an in-house and public commitment concerning the guiding principles that should inspire prosecutors' actions regarding persons and groups requiring special protection in connection with legal proceedings. While the Guidelines refer expressly to some groups, they do not include journalists or human rights defenders and the Public Prosecutor's Office has therefore proposed the drawing up of a victim protection law that covers human rights defenders, journalists and other groups in addition to the groups mentioned in the Guidelines.

Paragraph 18. The Committee recommends that the State party adopt the necessary programme and budgetary measures to ensure birth registration, including the registration of adults.

172. Thanks to the country's 310 municipal registry offices, there is nationwide coverage

under the National Registry of Persons. The new National Registry of Persons Act empowers the Registry authorities to set up branch offices and this has therefore been done in areas where ethnic groups predominate, in border areas and in places with poor access.

173. The Registry authorities have instructed municipal registrars to set up permanent mobile teams to register civil status events and to coordinate with other institutions activities that can help to promote a registration culture.

174. To speed up the registration of children, adolescents and adults, the Registry has set up 19 departmental or sectional registry offices that carry out procedures that were previously dealt with before the courts through persons' legal representatives.

175. These offices perform free of charge the ex post facto registration of persons whose births have not been registered within the legal time limit of one year. They also deal with corrections, additions and the correction of alterations to civil status records and with objections to such measures.

176. The National Registry, the United Nations Children's Fund (UNICEF) and Plan International have launched a series of projects and activities with the following objectives:

- (a) Institutional strengthening of the National Registry Office;
- (b) Introduction of a communication and social mobilization unit to help the community embrace the right to birth registration as normal behaviour;
- (c) Concerted institutional action to ensure the realization and enforcement of that right at the local, departmental and national levels;
- (d) Promotion of the timely registration of children and adolescents and creation of awareness of the importance of such registration;
- (e) Training of National Registry staff;
- (f) Equipping and modernization of registry offices in the major cities;
- (g) Sending of mobile registration teams to remote areas.

177. The following activities have been carried out:

- (a) Official launch of the birth registration campaign in Tegucigalpa, San Pedro Sula and Santa Rosa de Copán with the support of national and local media and the participation of various civil-society organizations and public and private institutions;
- (b) Training of 298 municipal civil registrars in the application of the new National Registry of Persons Act and the associated regulations;
- (c) Training of 26 departmental and sectional officials in their duties in connection

with the new procedures established by the Act and the associated regulations;

(d) Design and distribution of posters, pamphlets and leaflets concerning the campaign;

(e) Formation of mobile birth registration teams in the departments of Copán, Choluteca, La Paz, Comayagua, Olancho, Cortés and Valle;

(f) Training of civil-society organizations and public institutions, including Casa Alianza, As í Participa, the Visitación Padilla Women's Peace Movement, the Federation of Development Organizations of Honduras (FOPRIDEH), the Centre for Research and Promotion of Human Rights (CIPRODEH), the mass media, the Honduran Children and Family Institute (IHNFA) and the National Women's Institute (INAM).

178. The population census conducted by the binational commission administering the Honduras-El Salvador delimited territories and the National Statistical Institute showed that some 5,000 people living in the Nahuaterique area are not registered in the National Registry of Persons.

179. In accordance with the Convention on Nationality and Acquired Rights in Zones Delimited by the International Court of Justice, the Registry authorities, together with the Ministry of Foreign Affairs, designed a procedure for speeding up the registration and identification of the children, adolescents and adults living in the area.

180. With the support of UNICEF, the first departmental mobile civil status registration team was established in the Department of Gracias a Dios. Its aim was to promote, by sending a total of 58 mobile units to every municipality for two weeks, the registration of births and deaths in remote communities where the economic situation and the poor access make it difficult for the inhabitants, who are predominantly members of ethnic groups or persons of African descent, to register civil status events.

181. In all, 58 mobile units visited each municipality for two weeks.

Villages covered by municipality

| Municipality | Villages in municipality | Villages covered by teams | Ethnic group targeted | Other population covered |
|-----------------------|--------------------------|---------------------------|-----------------------|--------------------------|
| Puerto Lempira | 33 | 27 | Misquito-Tawakas-Pech | Mixed race |
| Brus Laguna | 8 | 7 | Misquito-Tawakas-Pech | Mixed race |
| Ahuas | 6 | 5 | Misquito-Tawakas | Mixed race |
| Juan Francisco Bulnes | 11 | 6 | Gar funa | Mixed race |

| | | | | |
|-----------------|----|---|-----------------------|------------|
| Villeda Morales | 13 | 8 | Misquito-Tawakas | Mixed race |
| Wampusirpi | 5 | 4 | Misquito-Tawakas-Pech | Mixed race |

Results

Ex post facto registrations

| Municipality | Children | Children, young people and adults |
|-----------------------|----------|-----------------------------------|
| Puerto Lempira | 1 470 | 1 680 |
| Brus Laguna | 368 | 869 |
| Ahuas | 270 | 669 |
| Juan Francisco Bulnes | 166 | 2 |
| Villeda Morales | 345 | 240 |
| Wampusirpi | 120 | 198 |
| Totals | 2 733 | 3 658 |

182. Following on the dispatch of the mobile teams, campaigns are being carried out in a number of black communities in the departments of Atlántida, Colón, Olancho and El Paraíso.

183. In addition, a project entitled "Strengthening of family ties through promotion of a registration culture" has begun. It is promoted by the Education Commission of the National Congress, the National Registry of Persons, UNICEF, the Ministry of Health, the Organization of American States and a number of municipalities and its aims are to promote a registration culture and combat failure to register births in departments, municipalities, villages and border hamlets that are hard to reach or where ethnic groups predominate. The departments that have been chosen are Intibucá and Lempira.

Intibucá

| Municipalities | Villages | Hamlets covered |
|-------------------------|----------|-----------------|
| Camasca | 3 | 31 |
| Colomoncagua | 4 | 48 |
| Concepción | 3 | 18 |
| Magdalena | 3 | 20 |
| San Antonio | 3 | 32 |
| San Marcos de la Sierra | 3 | 26 |

| | | |
|--------------------------|----|-----|
| Santa Lucía | 3 | 27 |
| Yamaranguila | 3 | 22 |
| San Francisco de Opalaca | 4 | 32 |
| Total | 29 | 256 |

Lempira

| Municipalities | Villages | Hamlets covered |
|-----------------------|----------|-----------------|
| Candelaria | 4 | 28 |
| Cololaca | 3 | 62 |
| Gualcinse | 3 | 23 |
| La Campa | 3 | 21 |
| Guarita | 3 | 30 |
| La Virtud | 3 | 26 |
| Mapulaca | 3 | 12 |
| Piraera | 3 | 32 |
| San Juan Guarita | 3 | 18 |
| Tambla | 3 | 34 |
| Tomalá | 3 | 13 |
| Valladolid | 4 | 23 |
| Virginia | 3 | 26 |
| San Marcos de Caiquín | 4 | 27 |
| Total | 45 | 375 |

184. The Family Allowance Programme (PRAF) exists to protect the institution of the family by providing assistance to low-income families through programmes to combat poverty and help them manage their own affairs. Under an agreement between the Programme and the National Registry of Persons, the Registry has documented people not in the civil status records who have been selected for help from PRAF, whose activities form part of the solidarity network promoted by the Office of the President of the Republic.

185. The objectives set in the agreement between the Programme and the Registry are to:

(a) Promote campaigns about the importance of registering civil status events and publicize in villages the services of the municipal registry offices;

(b) Establish links with municipal authorities and line agencies with a view to cooperating in activities aimed at ensuring that all civil status events are recorded in the relevant municipal registers;

(c) Carry out in the agreed communities campaigns to raise the inhabitants' and the local authorities' awareness of the importance of registering births and deaths;

(d) Make available PRAF's lists of the beneficiaries of its programmes who do not have identity papers so that the Registry can include the communities in question in its efforts to promote registration and issue identity documents to the persons who register;

(e) Send mobile registration teams to communities where PRAF reports a low level of registration of civil status events;

(f) In coordination with the Honduras - El Salvador Binational Commission and on the basis of the population census it conducted, promote registration by, and issue identity documents to persons living in the territories delimited by the International Court of Justice;

(g) Publicize the agreement among civil and municipal registrars throughout the country so that they are aware of the importance of helping to implement it.

186. IHNFA and RNP have signed Agreement No. 005-08 IHNFA/RNP for the benefit of children. The Agreement binds them to comply with the provisions of the Convention on the Rights of the Child, which states as priorities that every child has the right from birth to have a nationality, a personal identity and a given name and family name and to know who its parents are. IHNFA has undertaken to respond swiftly to the situation of all unregistered children. Once it has been determined where there are such children, RNP will go there with IHNFA staff and the children will be registered without delay.

Paragraph 19. The State party should guarantee members of indigenous communities the full exercise of the right to enjoy their own culture. It should take the necessary steps to resolve the problems related to ancestral indigenous lands.

187. Decree No. 93-97 institutionalises intercultural bilingual education through the National Education Programme for the Indigenous and Afro-Honduran Ethnic Communities of Honduras (PRONEEAH) under the auspices of the Ministry of Education. The policy approaches are to:

(a) Take the historical, sociocultural and linguistic diversity of Honduran society as one of the basic principles for national education and culture, tailoring objectives, policies and strategies to the education of ethnic groups;

(b) Promote the revival, strengthening and development of indigenous languages and cultures as part of the process of building and asserting a national identity;

(c) Promote bilingualism, taking as the starting points people's mother tongue and particular culture and, on that basis, the country's official language, without prejudice to national and universal culture;

(d) Offer an integral education that will help to raise the level of human development of the country's ethnic groups.

188. Each ethnic group has a representative within the Ministry of Education to follow the progress of the Programme.

189. Within the framework of its Programme of Support for Indigenous and Black Populations (PAPIN), the Ministry of the Interior and Justice has put before the National Congress a special bill for the integral development of indigenous peoples and peoples of African descent. This was drafted on the basis of a variety of information, consultative and coordination workshops with the nine indigenous peoples, the Government, judicial officials and civil society and with the participation of national and international experts.

190. The bill contains provisions in the following fields:

Education

191. It defines as the guiding principles of pluri- and multi-cultural education linguistic diversity, community participation and flexibility. Consequently, education for indigenous and black peoples will both address the teaching of their own values and provide information from other cultures to foster knowledge. It will also have to be bilingual and promote the revival of languages that some peoples no longer use. It will need to be developed with the active participation of the indigenous and black peoples and suit the conditions of time, means and place found in their communities.

192. The bill proposes improving the Ministry of Education's current structure by establishing a department responsible for the design and definition of educational policy for indigenous and black peoples and for ethnoeducation.

193. It calls for the setting up of a special programme to facilitate access by indigenous and black peoples to higher public education and of decentralized blended-learning programmes to provide them with technical, technological and vocational training.

194. It also proposes special literacy programmes for indigenous and black adults and, in order to address issues such as the nationally and internationally well-known problem of disabled divers, rehabilitation-for-work programmes for the handicapped.

195. In addition to formal education, it suggests the incorporation in the school curriculum of education in civil rights and duties and gender equality so that indigenous and black Hondurans are aware of their responsibilities and of the need to respect not only ethnic or cultural differences but also gender difference.

196. It defines the requirements applicable to educators who work with indigenous and black communities to ensure they have at least the minimum knowledge needed to dispense bilingual pluri- and multi-cultural education.

Health

197. Cultural determinants such as the concepts of illness and treatment and socio-economic factors can hinder citizens' access to public health services.

198. Because of the indigenous and black communities' world views and poverty, the health services available to them are -- when they are not, as they often are, nonexistent -- inappropriate and inadequate.

199. To resolve this situation, the bill calls for an approach to health that will overcome the obstacles to access by paying proper attention to the socio-economic and cultural circumstances in these communities.

200. From this point of view, aspects such as epidemiological characteristics, world views, concepts of illness and treatment, the existence of native curative practices, the health personnel a community has had and geographical location are all factors to be taken into account in finding the right solution to the problem of health for indigenous and black peoples .

201. The bill proposes the following:

(a) Recognition and protection of indigenous and Afro-Honduran traditional medicine;

(b) Consultation of indigenous and black peoples and coordination of health programmes and action with them;

(c) Appropriate institutional arrangements for, and free provision of public health services;

(d) Recruitment and training of members of indigenous and black communities for work in the health sector;

(e) Nutritional support for children under 5 and pregnant women;

(f) Establishment within the Ministry of Health of an Ethnohealth Department with responsibility for designing and defining health policies for indigenous and black peoples.

Natural resources

202. Indigenous and black peoples do not view their claims to ancestral land separately from the environment and natural resources. The Earth and its resources are seen as an environment intimately connected with human beings, a life system of which men are a part and that they

must use soundly in order to survive.

203. This view has unquestionably contributed to the conservation and sustainable use of natural resources in the areas occupied by indigenous peoples, protecting species that would otherwise have become extinct and, through their preservation and knowledge of them, benefiting the whole of the country's population. This situation clearly demonstrates the value to Honduras of the conservation and sustainable development of particular parts of the country and the role that aboriginal peoples have played in their preservation.

204. Pursuant to articles 340 and 346 of the Constitution and to articles 15 and 23 of the ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, 1989, the bill proposes the following series of measures aimed at supporting and strengthening this knowledge with a view to achieving development of the areas in question that is not only sustainable but also culturally relevant and in which natural resources management systems (the Western, indigenous and black systems) are used to complement each other by applying the best of each of them. (These measures involve):

(a) Emphasis on the State's duty to preserve and protect the biodiversity of the areas traditionally occupied by indigenous and black peoples;

(b) Establishment of a body with responsibility for defining national environmental policy and regulating the execution of environmental plans, programmes and projects in areas occupied by indigenous and black peoples and comprising representatives of those peoples and the Government;

(c) Institutionalization of adoption of a sustainable environmental development plan having as its objectives financial, technical, social and cultural support for the sustainable use of natural resources in areas occupied by indigenous and black peoples;

(d) Giving indigenous and black peoples a preferential right to exploit renewable natural resources and mineral resources in the areas they have traditionally occupied;

(e) Promotion of consumption and sale of clean (organic) products;

(f) Institutionalization of consultation concerning the use of natural resources in areas traditionally occupied by indigenous and black peoples;

(g) Giving indigenous authorities administrative functions regarding the conservation and protection of natural resources and the environment in the areas they have traditionally occupied;

(h) Fiscal measures to finance reforestation and recovery and protection of resources in areas traditionally occupied by indigenous and black peoples;

(i) Establishment of a special system for controlling population density in the department of Islas de la Bah á with a view to protecting the islands' natural resources and

preventing irreversible damage to their ecosystem.

Development of suitable institutions

205. Fulfilling the requirements of article 346 of the Constitution unquestionably requires suitable modern institutions. For this reason, the bill proposes measures for adjustment of the State's current functional organs so that they can respond to indigenous and black peoples' concerns.

206. In this connection, the bill proposes that proposals for adjustment in particular sectors be supplemented by measures aimed at finding trained staff to deal with the problems of the country's indigenous and black peoples in general and by provisions that expressly recognise the federations of indigenous and black peoples and their traditional community authorities as the true spokespersons of their peoples and communities.

207. In addition, it defines the Ministry of the Interior and Justice as the coordinator for the sector and establishes within it a directorate with specific functions. It also provides for special measures concerning the Institute of Anthropology and History, the Ministry of Tourism, the National Women's Institute (INAM), the government ministries that are part of the Social Cabinet and the National Registry of Persons.

208. In the economic sphere, it proposes reforming the social sector of the economy to promote and strengthen indigenous and black communities' rural financial cooperatives and establishing a special royalties fund financed from the exploitation of mineral and renewable natural resources in indigenous and black areas to be used solely by indigenous and black peoples in support of the exploitation and marketing, etc. of such resources in those areas.

209. It further suggests institutionalizing the dialogue with indigenous and black peoples in order to reach agreement on the proportion of resources from the Poverty Reduction Fund to go to them and to decide how the money should be used.

210. It also refers to the shares of departmental and municipal resources and of the national budget that should be devoted to investment for the benefit of indigenous and black peoples.

Justice

211. Justice is one of the most critical issues for indigenous and black peoples. Many of them live in remote areas with poor access, which further complicates the administration of justice.

212. As a result, disputes within indigenous and black communities or with third parties can become more acute or suffer from the decisions sought by others.

213. To improve the situation, the bill proposes the introduction of alternative dispute resolution techniques by using the authorities of indigenous and black communities to move such processes forward and validating the decisions they take to resolve conflicts and custom and usage in this regard. To back up this proposal, it suggests developing a programme of

conflict-resolution training.

214. In keeping with the requirements of article 83 of the Constitution, the bill urges increasing the staff of the Prosecutor-General's Office so that it has can designate defence counsel to deal solely with the legal problems of indigenous and black peoples. It also proposes strengthening of the Office of the Special Public Prosecutor for Ethnic Groups.

215. It further proposes increasing the penalties for offences committed against indigenous or black people because of their position as community authorities or leaders, as well as the penalties for unlawfully entering protected areas or national forests or parks that are within traditional indigenous or black lands.

216. Pursuant to article 9 of ILO Convention No. 169, it requires prosecutors and judges dealing with cases involving members of indigenous and black communities to refer to and recognise those communities' customary law when that would not contravene the Constitution.

217. Regarding discrimination, it orders the Government to design and execute a special programme of information and communication to prevent it.

218. Lastly, it proposes that movable and immovable property seized from drug traffickers be used in productive processes of benefit to indigenous and black communities.

219. To strengthen the Honduran Social Investment Fund's "Our Roots" programme, which was launched in 1995, the Ministry of the Interior and Justice officialized the Integral Development for Indigenous Peoples Programme (DIPA) in April 2008. The Programme aims at across-the-board combination of the issues of social inclusion, gender and the environment so as to reverse the trends towards social, cultural and economic exclusion of indigenous peoples.

220. Through the National Agrarian Institute (INA), the agency responsible for executing agrarian policy, Honduras carries out activities aimed at recovering indigenous and black communities' ancestral lands. This is on the basis of article 346 of the Constitution, which provides that "It is the duty of the State to prescribe measures to protect the rights and interests of the country's indigenous communities, especially the lands and forests where they are settled", and of ILO Convention No. 169.

221. INA has coordinated the work done with the organizations representing indigenous and Afro-Honduran peoples. In the period 1993-2007 it issued 454 communities with an equal number of definitive title deeds to land totalling some 280,852.55 hectares (see the breakdown in annex 1).

222. The awarding of title to indigenous or Afro-Honduran peoples is a three-stage process comprising:

(a) Certification: legal recognition of the national or communal area the communities occupy;

(b) Enlargement: extension of the national or communal area into areas occupied by

non-indigenous persons;

(c) Disencumbrance: payment for the value of the land and of improvements made by occupiers. This stage entails considerable outlay since the value of each occupier's property must be paid.

223. Under its current budget the Institute cannot afford to satisfy all the demand from communities regarding title, so claims are dealt with as funds permit.

224. There is no set policy on disencumbrance since the deeds and full title that other Hondurans have cannot be ignored and the provisions of articles 103 and 60 of the Constitution, which state respectively that "The State shall recognize, promote and guarantee the existence of private property in its highest sense of social function and without restrictions other than those established by law for reasons of necessity or public interest" and that "All men are born free and equal in rights. There shall be no privileged classes in Honduras. All Hondurans are equal before the law", cannot be contravened.

225. The peoples that INA has assisted in regaining an ancestral right through direct purchase are listed in the annex.

**/ The annexes to the present document are available for consultation in the files of the Secretariat.

1/ *Memoria Anual del Poder Judicial* (Judicial Yearbook), 2007, CEDIJ (Electronic Judicial Information and Documentation Centre)

2/ Ibid.

3/ Ibid.

4/ Statistical tables are attached.

5/ The Firearms, Munitions, Explosives and Similar Substances (Control) Act and the manual on use of force for police agencies are attached.

6/ Code of Criminal Procedure, Title VI, Chapter III (Pre-trial detention), article 178.

7/ Ibid, article 181.

8/ As Torres Calderón remarks: " The process of selecting the judges took place at the beginning of each new government, so that the judges began and ended their term of office on much the same dates as the executive and the legislature. The usual thing was for the President of the Republic to take office on 27 January and for the judges to do so two days beforehand. The selection of the judges was unquestionably a political process: the winning party chose an agreed majority of the judges and the President of the Court from among its own members and

supporters and the remaining seats were shared with whichever of the two traditional parties had lost the election...". See Torres Calderón, Manuel, *Construyendo Justicia. El proceso de incidencia en la nominación de los Magistrados y Magistradas la Corte Suprema de Justicia* (Building Justice. The process of influencing the appointment of judges to the Supreme Court of Justice), Coalition for the Strengthening of Justice, Guardabarranco Publishing, Tegucigalpa, 2003, p. 25.

9/ Basic Principles on the Role of Lawyers, para. 16.

10/ Op. cit., article 100: "Except in the event of a judicial decision, everyone has the right to the inviolability and confidentiality of communications, particularly communications by post, telegraph or telephone", with the result that "communications, books and documents referred to in this article that are violated or misappropriated shall not be admissible as evidence".

11/ Op. cit., article 101 and subparagraph 4: "Every accused person is guaranteed the right of defence and is therefore entitled... (4) to meet privately with his/her defence counsel once detained, including by the National Police, and before making a statement, if he/she so wishes".

12/ Code of Criminal Procedure, art. 45 (Conciliation): "Conciliators shall maintain secrecy regarding what they learn during the parties' deliberations and discussions".

13/ Criminal Code, art. 349, para. 5.

14/ Judicial Service Act, art. 51: "Judicial officials shall enjoy the right of tenure when they enter the service in the proper manner and may only be removed when they give cause for dismissal as provided for in the present Act and the associated regulations".

15/ Judicial Service Act, art. 64: "Judicial officials may be dismissed from their posts for any of the following reasons: (a) Nonfulfilment or serious or repeated breach of the duties or rules on compatibility or conduct set forth in Titles X and XI of this Act; (b) Issue of a warrant for their arrest for a crime or misdemeanour. If the verdict will not be rendered within six months of the commission of the offence, the dismissal shall take effect automatically; (c) Incompetence or manifest inefficiency in the discharge of office; (d) Absence from work without permission and without due cause for two full and consecutive working days or for three working days at the end of a month; closure without lawful reason or undue restriction of hours of work or public access. Absences for less than full days may be summed to make up the above periods; (e) Repeated commission of a serious mistake".

16/ Judicial Service Act, art. 8: "The essential function of the Council of the Judicial Service shall be to assist the Supreme Court of Justice with respect to staff management policy and to resolve in its relevant organ such disputes as may arise as a result of the application of this Act and the associated regulations".

17/ Judicial Service Act, art. 52, subparas. (f) and (h).

18/ As stated in its article 5, the Judicial Service Act does not apply to members of the

Supreme Court of Justice.

19/ Judicial Service Act, arts. 53 and 54.

20/ The Regulations governing the Inspectorate-General of Courts were published in *La Gaceta* No. 27745, dated 31 August 1995.

21/ Regulations governing the Inspectorate-General of Courts, art. 1, and Judicial Service Act, art. 73.

22/ Regulations governing the Inspectorate-General of Courts, art. 22.

23/ Code of Criminal Procedure, Book 5, Chapter IV (Preliminary proceedings for judicial misconduct), art. 420: " Judges and magistrates whom it is envisaged prosecuting to determine their liability for offences committed in the exercise of their functions may only be charged after compliance with the provisions of the present Chapter".

24/ *Derecho Procesal de Honduras* (Honduran Procedural Law), Topic 36, Special Proceedings, p. 735.

25/ Code of Criminal Procedure, art. 422 (Preliminary proceedings for judicial misconduct): "The judicial organ called upon to conduct preliminary proceedings for judicial misconduct shall make arrangements therefor within three days of receipt of the application and shall order the accused official to make a report to it within the same period plus the period necessitated by distance. In his/her report, the accused must give clearly, specifically and precisely his/her opinion concerning the charges against him/her. After considering the report and the background to the matter, the judicial organ shall render its decision within three days of receipt of the report by declaring, without prejudice as to the substance, whether or not the accusation or complaint is admissible. If the accusation or complaint is declared admissible, the judge or magistrate shall be treated in the same way as any other accused person and the decision shall be communicated for action to the Public Prosecutor's Office or the injured party, as appropriate. The trial shall be held before the competent professional judge as provided for in the present Code. Should the accused be the professional judge competent to hear the case, the relevant appeals court shall, if the accusation or complaint is held admissible, select the official to replace him/her".

26/ *Derecho Procesal de Honduras*, Topic 36, Special Proceedings, p. 735.

27/ Article 313, subpara. 8, of the Constitution provides that the Supreme Court has among its functions those of "appointing and removing judges and magistrates on the proposal of the Judicial Council ". Article 317 stipulates that the members of the Council of the Judiciary are to be appointed by the Supreme Court of Justice and that the organization, scope and functions of the Council will be specified by law.