



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

Distr.: General
7 June 2011
English
Original: Spanish

**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Replies from Paraguay to the recommendations
and questions of the Subcommittee on Prevention
of Torture in its report on the follow-up visit to
Paraguay (CAT/OP/PRY/2)*, **, *****

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- * The present document was not edited before being sent to the United Nations translation service.
 - ** On 1 June 2011, the State party announced its decision to make public its replies to the recommendations and questions of the Subcommittee on Prevention of Torture in its report on the follow-up visit to Paraguay. This document is published in accordance with article 16, paragraph 2, of the Optional Protocol.
 - *** The annexes to this document may be consulted in the files of the Subcommittee secretariat.

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1. The Government of Paraguay takes careful note of all the recommendations and observations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment established pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which were published in the document "Report on the follow-up visit to the Republic of Paraguay from 13 to 15 September 2010" (CAT/OP/PRY/R.2). The Government of Paraguay takes this opportunity to make the following comments.

Recommendations

A. Introduction (para. 8)

2. In accordance with the recommendation, the Ministry of the Interior has published the report on the Subcommittee's initial visit in 2009 and the report on its follow-up visit on both its own website (www.mdi.gov.py) and the website of the National Police (www.policianacional.gov.py).

3. The new decisions issued by the Office of the National Police Commander relating to human rights are also scheduled to be published, with the support of the Millennium Challenge Threshold Program. The main recommendations of the various mechanisms of the United Nations, such as the Subcommittee and the universal periodic review, concerning the work of the National Police will also be published.

4. The Ministry of Foreign Affairs has promised to continue publishing the Subcommittee's recommendations and observations on its website.

5. The Ministry of Justice and Labour has published the Subcommittee's recommendations and observations on its website and plans to include them in its refresher workshops, which will initially be for the directors of prisons and juvenile detention centres before subsequently being extended to all staff of these institutions.

B. National preventive mechanism (para. 16)

6. The Government of Paraguay is pleased to report that the national preventive mechanism was adopted by Act No. 4.288/11 of 20 April 2011. Given the brief period of time that has elapsed since then, it is not yet possible to provide any information on its implementation.

7. A copy of the Act can be found in annex I.

C. Safeguards against torture and ill-treatment (paras. 18 and 19)

1. Legal framework

8. The bill submitted by Senator Carlos Filizzola on 20 May 2009 which amends the definition of the crimes of enforced disappearance (Criminal Code, art. 236) and torture (art. 309) was forwarded for consideration to the senate committees on human rights; constitutional affairs, the armed forces and the police; legislation, codification, justice and labour; and equity, gender and social development. At the Subcommittee's request, the Government has included the bill in annex II.

9. A committee of experts has been set up to assess the possibility of amending the Military Criminal Code to include the new definition of torture. It is hoped that its legal findings will suggest a solution.

2. Institutional framework

(a) *Ombudsman's Office*

(i) Paragraph 23 (a)

10. With regard to the Subcommittee's recommendation, the Ombudsman's Office has created a basic database of allegations of torture. The database is now being harmonized so that information can be systematically compiled, as recommended.

(ii) Paragraph 23 (b)

11. As mentioned above, the Ombudsman's Office has begun harmonizing the database in line with the Subcommittee's recommendation. For this reason, the database is not yet available on its website.

12. As part of the harmonization process, the Ombudsman's Office plans to include details from the case file in the database, including the date of submission, the complainant's details, the subject of the complaint, the scene of the incident, the official dealing with the case, and follow-up.

13. The data for internal use will be based on the details given on the complaint form, such as the personal details of the complainant and the alleged victim (where the victim is not the complainant), the scene of the incident, the nature of the incident (a description of the torture or ill-treatment), a description of any injuries, alleged perpetrators, evidence, complaints or allegations filed with other institutions and their replies, and updates on the proceedings.

(iii) Paragraph 23 (c)

14. There has not yet been a mass campaign to inform the public about the mission and duties of the Ombudsman's Office, although dissemination of information is part of the job of the Ombudsman's assistants.

15. Representatives of the Ombudsman regularly give talks on the mission and duties of the institution in various forums such as radio and television programmes, schools, colleges, cooperatives and neighbourhood groups.

16. The Ombudsman's Office currently has 20 branches in Asunción and 21 outside the capital.

(iv) Paragraph 23 (d)

17. The process of analysing and changing procedures for visits to detention centres has been started, in particular with regard to data collection and the processing of recommendations.

18. Once the procedures have been changed and the recommendations processed, reports on the visits will be made public, as will the follow-up to the recommendations.

(v) Police personnel training (para. 25)

19. In 2011, a programme was launched to train police personnel in the use of the "Basic guide to human rights for the police service", published in late 2010. The programme includes two days of training in all police headquarters in the various departments of the country, as well as in the metropolitan area (Asunción). The training days involve the chiefs and deputy chiefs of all the police stations in each police district where the training takes place.

20. Training in human rights continues to be offered in police training institutions, as detailed below.

General José Eduvigis Díaz national police academy for officers

21. This academy provides officers in their second year with a total of 128 hours of human rights lectures (16 hours of lectures a week).

22. In 2009, a theoretical and practical training programme on human rights and humanitarian principles as they apply to policing was introduced in the national police academy for commissioned and non-commissioned officers, instructors and cadets, based on 24 hours of lectures. The programme also covers the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

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

23. This college covers human rights in the second semester of its training, with 64 hours of lectures. The subject of human rights is covered at the central campus in Capiatá as well as at 11 other large campuses and 2 smaller ones. In 2009, a theoretical and practical training programme on human rights and humanitarian principles as they apply to policing was introduced in the national police academy for commissioned and non-commissioned officers, instructors and cadets based on 24 hours of lectures.

School for Police Administration and Policy: training and promotion courses for assistant commissioners

24. The School for Police Administration and Policy provides human rights training in the second cycle, based on a total of 32 hours of lectures (2 hours a week).

25. In addition to specific human rights training, the following areas of study include concepts related to the implementation of the Convention:

Table II
Courses at the National Police Academy

<i>Academy</i>	<i>Subject area</i>	<i>Related articles of the Convention against Torture</i>
	Constitutional law	Arts. 2, 11, 4, 10, 14, 15, 17 (including para. 1), 18 (including paras. 1 and 3), 21, 22, 36
	Police procedure	Arts. 2, 10, 11, 12, 13, 23
	Principles and ethics of policing	Arts. 1, 2, 10, 11
	Physical education	Art. 1
	Applied national legislation, parts I and II, first course	All articles
	Police investigations	Arts. 5, 7, 11, 15
	Physical education	Art. 1

Source: Ministry of the Interior (2010).

26. As to training in investigation techniques, the Institute of Criminalistics, which is part of the Higher Institute for Police Training, offers subjects such as investigation methodology, investigative techniques and applied criminal statistics. These are taught

during the third year for 228 hours, while criminal psychology, methodological instruction, crime-scene inspection techniques, forensic dentistry and criminology are taught in the fourth year for 380 hours.

27. An agreement has been concluded between the Ministry of the Interior, the Office of the National Police Commander and the International Committee of the Red Cross on training human rights instructors and mainstreaming human rights in all technical and vocational subjects offered by training institutes attached to the Higher Institute for Police Training. In 2009, 77 commissioned officers and 10 non-commissioned officers graduated. In 2010, a further 115 police officers graduated, bringing the current total of police staff trained in this area to 202.

28. In 2009, as a result of cooperation agreements between the Institute for Comparative Studies in Criminal and Social Sciences and the Paraguayan Institute for Human Rights, active police officers in the special branch and in the 911 emergency system received human rights training. Overall, 120 police officers benefited from improved training.

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

30. A plan to give police personnel standard training in human rights is currently being drafted and will focus on areas such as prevention at the grass-roots level, community policing, public safety and an international, national and administrative regulatory framework. The plan will also address the use of force, the prevention and punishment of acts of torture, assistance for vulnerable groups and the application of human rights in the enforcement of judicial orders.

31. The Ombudsman's Office and the Office of the National Police Commander are to sign an inter-institutional agreement on a schedule and subsequent delivery of human rights courses for police personnel. The Ombudsman's Office will be responsible for supplying course instructors and materials for the participants, as well as issuing certificates of attendance. The National Police will provide training facilities, computer equipment (computer and projector) and an instructor in human rights to teach one of the subjects, and will ensure that staff attend. The courses are scheduled to take place between 8 a.m. and 10.30 a.m.

(vi) Human Rights Directorate of the Ministry of the Interior (para. 27)

32. With regard to strengthening its structure, the Ministry of the Interior's Human Rights Directorate now has new offices equipped with the materials necessary for its operations (computer equipment, telephone/fax), a dedicated mobile phone and a small reception area for receiving complaints. It has also hired a further two officials.

33. The Human Rights Directorate plans to have regional branches or offices in operation by 2012.

(vii) The Department of Internal Affairs and investigations into police personnel (para. 29)

34. The Department of Internal Affairs of the National Police is responsible for making inquiries into reports of police misconduct that fall within its remit. It subsequently transmits its findings to the Directorate of Police Justice for it to carry out an investigation and determine administrative responsibility.

35. The Department of Internal Affairs was established in 2003 by Decision No. 142 of the Office of the National Police Commander, to which it is organizationally and administratively bound.

36. The department has a main office and a sub-office, which in turn have an audit division and an investigation division, as well as a support and public relations office. A copy of the organization chart is annexed to this report (annex III).

37. The Directorate of Police Justice, established under the National Police Organization Act, is responsible for conducting investigations into police personnel.

38. The Directorate conducts these investigations on the basis of the inquiries by the Department of Internal Affairs or reports submitted by the Ministry of the Interior, the National Police Commander or trustworthy third parties.

39. After the investigation has been completed, the Director of Police Justice submits the information and conclusions to the disciplinary tribunal, which recommends the penalties to be imposed by the National Police Commander.

40. Since March 2010, this department has had an organizational and functional structure and clearly defined procedures that meet the requirements of due process and the principles of speed and efficiency.

41. With a view to strengthening the Directorate-General of Police Justice, Decision No. 88/11 was adopted this year; the decision amends article 15 of Decision No. 7/95 on the Disciplinary Regulations of the National Police and establishes courts and prosecutors' offices specializing in human rights violations within the Directorate of Police Justice.

42. The creation of these specialized bodies within the Directorate of Police Justice will allow investigations into human rights violations to be conducted more quickly and to be more focused.

(viii) The Department of Internal Affairs and investigations into police personnel (para. 30)

43. Over 5,000 posters displaying information on the Citizens Complaint Centre and a toll-free number for filing reports or complaints have been printed.

44. The posters, which are available in two different versions, aim to inform citizens of their rights in relation to the police and of the circumstances in which deprivation of liberty in police stations is within the law.

45. The posters are sent to police headquarters to be distributed to police stations in their district, for use in the workshops at which police personnel from different stations are trained in the use of the "Basic guide to human rights for the police service".

46. Furthermore, the Ministry of the Interior has a mechanism for receiving complaints, which transmits the complaints to the Office of the National Police Commander and submits a request for administrative proceedings to be opened to investigate the cases. The investigations are conducted initially by the Department of Internal Affairs and subsequently by the Directorate-General of Police Justice.

47. Since March 2010, this department has had an organizational and functional structure and clearly-defined procedures that meet the requirements of due process and the principles of speed and efficiency.

48. With a view to strengthening the Directorate-General of Police Justice, Decision No. 88/11 was adopted this year; the decision amends article 15 of Decision No. 7/95 on the Disciplinary Regulations of the National Police and establishes courts and prosecutors' offices specializing in human rights violations within the Directorate of Police Justice.

49. The creation of these specialized bodies within the Directorate of Police Justice will allow investigations into human rights violations to be conducted more quickly and to be more focused.

50. The complaints received are then sent to the Public Prosecution Service to be investigated, where necessary, at the judicial level as well as at the administrative level.

51. The Human Rights Directorate regularly monitors both the administrative and the criminal investigations in order to update complainants on the proceedings, if they so request, and to inform them of the eventual outcome of their complaint. This allows the complainant to follow the progress and outcome of the proceedings and means that the case cannot be shelved and the outcome kept from the complainant.

(ix) Weapons for police personnel (para. 31)

52. With regard to the recommendation on supplying firearms to police officers, steps have been taken to provide service weapons to cadets who have recently graduated from police academies, in accordance with the following instruction: "Commissioned and non-commissioned national police officers shall be issued with the weapons, ammunition and vests referred to in the previous article upon graduation from police training institutes." When the current Administration took office, the Ministry of the Interior began issuing service weapons to new police recruits. To date, the police force has issued 1,844 weapons, thereby putting an end to the practice of having law enforcement officers purchase their firearms themselves.

53. The above-mentioned weapons have been registered with the Directorate of War Materials, which comes under the Ministry of Defence and is responsible for registering weapons at the State level. The weapons are also being registered with the Weapons and Ammunition Department of the National Police, and supplement the 8,977 weapons already in use.

(x) Judiciary (para. 32)

54. The Supreme Court of Justice has supplied information on the new members of its Criminal Division. A copy of Agreement No. 667 of 8 February 2011, which appoints the three members needed to complete the membership, is attached (annex IV). Over time, this measure will alleviate the shortage of personnel and thus reduce the court's backlog.

(xi) Transfers of persons deprived of their liberty (para. 33)

55. There are real differences of opinion with respect to this recommendation. Enforcement judges claim that they are the only State officials who can authorize the transfer of persons deprived of their liberty from one prison to another. The Supreme Court of Justice suggests that the current regulations should be reviewed and a dialogue organized for actors from the penal and prison system in order to reach a reasonable solution to this specific problem. Meetings have been held at the highest level between officials from the Supreme Court of Justice and the Ministry of Justice and Labour to assess the situation and discuss different strategies to tackle the problem. They came to the conclusion that an inter-institutional working group should be established to draw up a set of guidelines. Both organizations are currently busy organizing the working group.

56. The Ministry of Justice and Labour reported that most prisons, except those in Tacumbú and Ciudad del Este, have begun to separate accused from convicted inmates.

(xii) Public Defender Service (para. 41)

57. It is important to note that the Organization Act on the Public Defender Service (*Defensa Pública*) obtained partial approval in December 2010. This measure is a crucial step forward and shows that there is the political will to legislate to establish conditions in which the Public Defender Service can carry out its mandate more efficiently and increase its legitimacy in the eyes of the public. This will help society to see the usefulness and

importance of the service for persons in vulnerable situations. This law, which should be fully approved in the course of the 2011 parliamentary year, will give this institution administrative and functional independence (see annex V, on the current status of the draft organization act).

D. Situation of persons deprived of their liberty

1. National police stations (para. 41)

58. In light of what occurred at police station No. 1 in San Lorenzo, the Minister of the Interior, Rafael Filizzola, sent a note to the National Police Commander calling for an administrative inquiry into the events reported by the Subcommittee and the appropriate sanction for the police superintendent responsible. The administrative inquiry recently concluded its work, and the superintendent responsible received a warning.

2. Paragraph 45

59. In light of what was said by the Subcommittee regarding the failure to effectively enforce Decision No. 176 of the Office of the National Police Commander (annex VI), the Human Rights Directorate of the Ministry of the Interior has conducted spot checks and informed both that office and the Human Rights Department of the National Police about the cases in which the obligatory detainee registers had not been established.

60. Consequently, the offices responsible for public order and security have been reminded that this decision is still in effect and must be enforced, and that disciplinary proceedings may be taken out against police station chiefs who fail to implement the decision.

61. Furthermore, the Ministry of the Interior has designed model detainee registers for distribution in all the country's police stations.

62. Five thousand copies of these are expected to have been printed and distributed by mid-2011.

3. Information on detainees' rights (para. 46)

63. Copies of the "Basic guide to human rights for the police service" and "Police serving the community: Know your rights when dealing with the police" have been printed.

64. These materials are distributed to all police staff attending human rights courses or involved in monitoring, discussions and seminars organized by the Ministry of the Interior.

65. Furthermore, the police technical body responsible for publicizing human rights recommends, in accordance with a decision of the National Police Commander (annex VII), that 100 information posters and signs be printed, spelling out the basic and primary rights of all persons stopped by the police, detained or deprived of their liberty. These should be distributed in all the police stations attached to the metropolitan and central police headquarters, since the statistics show that they register the highest number of arrests and detentions. These materials are also given to governors' offices and municipalities for distribution.

66. Copies of these materials are attached to this report (annexes VIII and IX).

4. Physical conditions (paras. 48 and 49)

67. In order to give effect to this recommendation, the Ministry of the Interior has drawn up a plan for cells in police stations in the metropolitan area.

68. It thus requested that the Subcommittee provide information on the minimum standards for cells in police stations that are used as temporary holding cells.

69. The plan envisages the construction of cells in police stations in the metropolitan area that have been identified as those requiring better infrastructure to avoid overcrowding and ensure basic conditions that are hygienic and provide enough space for anyone deprived of their liberty in these police stations.

70. Mr. Wilder Tayler, a member of the Subcommittee and the delegation that visited Paraguay, has expressed the view that there is no “universal formula available or any model that can be applied uniformly to a situation that, by definition, should be temporary”.

71. He has also said that “adjusting infrastructure to satisfy a temporary need carries the risk of prolonging the situation beyond what is recommended in human rights standards”.

72. However, the Subcommittee recommended in 2009 and reiterated in its 2010 report that “material conditions in the cells should be improved immediately, especially with regard to minimum floor space, cubic content of air, lighting and ventilation” (CAT/OP/PRY/1, para. 128 (c)).

73. Nevertheless, the Ministry of the Interior called for bids for the construction of new cells in the 24 police stations in the metropolitan area, and has already begun building in 22 of them.

74. This process is expected to extend to police stations outside the capital in 2012.

5. Detention for a protracted period of time in police custody (para. 50)

75. In May 2011, two summit meetings between the President of the Supreme Court of Justice and officials from the Ministry of the Interior were held to discuss matters of common concern to them. One of the main topics of discussion was prolonged detention at police stations. The discussions produced a joint policy on putting an end to this practice.

76. The policy requires joint action: the Supreme Court of Justice has drawn up a draft agreement prohibiting pretrial detention in police stations, while the ministry has drafted a ministerial decision establishing minimum conditions for deprivation of liberty in police stations and an institutional communication mechanism to facilitate the exercise of the right to a defence and the observation of procedural time limits.

77. This decision is designed to satisfy the need to have a standardized procedure for monitoring the minimum conditions of deprivation of liberty in police stations, as well as an institutional communication mechanism to facilitate the right to a defence and the observation of procedural time limits.

78. Furthermore, the Ministry of the Interior reviews the list of detainees at all of the country’s police stations three times a week, in order to monitor the observation of procedural time limits.

79. In cases where a violation of the procedural time limits has been detected, the Human Rights Directorate sends memos to the Public Prosecution Service and the Supreme Court of Justice, reporting the violation of the procedural time limit and asking both agencies to respect such limits.

6. Allegations of torture and other forms of ill-treatment (para. 51)

80. In addition to the training for police personnel on the use of the “Basic guide to human rights for the police service”, the decisions of the National Police Commander concerning human rights will be publicized more widely and brought to the attention of police station chiefs and their deputies.

81. These decisions include Decision No. 88/11, which amends article 15 of Decision No. 7/95 on the Disciplinary Regulations of the National Police and establishes courts and prosecutors' offices specializing in human rights violations within the Directorate of Police Justice.

82. Pursuant to this decision, torture is considered a serious offence under the Disciplinary Regulations of the National Police.

83. The aforementioned plan to provide police personnel with standard training in human rights has a section focused exclusively on the prevention and punishment of the crime of torture.

7. Prisons

(a) *Closure of Tacumbú National Prison (para. 55)*

84. On 4 April 2011, the Minister of Justice and Labour presented the President of the Republic with a plan for the phased-in closure of the prison. An official call for tenders for the construction of a new prison facility in Tacumbú has been issued, with four companies being prequalified to submit a design proposal.

(b) *Pasilleros ("corridor people") (para. 56)*

85. This problem will be solved primarily by the relocation of inmates, which will be undertaken in coordination with a working group, set up on 12 April 2011, consisting of representatives of the Ministry of Justice and Labour and members of the judiciary.

86. By the end of 2011, 1,500 further places will become available with the completion and construction of new prisons in San Juan, Pedro Juan Caballero, Emboscada and other sites.

87. The long-term solution is to relocate all inmates of Tacumbú National Prison.

(c) *Torture and ill-treatment*

88. Nine complaints of torture within the prison system were filed in 2009, all of which were duly investigated. The sole confirmed case was that of disciplinary officer Federico Bustos Molinas (Esperanza factory prison), who physically assaulted prison inmate Anibal del Rosario Valiente Vazquez on 3 November 2009 and who was consequently dismissed from his prison post and reported to the Public Prosecution Service.

89. Other important related cases are: (a) the dismissal of disciplinary officers Ariel Alfonso Molas Candia and David Saul Gonzalez (employed by Empresa Boyerito S.A., who jointly run the Esperanza facility of the Ministry of Justice and Labour) for their assault on inmate Jorge Galeano on 13 September 2009; (b) the criminal complaint against nurse Avelina Fernandez (Esperanza facility) for allegedly modifying the dosage of controlled substances dispensed to inmates and for wrongful exercise of professional duties; (c) the criminal complaint against the guard Ronald Soloaga (National Prison) for an alleged physical assault on inmate Joel Benitez; (d) the call for the dismissal of staff members Silvio Mora and Cecilio Barros Genes (Esperanza facility) and the recommendation that a criminal complaint be filed against them for abuse of authority.

90. Likewise, the Office of the Deputy Minister of Justice and Human Rights is negotiating with civil society organizations with a view to improving the complaint mechanism for persons deprived of liberty and promoting action to inform inmates about their rights and about situations that ought to be, but are not, reported. Another important goal of this joint effort is to make it easier to submit a complaint, by hiring and training

personnel to handle complaints and forward them to the central authority for further investigation, thus forming an internal human rights network.

(d) *Prison management, corruption and system of privileges (paras. 58–62)*

91. The Transparency and Anti-Corruption Directorate, under the authority of the Ministry of Justice and Labour, has been working on some specific mechanisms in this area, focusing initially on Tacumbú National Prison, with the goal of creating an effective system which could be replicated in other prisons.

92. Furthermore, in May of 2011, the Minister of Justice and Labour ordered the replacement of the director of Pedro Juan Caballero prison and the indictment and dismissal of 17 prison employees following a prison break by 6 inmates.

(e) *Investigation into events in Tacumbú (para. 63)*

93. When the director of Tacumbú prison was dismissed after the exposure of a child-pornography ring in the prison, the Ministry of Justice and Labour intervened through the Directorate-General of Prisons and Corrections. The prison director was charged by the public prosecutor following the criminal investigation.

(f) *Measures for the prevention and suppression of corruption (para. 64 (a)–(e))*

94. The Ministry of Justice and Labour has initiated an audit focusing on anti-corruption and transparency. The auditors, in conjunction with the Directorate-General of Human Rights, are expected to devise permanent, efficient mechanisms for internal use, one of which will be a code of conduct.

95. Work is also under way on establishing a training school for prison officers, with the help of foreign cooperation agencies, civil society organizations and the Ministry of the Interior (which will bring to bear its knowledge of the structure of the police academy). The school is expected to be located in Tacumbú National Prison.

(g) *Narcotics (para. 65)*

96. The Prison Oversight Unit established by the Supreme Court of Justice has confirmed that on 4 and 5 April 2010, 10 July 2010 and 21 March 2011, guards caught four women trying to enter the Tacumbú prison with narcotics. The guards reported details of the incident to the judicial authorities for the purpose of the criminal proceedings.

97. On 5 April 2010, another woman caught attempting to smuggle drugs into the same prison was sentenced to 8 years' imprisonment.
