



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

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

**Visit to Guatemala undertaken from  
8 to 19 October 2023: recommendations and  
observations addressed to the State party**

**Report of the Subcommittee\* \*\***

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\* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 7 May 2024. On 4 September 2024, the State party requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

\*\* The annexes to the present document are being circulated as received, in the language of submission only.



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## Contents

	<i>Page</i>
I. Introduction.....	3
II. National preventive mechanism.....	3
A. Independence and preventive role.....	4
B. Visit methodology.....	5
III. 2016 report and previous recommendations.....	5
IV. Legal and institutional framework for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.....	6
A. General issues.....	6
B. Definition of the offence of torture.....	6
C. Institutional framework.....	6
D. Other relevant institutions.....	7
V. Situation of persons deprived of liberty.....	8
A. General issues.....	8
B. Police and holding cells.....	8
C. Prisons.....	10
D. Young people in conflict with the law.....	15
E. Other State and private institutions.....	18
F. Final recommendations and next steps.....	20
Annexes.....	21

## I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee on Prevention of Torture undertook its second visit to Guatemala from 8 to 19 October 2023.
2. The Subcommittee was represented by Marco Feoli (head of the delegation), Marie Brasholt, Andrea María Casamento and Juan Pablo Vegas, accompanied by two officials from the Office of the United Nations High Commissioner for Human Rights (OHCHR) and two United Nations security officers.
3. Due to a delicate and unforeseen political situation in Guatemala, the Subcommittee was only able to conduct visits in the capital, three of which were joint visits with the national preventive mechanism.
4. In addition to confidential interviews with persons deprived of their liberty, the Subcommittee held meetings with government authorities, the national preventive mechanism, representatives of the United Nations system in the country, members of civil society and other relevant actors. The Subcommittee thanks them for the valuable information they provided.
5. The Subcommittee is grateful for the facilities afforded by the authorities, including unrestricted admission to places of deprivation of liberty and access to requested information. However, it regrets that neither the Public Prosecution Service nor high-level representatives of the judiciary attended the meetings that were arranged, which calls into question these authorities' understanding of their duties towards persons deprived of their liberty. The judiciary should assume a more decisive role, in view of its direct responsibility for the management of the population in detention.
6. The present report will remain confidential until such time as the Guatemalan authorities decide to make it public, as stipulated in article 16 (2) of the Optional Protocol. Its publication would constitute a means of preventing torture, and the dissemination of its recommendations would contribute to promoting a transparent and urgent national dialogue.
7. **The Subcommittee recommends that Guatemala request the publication of the present report in accordance with article 16 (2) of the Optional Protocol, as well as the publication of the report on the Subcommittee's first visit, undertaken in May 2015, which has yet to be requested by the State party.<sup>1</sup>**
8. The Subcommittee wishes to draw the State party's attention to the Special Fund established in accordance with article 26 of the Optional Protocol. The recommendations contained in public visit reports of the Subcommittee can form the basis of an application for funding of specific projects through the Special Fund.
9. The Subcommittee requests the authorities of the State party to reply within six months of the date of transmission of this report, giving a full account of the actions taken to implement the recommendations contained in the report.

## II. National preventive mechanism

10. In accordance with its mandate under the Optional Protocol, the Subcommittee held working meetings with the national preventive mechanism, and joint visits were made to three places of deprivation of liberty. The Subcommittee also met with the mechanism's consultative council, civil society organizations, authorities and other stakeholders in order to discuss the national preventive mechanism.
11. The National Office for the Prevention of Torture was established as the national preventive mechanism under Legislative Decree No. 40-2010. It is composed of 10 rapporteurs (five permanent rapporteurs and five alternates) who are elected by Congress for a five-year term and has an executive secretariat and a consultative council, which was

<sup>1</sup> See CAT/OP/GTM/R.1.

established only 10 months ago. The national preventive mechanism has a current budget of 33 million quetzales,<sup>2</sup> 106 staff members and 11 offices in various regions of the country. The Subcommittee reiterates that, compared with its counterparts in the region, the national preventive mechanism of Guatemala has a large budget, which should be used to fulfil the tasks mandated by the Optional Protocol. Although the mechanism has a legal basis, its current structure and functioning do not ensure the necessary independence, since it has a subordinate relationship to the legislative branch.

12. **The Subcommittee reiterates its recommendation that consideration be given to a legal reform or other measures to ensure that the selection processes of the national preventive mechanism and the exercise of its competences are not subjected to any interference that may jeopardize its autonomy and independence.**

13. The Subcommittee noted that, by contrast with the situation observed during its previous visit, the national preventive mechanism has visited a larger number and a wider range of places of deprivation of liberty. It also noticed that the mechanism has developed its knowledge of important issues such as the excessive use of pretrial detention, the provision of meals for children whose mothers are deprived of liberty and the problem of prisons under the management of the National Civil Police. However, most of the concerns raised in the previous report persist and have intensified over the past eight years.

14. In the light of the political and social context in the country, the Subcommittee is concerned that rapporteurs and consultative council members have only a legal background and do not include medical or psychosocial experts. In addition, neither the national preventive mechanism nor its consultative council have gender parity in their membership.

## A. Independence and preventive role

15. The Subcommittee noted difficulties in understanding the mechanism's functioning and preventive role, as well as the value of its independence – a fundamental principle enshrined in the Optional Protocol. In its visits, the mechanism focuses on responding to complaints, with a strong emphasis on the follow-up of certain judicial processes. This is not a negative aspect per se, although it limits the implementation of other preventive actions and measures inherent to the work of a national prevention mechanism.

16. The Subcommittee noted and received information on the litigious activities of the national preventive mechanism. Such activities, which are inconsistent with the Optional Protocol, are evidenced by the fact that the mechanism has filed complaints and represented plaintiffs in lawsuits against various actors and justice officials, which has led to the prosecution and deprivation of liberty of such persons.

17. It is striking that some lawsuits have been filed against judicial officials who either led investigations against politicians linked to corruption cases or who had disputes with the current chairperson of the national preventive mechanism when he was working in another professional capacity. The chairperson has been included by the United States of America in a list of persons who have engaged in corruption or participated in actions that undermine democracy in their countries (the "Engel List"). The mechanism makes statements on its social media platforms regarding political issues, such as electoral processes, that go beyond its purpose and nature as a national preventive mechanism.

18. The national preventive mechanism is also involved in activities, presumably onerous, that are unrelated to the prevention of torture in Guatemala. For example, members of the mechanism travelled to Mexico and were involved in reparation processes for the victims of an incident at a migrant centre in Chihuahua in which Guatemalan nationals died. The chairperson of the mechanism attended a customs conference in Europe. The mechanism is also involved in initiatives, such as an inter-institutional cooperation agreement with the National Adoption Council, whose rationale is difficult to understand within the framework of the mechanism's legal competences and the provisions of the Optional Protocol and raises

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<sup>2</sup> Approximately US\$ 4 million.

concerns about the usefulness, transparency and relevance of the initiatives. These activities are extraneous to the role of the mechanism and to the prevention of torture.

19. The recently established consultative council does not seem to be fulfilling the mandate assigned to it by law, since, at the meetings it has held – which have not been attended by all members – it has failed to clearly define its tasks in support of the mechanism.

20. The Subcommittee reiterates its concern regarding the inadequate dialogue between the rapporteurs and the consultative council and the almost total lack of legitimacy of the national preventive mechanism in the eyes of civil society organizations. The Subcommittee received numerous complaints from civil society about the mechanism, its work and the abuse of its authority, which allegedly takes the form of persecution of justice officials, something that is particularly serious given the context in recent years.

## **B. Visit methodology**

21. At most of the institutions visited by the Subcommittee, the authorities confirmed that the national preventive mechanism, during its visits, only interviews those who have submitted complaints or specific persons that the mechanism considers to be of particular interest, instead of focusing on vulnerable groups or interviewing a representative sample of persons deprived of liberty. In the interviews observed by the Subcommittee, the mechanism took an approach centred on the judicial proceedings, that is, on the prisoner's procedural situation, and not on the conditions of detention or the treatment he or she had received. The members of the mechanism did not request the individual's consent to be interviewed and failed to mention confidentiality and the prohibition of reprisals.

22. While the authorities in some places of deprivation of liberty were aware of the national preventive mechanism, it was much less well known among persons deprived of liberty. The Subcommittee found that, apart from a brief tour with the director of the facility, members of the mechanism do not regularly enter cells to check the conditions of detention. Interviews are conducted at a location designated by the guards. Physically entering all areas where people are deprived of their liberty, especially dormitories and cell blocks, is one of the key preventive functions of a national preventive mechanism.

**23. In view of the foregoing and recalling its previous recommendations, the Subcommittee requests that Guatemala:**

(a) **Conduct, through the appropriate mechanisms, a comprehensive audit of the national preventive mechanism, including its accounts, personnel selection process and legal basis, focusing on the independence and integrity of its members;**

(b) **Initiate, in cooperation with civil society organizations working in the field, a reform of the mechanism's selection process and the candidate requirements in order to ensure the appropriate composition of the mechanism and its consultative council in the future.**

**24. According to the Subcommittee's guidelines on national preventive mechanisms, the effective operation of the national preventive mechanism is a continuing obligation of the State. The effectiveness of the mechanism should be subject to regular appraisal by both the State and the mechanism itself.**

## **III. 2016 report and previous recommendations**

25. Most of the concerns raised in the previous report remain valid and, in fact, have intensified. This situation applies to the national preventive mechanism and to other issues, which are described in the relevant sections of this report.

## **IV. Legal and institutional framework for the prevention of torture and other cruel, inhuman or degrading treatment or punishment**

### **A. General issues**

26. The way in which Guatemala exercises punitive power must follow a series of clear rules that fundamentally limit the risk of excess and arbitrariness. The Subcommittee received reports of disproportionate sentences of more than 500 years' imprisonment. Although each country has the sovereign right to decide which procedural system it adopts, there are essential principles that must be shared and observed by all nations that form part of the international human rights system.

### **B. Definition of the offence of torture**

27. The Subcommittee remains concerned about the definition of the offence of torture under article 201 bis of the Criminal Code, which does not correspond to the definitions set forth in the Convention against Torture and the Inter-American Convention to Prevent and Punish Torture. This is a serious shortcoming in the national legal system. Since 2012, the Constitutional Court has held that the current definition presents problems in terms of its constitutionality.

**28. The Subcommittee stresses that the discrepancy between the definition of torture contained in the Criminal Code and that contained in article 1 of the Convention against Torture must be resolved in order to prevent impunity. While the inclusion of different hypotheses – such as the commission of the offence by criminal groups – is intended to address a specific situation afflicting Guatemalan society, the definition's lack of clarity carries the risk of hindering prosecution and punishment and of the State's evading its inalienable international obligation to prevent torture. The Subcommittee reiterates the overriding need for the State party to revise its current legislation in order to bring the criminal definition of torture into line with article 1 of the Convention against Torture.**

### **C. Institutional framework**

29. Because of its exceptional nature, the use of pretrial detention should be severely limited. However, in Guatemala, the Subcommittee's findings suggest that this is not the case, as almost half of persons deprived of liberty are in pretrial detention.

30. The precautionary measure of pretrial detention entails, in and of itself, the risk of the detainee's being subjected to torture or cruel, inhuman or degrading treatment, especially if the material conditions of the prison facility are inadequate, as was found during the visits conducted.

31. As an exceptional measure, the restriction of the liberty of the accused must be imposed in accordance with strict standards and be subject to constant oversight by the judiciary as the main guarantor of fundamental rights.

**32. The Subcommittee therefore draws the State party's attention to the use of pretrial detention and encourages it to make changes in respect of how pretrial detention is applied.**

33. The Subcommittee found that the Guatemalan legal system does not yet provide for alternative measures to detention. For decades, the United Nations has stressed that countries should work towards introducing these kinds of penalties, which should not be confused with prison benefits, early conflict resolution mechanisms such as conciliation and suspension of proceedings, or deferred sentences (including probation and parole).

34. The total lack of alternative measures reflects a legal culture in which penalties other than imprisonment barely exist. During interviews and in the meetings held with the

authorities, the Subcommittee received answers alluding to alternative outcomes, within the framework of the United Nations Standard Minimum Rules for Non-custodial Measures, which form part of almost all modern procedural codes. However, such outcomes are very rare and are limited to certain circumstances.

**35. The Subcommittee urges the State party to develop agreements at the legislative, executive and judicial levels to diversify penalties and provide justice officials with a broader range of options for dealing with criminal acts.**

36. The Subcommittee considers that the current model of sentence enforcement carries certain risks. Prison regimes should be organized according to the notion of progressivity. For this, it is necessary to have a system in place that defines the stages of criminal enforcement and includes the provision of prison benefits, conferring upon the authorities the power to grant measures such as temporary release, subject to administrative or judicial oversight, to prepare convicted individuals for their definitive return to the outside world at the end of their sentence.

37. The Subcommittee notes with concern that the law provides for very few prison benefits and that these are granted only to prisoners who have almost completed their sentence and who must also meet other requirements that make the benefits impracticable. For example, in order to obtain release on parole, inmates must demonstrate that they have worked during their incarceration. However, as the State party has failed to design, facilitate and organize work programmes, it is left almost entirely to the person deprived of liberty to find employment, despite the fact that the State bears sole responsibility for sentence enforcement.

38. The Subcommittee was concerned to find that, in some cases, individuals are ordered to pay fines at the same time as they are given prison sentences. If the fine is not paid, more time is added to the term of imprisonment. As a result, some inmates spend more time deprived of their liberty because they owe money than because of their criminal sentence, a situation that has a particularly negative impact on people from low-income backgrounds.<sup>3</sup>

39. The use of electronic monitoring, which exists as a precautionary measure, and release on parole, which is provided for by law, depend on whether the person concerned can pay for the service. This discriminates against those who cannot afford the service.

40. Imprisonment for debt is prohibited by the Constitution,<sup>4</sup> but some people remain imprisoned after completing their sentence because they have not paid a fine, which is tantamount to arbitrary detention and in violation of international rules.<sup>5</sup>

**41. The Subcommittee urges Guatemala to take immediate steps to review sentence enforcement, release prisoners who have completed their sentences and abolish imprisonment for debt.**

**42. The Subcommittee considers that it is of the utmost importance to amend the current law to expand the range of available prison benefits.**

#### **D. Other relevant institutions**

43. Title II of the Constitution, on human rights, refers to individual rights, which are applicable in all matters relating to any form of detention. However, the Subcommittee remains concerned about the wide gap between the letter of the law and its implementation in practice.

44. In the area of mental health, legislative gaps result in individuals being placed in a situation of defencelessness, with the consequent risk of ill-treatment. There is no legal framework that adequately regulates involuntary commitment, and judges – even those at the

<sup>3</sup> Universal Declaration of Human Rights, art. 9; and International Covenant on Civil and Political Rights, art. 9, among others.

<sup>4</sup> Art. 17.

<sup>5</sup> Universal Declaration of Human Rights, art. 9; and International Covenant on Civil and Political Rights, art. 9, among others.

lowest level of the judiciary – assume powers of order and control that often conflict with the expert judgment of the treating physicians. Further details in this regard are provided in chapter V, section E below.

45. **The Subcommittee urges the State party to take urgent and effective measures to ensure that all persons subjected to any form of deprivation of liberty are afforded, in law and in practice, legal safeguards that ensure respect for their fundamental rights.**

## V. Situation of persons deprived of liberty

### A. General issues

46. In the prisons and juvenile detention facilities it visited, the Subcommittee received information on the excessive use of force during searches. According to various accounts, this violence not only affects persons deprived of their liberty but also those who visit them, including women, children and adolescents, who are sometimes subjected to invasive and humiliating body searches.

47. **The Subcommittee recommends that the State party limit the practice of body searches to exceptional cases and ensure that, if body searches are carried out, the criteria of necessity and proportionality are met. Persons being searched should have the opportunity to give their consent. The State party should use technology to avoid the need for body searches; prohibit body searches by law; and ensure that security personnel receive training.**

48. The Subcommittee received allegations of acts of ill-treatment committed by the officials of various institutions, including accounts of beatings, deprivation of water and excessive use of pepper spray.

49. **The Subcommittee recommends that persons deprived of liberty be provided with an independent and effective mechanism for reporting cases of torture and ill-treatment. It also recommends that the authorities open an investigation ex officio whenever there are reasonable grounds for believing that an act of torture has been committed, and that perpetrators are prosecuted and punished.**

### B. Police and holding cells

50. For the past two years or so, the National Civil Police in the Department of Guatemala has not held anybody in custody in its police stations. After arrest, detainees are taken immediately to the holding cells in the Torre de Tribunales (Court Tower), which are managed by the prison system.

51. There are still nine prisons in six departments that are under the control of the National Civil Police. The Subcommittee was unable to visit them because of the context of protests and roadblocks.

52. **The Subcommittee reiterates its 2016 recommendation that Guatemala examine the legality and necessity of deprivation of liberty in facilities operated by the National Civil Police.<sup>6</sup>**

#### 1. Allegations of torture, ill-treatment and violation of fundamental guarantees

53. The Subcommittee received allegations of ill-treatment of persons deprived of liberty in the holding cells of the Torre de Tribunales, including accounts of the use of pepper spray and beatings by the guards. The Subcommittee was informed that, in the moments prior to its visit, the detainees were threatened by guards.

54. There is no standard procedure for recording the admission of detainees showing signs of ill-treatment. The Subcommittee was informed that only persons with visible injuries are

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<sup>6</sup> CAT/OP/GTM/R.1, para. 35.



treated by an occupational physician or by paramedics. Detainees are not given medical examinations upon admission, which significantly hampers the recording and monitoring of cases of ill-treatment.

**55. The Subcommittee recommends that the State party adopt protocols so that medical staff can inform the competent authorities, especially the Public Prosecution Service, when there are signs of ill-treatment, and appropriate investigations can be carried out.**

## **2. Registers**

56. The Subcommittee noted with concern that there are shortcomings in the registers of the holding cells owing to the absence of a digital system. Nor is there any register of complaints of torture and ill-treatment in the holding cells.

**57. The Subcommittee recommends that the State party establish a unified and computerized register of police custody for the whole country that includes complaints of torture and ill-treatment.**

## **3. Conditions of detention**

58. During its visits to the holding cells at the Torre de Tribunales, the Subcommittee observed poor infrastructure and hygiene conditions, inadequate services and an alarming lack of food. Detainees are provided with food only on days when they have a scheduled hearing. Many had not been given food or water for more than 24 hours.

59. In the holding cells, detainees only have access to telephone calls and medicine if they have lawyers or family members who can provide them with such. In addition, bringing medication into the cells requires authorization from a judge, which can take a long time to obtain.

60. During the Subcommittee's visit, some hearings were suspended owing to the internal situation in the country, with the result that detainees went without food and even drinking water for up to three days.

61. The Subcommittee received information on cases in which detainees were not brought before a judge to determine their legal situation within the 24-hour deadline. The problem is especially bad at the weekend, and there have been cases of persons being held in custody for up to 14 days without the court having issued a detention order.

**62. The Subcommittee urges strict compliance with the 24-hour deadline for a judge to issue a detention order, as a fundamental guarantee. The State party should ensure that persons are brought before the courts within 24 hours, including by setting up special shifts and schedules to address and resolve the legal situation of detainees.**

63. Holding cells lack basic facilities such as beds and showers. Prisoners were observed sleeping on the floor in appalling sanitary conditions. There are no supplies of toilet paper, sanitary towels, mattresses or blankets. Access to water is limited; for example, in the women's holding cells, the Subcommittee found, in the absence of a shower, detainees washing themselves using water from the tap. This water was also used for drinking. There was no natural light or ventilation. The holding cells are located in a parking lot, exposing detainees to vehicle exhaust fumes.

64. There are cells that have been adapted for mothers with children. However, detainees can stay there only for a few hours.

**65. The Subcommittee urges the State party to make efforts to ensure that:**

- (a) All holding cells are large enough for the number of persons detained in them;**
- (b) Light and ventilation conditions are adequate;**
- (c) Detainees are provided with mattresses and blankets;**
- (d) All detainees are provided with the basic necessary personal hygiene products, drinking water and food of sufficient quantity and quality.**

## C. Prisons

### 1. General observations

66. Most of the prisons visited were severely overcrowded. At Zone 18 Pretrial Detention Centre for Men and Pavón Prison Farm, prisoners were observed sharing beds and sleeping on roofs and in extremely small spaces. At Pavón Prison Farm and Santa Teresa Pretrial Detention Centre for Women, the number of detainees was almost three times the official capacity. The Subcommittee addressed this serious situation in its previous report<sup>7</sup> and regrets that it persists.

67. Overcrowding results in the failure of places of deprivation of liberty to meet basic standards for housing detainees, raises concern about the prevention of ill-treatment, exacerbates tensions among prisoners and damages their relations with staff. It constitutes a violation of the rights of persons deprived of liberty.

68. The Subcommittee heard from individuals who had been unable to initiate the parole process despite meeting the legal requirements. This was confirmed by prison authorities, who gave several reasons for the slowness of the process, including the lack of a court order, the failure to process the case file and reasons attributable to defence counsel.

69. **The Subcommittee requests the State party to take urgent measures to address the extremely serious situation of overcrowding and to ensure that prisons abide by international standards, including those that provide for a minimum space per prisoner. The judiciary is urged to take immediate steps to review sentence enforcement and to release prisoners who have completed their sentences.**

70. **The Subcommittee recommends that efforts to reduce overcrowding be focused not on the construction of new prisons but on new criminal justice policies that provide for alternatives to imprisonment.**

71. The Subcommittee observed a system of inmate self-rule, to varying degrees, in almost all prisons. Most wings and cell blocks have a leader with the authority to organize accommodation, take disciplinary decisions and measures, set rules, resolve disputes and communicate with prison staff. In many prisons, the atmosphere and quality of life in a given cell block depends on this leadership.

72. Several prisons are confronted with an additional challenge relating to the affiliation of certain prisoners with criminal groups such as the 18th Street Gang (Pandilla 18) and Mara Salvatrucha, and with the issue of former gang members. In Zone 18 Pretrial Detention Centre, there is a separate area called Sector 11, which is laid out as an open-air village with a perimeter fence. To enter this area, prison officers have to ask for the leaders' permission. The Subcommittee was informed that guards only enter to conduct searches. Sector 11 has streets, dormitories, a school, bakery and a factory, all operated by inmates and controlled by gang leaders. The Subcommittee observed a similar level of control at Fraijanes II, a high-security prison that houses leaders of the 18th Street Gang.

73. Self-government usually arises when the authorities lack the resources to efficiently supervise and manage inmates. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) recognize that prison systems can function well when prisoners are entrusted, under supervision and for the purposes of treatment, with specified social, educational or sports activities. However, if organized crime groups take control, self-rule reaches more extreme and problematic levels.

74. **The Subcommittee recommends that the State party eliminate practices whereby self-governance is permitted in some areas of prisons, whether formally or informally. It also recommends that the number of prison personnel be increased in accordance with the actual needs of prisons. The State party cannot delegate its responsibilities for security and the provision of basic necessities, as persons deprived of liberty are in the care of the State.**

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<sup>7</sup> Ibid., paras. 47 and 48.

75. The Subcommittee was informed that, in adult facilities, there is a system of corruption that involves police, prison officials and persons deprived of liberty. This system, known as *talacha*, consists in making a payment in exchange for benefits such as the admission of parcels and visitors and the provision of beds.

**76. The Subcommittee reiterates its concern of 2016,<sup>8</sup> condemns the practice of *talacha* and other forms of corruption and requests that the authorities promptly investigate such acts and prosecute and punish those responsible.**

77. The lack of halfway houses presents a significant challenge for the social reintegration of prisoners, as they are essential for a gradual and controlled transition to life in society. The example of halfway houses for young adults and adolescents should be replicated for the entire prison population.

**78. The Subcommittee recommends the development of an effective social reintegration policy that includes the creation of halfway houses and support programmes for those who are regaining their freedom.**

79. The Subcommittee welcomes the development of a project that will introduce a career path within the prison service. However, it also noted the precarious working conditions of prison staff. Most officials work for eight days and then have eight days off. When on shift, they sleep, eat and live in conditions similar to those of persons deprived of liberty – conditions which are unacceptable. In addition, many officials have little job stability, as their contracts last for only three months with the option of renewal, and there is no civil service or police system that regulates recruitment in accordance with the criteria of stability, aptitude and transparency.

**80. The Subcommittee recommends that Guatemala:**

(a) **Take the necessary measures to establish a career path within the prison service;**

(b) **Ensure that there are enough qualified prison staff for the proper management of prisons, conduct a periodic assessment of the staff-to-prisoner ratio, and plan work, education and training activities;**

(c) **Promote vocational training on the treatment of persons deprived of liberty and provide continuing education on human rights;**

(d) **Ensure stable and decent working conditions for prison staff.**

## **2. Allegations of torture, ill-treatment and violation of fundamental guarantees**

81. At the Mariscal Zavala and Matamoros facilities, the Subcommittee found detainees in solitary confinement who had been ill-treated by guards, officers and other inmates, deprived of sleep, denied sufficient water, threatened, recorded without their consent and exposed to insects and parasites. All of this appears to constitute a pattern of retaliation against former judicial officials, presumably for their work in the context of the ongoing political crisis.

82. The Subcommittee expresses its deep concern about arrests which, according to several persons interviewed – including prisoners and representatives of civil society organizations – are politically motivated, and it points out the serious nature of this abuse of the criminal justice system.

**83. The State party should immediately ensure that all detainees are treated with due respect for their human dignity in accordance with human rights standards.**

## **3. Conditions of detention**

84. The Subcommittee observed vast differences in the treatment of prisoners. In almost all facilities, the leaders of criminal groups enjoy more space, privileges, protection and benefits. At the Mariscal Zavala facility, there is an area set aside for ex-politicians which

<sup>8</sup> Ibid., para. 58.

has green spaces and gardens, small houses, cleaners and an exercise area; according to reports, prisoners can obtain weekend release without the need for administrative or judicial authorization. The Subcommittee was informed that alcohol and other substances, and sex workers, are regularly brought into this area.

**85. The Subcommittee urges the State party to ensure that all persons detained in the prison system receive the same conditions, care and minimum treatment in accordance with international standards.**

86. The prison system classifies individuals and houses them according to factors such as affiliation with criminal groups, perceived dangerousness, illness, age, gender and whether they are mothers with children. In almost all prisons, however, persons awaiting trial were detained alongside persons who had been prosecuted and convicted, in violation of the Nelson Mandela Rules.

**87. The Subcommittee recommends that Guatemala redouble its efforts to ensure that accused persons are kept separate from convicted prisoners. It should ensure consistency and uniformity in the administration of prisons across the country and base prisoner classification on objective criteria and individualized assessments.**

88. Solitary confinement for disciplinary or security reasons is a common practice in the prisons visited. The cells used, known as *bartolinas* or “reflection cells”, are smaller than regular cells. Prisoners held there have less light and space and less access to fresh air and exercise, food, social interaction, medical care and educational activities and workshops. In a *bartolina* at Zone 18 Pretrial Detention Centre for Men, there was no toilet, meaning that if a guard did not arrive in time, the prisoner would have to defecate in a plastic bag. The Subcommittee observed a profound lack of judicial oversight and review of the use of solitary confinement in prisons.

**89. Solitary confinement should be used only as a last resort,<sup>9</sup> for as short a time as possible and never for longer than 14 days. The Subcommittee urges the State party to reduce the use of solitary confinement, review the time periods for which it is used and ensure that basic standards of habitability and dignity are applied in all isolation areas.**

#### **4. Material conditions**

90. All prisons are in a deplorable state of repair. Cells and mattresses are dirty and there is a lack of ventilation, beds and food. Bathrooms are not properly equipped and are insufficient for the number of prisoners. There is a general lack of open spaces. Prisoners depend on their relatives for access to basic necessities such as food, medicine, personal hygiene items and money, or on what they can get from selling food or crafts inside the prison, cleaning, or other activities. The inequality this creates is conducive to extortion and corruption.

91. A particularly worrisome aspect is the lack of access to potable water. In many places, this access is limited to only a few hours or minutes a day. For example, there is no access to drinking water in any part of the Women’s Orientation Centre, which depends on water brought by truck from an adjacent facility. The Subcommittee noted that detainees had to pay for bottled water or depended on family members to provide it.

**92. The Subcommittee recommends that the prison service be ordered to conduct an in-depth audit of the material and structural conditions of prisons. This should be the first step in the design of a long-term policy to correct the very serious building defects that have been documented.**

#### **5. Regime and rehabilitation activities**

93. The Subcommittee observed limited and unequal access to employment, educational and even recreational opportunities in prisons. Access to open areas, if there are any, is restricted to certain days of the week. At the Mariscal Zavala and Matamoros facilities there are no activities for prisoners. Other facilities provide classes, but of limited scope.

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<sup>9</sup> Nelson Mandela Rules, rules 44 and 45.

94. **The Subcommittee requests the State party to strengthen educational provision and vocational training in prisons. Failing to do so jeopardizes prison care and the possibility of early release, since prisoners must acquire a number of hours in education or work activities before they can initiate the process. The Subcommittee recommends that a pre-release programme be provided for prisoners nearing their release date and that an aftercare policy be designed to facilitate reintegration into society.**

## 6. Health

95. Under the Prison System Act, persons deprived of liberty are entitled to regular medical care, provided in a timely manner and free of charge. However, the reality is that only seven doctors, including a paediatrician, a gynaecologist and an administrator, cover the entire prison system.

96. The delegation received many complaints from detainees that: (a) they were not given a proper medical evaluation upon arrival at the place of detention; (b) the time spent waiting to be attended, while ill, was excessive; and (c) medication was not available and had to be provided by relatives. In addition, transfer to an outside hospital was rarely possible and subject to long waiting times. The Subcommittee was informed of cases in which detainees had died while awaiting proper medical care.

97. In a prison with a relatively well equipped infirmary, the Subcommittee found a detainee with a mental health condition being kept on his own in a cage-like cell, and another four being kept behind bars in a small, unfurnished cell of not more than 6 m<sup>2</sup>, with no mattresses.

98. The Subcommittee notes, as it did in 2016, that the lack of adequate medical assistance can amount to ill-treatment.

99. **The Subcommittee urges the State party to ensure the provision of adequate healthcare. This includes ensuring the continuity of health services, identifying victims of violence through the medical examination of all new detainees and providing access to medication and timely transfer for outside treatment when necessary. An analysis of the reasons for inadequate healthcare, which may not be the fault of the health services themselves, should be conducted as a matter of urgency. These reasons might include uniformed personnel taking decisions beyond their competence, such as not allowing a detainee to see the doctor; delays in the judicial and forensic systems; and the premature return to prison of detainees who had been receiving treatment in outside hospitals.**

## 7. Disciplinary measures and regimes

100. The Subcommittee found little clarity with regard to disciplinary proceedings, which to a large extent depend on prison directors, who have a wide margin of discretion. At Pavón Prison Farm, the Subcommittee found a “reflection cell” used for punishment, with more than 50 people crammed inside, only one toilet and hardly any light or ventilation. The prisoners had been there for more than a year and were allowed out only once a week.

101. **The Subcommittee urges the State party to create a uniform and transparent disciplinary system, under which the necessary minimum measures are applied with respect for the principles of proportionality and individuality, and ensure that detainees are fully informed about said system.**

## 8. Situation of vulnerable groups

### (a) *Indigenous population*

102. The Subcommittee noted with concern that there is no disaggregated information on Indigenous persons. Except for an education programme in a Mayan language at Pavón Prison Farm, no services are provided in languages other than Spanish and there is no differential system.

103. **The Subcommittee recommends that the State party strengthen existing means of communication for Indigenous persons and, where necessary, provide interpreters.**

**The State party should ensure that the prison system incorporates a human rights approach to enable Indigenous persons to maintain their practices and customs to the greatest possible extent.**

(b) *Women and children*

104. The delegation visited two women's prisons, Santa Teresa Pretrial Detention Centre for Women and the Women's Orientation Centre, where it observed conditions of detention similar to – although in many respects worse than – those in men's prisons. For example, female prisoners are permitted fewer visitors and have less access to activities. The authorities do not provide sanitary towels, and there is only one gynaecologist for the entire prison system. Women receive unequal treatment depending on whether they are protected by court order owing to their high profile, are affiliated with criminal groups or are former police officers, among other factors.

105. The Subcommittee noted women in detention living with children aged up to 4 years old. Although these women are housed separately from the general prison population, the system does not provide food or additional space for the children, nor does it provide basic items such as towels, nappies, vitamins or medicine. When the women have to attend a hearing, they take their children with them in the transport provided. Although there are some nursery and childcare services, these are inadequate, as they provide neither paediatric care nor early learning activities. Some childcare services operate only thanks to the support of non-governmental organizations, and not all mothers have access to them. A similar situation was observed in the case of adolescent mothers.

106. At the Women's Orientation Centre, the Subcommittee visited an area for sick and older women. Some of the women there were over 78 years old; others had serious illnesses. The Subcommittee heard accounts of their being robbed or intimidated by other detainees.

**107. The Subcommittee urges the State party to ensure that the conditions of detention of women comply with the Nelson Mandela Rules and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), including by providing sufficient personal hygiene products, gender-sensitive healthcare and adequate food and facilities for women, especially breastfeeding mothers and women with children.**

108. The Subcommittee received information regarding sexual abuse, sexual exploitation and rape. There were numerous allegations that the doctor at the Santa Teresa facility is aggressive and sexually abuses women by forcing them to undress and touching them inappropriately; the allegations included one of sexual assault using a speculum. The Santa Teresa prison is located next to Zone 18 Pretrial Detention Centre for Men, and male prisoners can pay to have their partners beaten.

**109. The Subcommittee recommends urgent measures to investigate, promptly and thoroughly and respecting the “do no harm” principle, cases of physical and sexual abuse against women deprived of their liberty, together with specific measures to prevent the recurrence of abuse and to prevent impunity. The Subcommittee reiterates its previous recommendation for the State party to establish an effective mechanism to receive complaints of sexual harassment and violence occurring during detention and within places of deprivation of liberty.**

(c) *Lesbian, gay, bisexual and transgender persons*

110. Lesbian, gay, bisexual and transgender persons in detention, especially transgender women, are subjected to physical and sexual violence, threats and harassment by other detainees and prison staff. The Subcommittee noted a lack of knowledge on the part of the authorities about sexual orientation and gender identity, and the absence of measures with a differentiated approach. At one facility, when asked about lesbian, gay, bisexual and transgender persons, the deputy director remarked, “thank God we don't have gays, that's not allowed”. At another facility, a director characterized such persons as jealous and violent. The Subcommittee did not receive any information on specialized care.

111. **The Subcommittee urges the State party to take practical steps to prevent abuse and discrimination against lesbian, gay, bisexual and transgender persons and to ensure their access to healthcare in accordance with international standards.**<sup>10</sup>

(d) *Persons with disabilities*

112. Persons with disabilities in prisons experience huge disadvantages and a general lack of assistance in an already difficult environment. The delegation observed persons with disabilities housed in different areas, such as clinics or special cells, without professional help, assistance or mattresses. In most cases, support for these individuals was volunteered by other prisoners.

113. **The Subcommittee requests the State party to ensure the physical accessibility of prisons and to make the necessary adjustments for persons with disabilities. Food and access to water, healthcare, recreational activities and basic rights must conform to international standards.**

## D. Young people in conflict with the law

### 1. General observations

114. The Subcommittee observed significantly less overcrowding in juvenile facilities than during its first visit. The Subcommittee noted a willingness to change through the opening of facilities under a new model of prison management; however, it found that deprivation of liberty of adolescents is not an exceptional measure and is not applied for the shortest possible period of time.

115. **The Subcommittee recommends that the State party:**

(a) **Develop and implement policies to minimize the detention of adolescents, prioritizing support for families and community services and ensuring that deprivation of liberty is exceptional, of the shortest possible duration and subject to regular review;**

(b) **Take steps to shift from a punitive to a preventive approach in respect of adolescents.**

### 2. Allegations of torture, ill-treatment and violation of fundamental guarantees

116. The Subcommittee received allegations (except from detainees in the “new model” facilities) of ill-treatment by staff, including physical punishment, verbal abuse and threats and the use of pepper spray in conjunction with intense physical exercise. Such practices, given the inherent vulnerability of these young people, may constitute torture and inhumane treatment. There is no mechanism for reporting abuse and corporal punishment. The Subcommittee was informed that adolescents are sometimes beaten for speaking to the guards. None of the young people interviewed were aware of the national preventive mechanism.

117. Some of the youths detained at the CEJUDEP-Etapa juvenile pretrial detention centre did not have a lawyer, despite having been there for seven days, while others had sporadic contact from their defence attorneys or were unable to contact them.

118. **The Subcommittee recommends that the State party:**

(a) **Adopt immediate and effective measures to protect minors deprived of their liberty and ensure that they are not subjected to torture or ill-treatment;**

(b) **Provide appropriate education, training and awareness-raising for personnel responsible for dealing with minors;**

(c) **Adequately guarantee the right of defence.**

<sup>10</sup> See, for example, the Convention on the Elimination of All Forms of Discrimination against Women, art. 12, and the International Covenant on Economic, Social and Cultural Rights, art. 12.

### 3. Conditions of detention

119. At several facilities, even those with green spaces, many adolescents remain locked in their cells for up to 23 hours a day.

120. At facilities for male juveniles, religious services are the only recreational activity provided. At the CEJUDEP-Etapa centre, for example, the Subcommittee was informed that the only available books are bibles. At these facilities, the lights in cells are kept on for 24 hours a day.

121. Many minors reported not having communicated with their families because they did not remember their telephone numbers or because the guards prevented their seeing them. Furthermore, young people who are newly admitted to CEJUDEP-Etapa must remain in their cells for 15 days. At the Juvenile Detention Centre for Women, there were several young women who had been punished by being confined to their cells for days.

**122. The Subcommittee recommends that the State party ensure that minors can contact their families and loved ones and ensure their access to daily physical exercise and outdoor recreation.**

### 4. Material conditions

123. Young persons in detention receive three meals and two snacks per day. However, the Subcommittee was informed that the food is of poor quality and is sometimes stolen by guards or monitors. The Subcommittee is concerned that the management of the Juvenile Detention Centre for Women failed to take action in response to a court order confirming the problems with the food. The Subcommittee noted that access to potable water is limited.

124. Not all cells are fitted with showers and toilets and there are not enough blankets to protect young people from the cold.

125. In facilities such as the Juvenile Detention Centre for Women and CEJUDEP-Etapa, the provision of clothing and personal hygiene items is not guaranteed and often depends on relatives. Items of clothing are sometimes confiscated during searches and given to new arrivals. Some youths stated that they had difficulty in maintaining oral hygiene because the guards take away their toothbrushes.

**126. The Subcommittee recommends that the State party, in line with international standards:**

(a) **Take all necessary steps to improve juvenile detention centres, in particular with regard to accommodation, hygiene and sufficient and adequate food;**

(b) **Ensure that young persons deprived of liberty have toiletries and clothing and do not have to depend on third parties to obtain them.**

### 5. Regime, activities and rehabilitation

127. Adolescents frequently complained that the activities available in juvenile detention facilities were insufficient, monotonous and of poor quality.

128. The Subcommittee found that study is not compulsory and that classes are subject to the availability of teachers, while outdoor activities are limited to two hours and papercraft is the only option. These activities do not contribute significantly to the rehabilitation of young people. Persons detained in closed institutions often remain in their cells as there are not enough monitors to supervise them.

129. The Subcommittee observed better conditions in the “new model” facilities, where adolescents carry out activities such as gardening and cooking, and in halfway houses under the semi-open regime, where they have the opportunity to enrol in university for 1 quetzal. Such activities should be replicated in all juvenile detention facilities.

**130. The Subcommittee recommends that the State party prioritize socioeducational measures for children and adolescents deprived of liberty with a view to encouraging their social reintegration.**



## 6. Health

131. Healthcare systems in institutions for young people in conflict with the law appear to function relatively well, although in some institutions the Subcommittee noted an obvious lack of qualified staff. At the Juvenile Detention Centre for Women, there was no nurse, only a monitor who had some previous healthcare experience but no appropriate professional training. Nevertheless, solutions have been found to mitigate the lack of professional health personnel, such as arrangements with two local physicians who come to the facility when necessary and who are also available for online consultations. The Subcommittee did not receive any complaints from juvenile detainees of health professionals failing to attend them when needed, and noted that Red Cross personnel came to examine a detainee who had injured his hand. The medical records seen by the Subcommittee were well maintained.

132. **The State party should consider whether the good practice of online consultations could be extended to other institutions. However, such consultations should never replace visits and physical examinations where the physician deems them necessary.**

## 7. Disciplinary measures and regimes

133. The Subcommittee noted with concern the excessive use of force and of disciplinary measures by guards in juvenile detention facilities. Some youths alleged that they had been stripped naked and forced to perform squats during searches.

134. The Subcommittee was informed that adolescents are not given cutlery and therefore eat with their hands, and if one of them is caught with a piece of cutlery, he or she is punished. In all facilities for male juveniles, it was noted that the young men had shaved heads, and those who did not were punished. Female detainees are not allowed to wear make-up when receiving visitors, and women older than 18 are not allowed to receive their partners.

135. At the CEJUDEP-Etapa juvenile pretrial detention centre (in a section known as Tecpán, which receives no natural light and is poorly maintained), the Subcommittee observed some extremely serious situations: (a) cells containing between one and four people, in some cases sharing the same mattress; (b) limited water supply; (c) visits of short duration, sometimes not longer than five minutes; and (d) the frequent application of solitary confinement as a disciplinary measure and for a prolonged period of time, in some cases exceeding 18 months. At the CEJUDEP centre, young people who had been separated from the other prisoners showed obvious physical deterioration, such as extreme thinness and paleness due to lack of sunlight.

136. **The Subcommittee recommends that the State party:**

(a) **Take the necessary measures to ensure that searches are carried out in a non-violent manner and not with the aim of intimidating young persons deprived of their liberty;**

(b) **Take steps to ensure that any restriction of rights is the result of a disciplinary procedure that respects due process.**

## 8. Prison personnel and training

137. Compared with the adult facilities it visited, the Subcommittee found that the behaviour of staff at the CEJUDEP and CEJUDEP-Etapa juvenile pretrial detention centres was militarized and repressive.

138. **The Subcommittee recommends that the State party increase the budget allocated to specialized human resources, experts, lawyers, psychiatrists and psychological support for detained minors.**

## 9. Situation of vulnerable groups

(a) *Lesbian, gay, bisexual and transgender young persons*

139. The Subcommittee was informed of a lack of measures with a differentiated approach to protect and meet the needs of lesbian, gay, bisexual and transgender young persons. At

CEJUDEP-Etapa, the only person who self-identified as a member of the lesbian, gay, bisexual and transgender community was in solitary confinement. The young women at the Juvenile Detention Centre for Women receive talks on equality and non-discrimination.

**140. The State party should take specific steps to prevent any risk of abuse and discrimination against lesbian, gay, bisexual and transgender young persons.**

## **E. Other State and private institutions**

### **1. Federico Mora psychiatric hospital**

#### *(a) General observations*

141. The 400-bed Federico Mora hospital is the only State-run psychiatric hospital in Guatemala. The Subcommittee welcomes the recent establishment of 28 mental health units throughout the country for patients with mental health conditions requiring outpatient treatment.

142. At the time of its visit to the hospital, the Subcommittee found that about 80 per cent of patients were under court orders. Of these, only a fifth had the capacity to take decisions for themselves; the rest were under the guardianship of their families or the hospital director. The medical staff felt that many patients should not be hospitalized but were forced to remain there, either under a court order or because they had nowhere else to go.

**143. The Subcommittee welcomes the ongoing process of re-evaluating all patients and recommends that suitable alternatives be found for those who do not have a medical need for hospitalization.**

144. The Subcommittee notes with concern that Guatemala is lacking a mental health law, which could lead to the arbitrary detention of patients with mental health conditions and to disproportionate and unlawful practices within treating institutions.

**145. The Subcommittee urges the State party to adopt a mental health law that clearly defines judicial powers and their conformity with expert diagnosis, so that patients who are not parties to criminal proceedings are not deprived of their liberty and placed in circumstances of absolute legal uncertainty. Such a law must comply with medical standards and international human rights law. The Subcommittee requests the State party to provide detailed information on the law and other measures taken to protect the rights of inpatients.**

#### *(b) Allegations of torture and ill-treatment*

146. Some patients at the Federico Mora hospital complained of verbal abuse by staff and, in some wards, of beatings if they did not take their medication. In addition, there have been altercations and physical fights between patients.

**147. The Subcommittee recommends that steps be taken to put an immediate end to all verbal and physical abuse.**

**148. The Subcommittee received with concern information that some staff members had been transferred to Federico Mora after engaging in misconduct at other hospitals. This practice should be stopped, as it may increase the risk of abuse.**

#### *(c) Involuntary treatment*

149. Physical and chemical restraints were used at the hospital. The delegation did not observe any instances of physical restraint but found several patients in a deep sleep. Restraint records were kept and the head physician reviewed all cases on the same ward. However, there was no quality committee and apparently no complaint procedures.

**150. The Subcommittee recommends that, whenever restraints are used, this use is analysed at both the ward and the institutional level to ensure collective learning and the prevention of involuntary treatment. It also recommends that each patient's wishes and preferences be recorded and that complaint procedures be established.**

*(d) Conditions*

151. The delegation was informed that the number of care staff was limited and that only two staff members were on duty at night. Almost all patients wore uniforms and several complained about not being able to wear their own clothes. The number of activities for patients seemed very small and in one ward the delegation was informed that the television was only switched on at New Year. Many patients were limited to spending only three hours per week outdoors.

**152. The Subcommittee recommends that sufficient staff be assigned to cover the day and night shifts. As many patients spend long periods in the hospital, steps should be taken to make the environment less institutional. This includes considering the possibility of their wearing their own clothes, facilitating access to activities and allowing more daily outdoor time.**

**2. Homes for children and adolescents**

153. The level of overcrowding in children's and adolescents' homes, especially the Diamante I and II and the Zafiro II and III homes, is worrisome. Seventy-two girls were living at the Zafiro II home, which has capacity for 16; as a result, the dining room is used as a bedroom and several residents sleep on the floor. The increase in the number of children and adolescents housed has not been accompanied by a proportionate increase in human resources.

154. Some homes are old and in a poor state of repair, have limited access to water and little space for recreation and leisure, and serve poor quality food. The Subcommittee highlights, however, the positive relationship between the girls and the staff at the Zafiro II home.

155. In terms of the activities and programmes carried out, the Subcommittee is concerned about the frequency of school classes, notably at the Zafiro III and Diamante III homes, where they are taught only twice a week.

156. The Subcommittee received information about a system of so-called privileges, which included opening a window, having books or sleeping in a bed. At the Diamante I and III homes, the Subcommittee heard accounts of children and adolescents being subjected to abuse, including extreme exercise and beatings. Neither the educators nor the children were aware of the national prevention mechanism.

157. The Subcommittee received worrying testimony about how the issue of sexual orientation is addressed. Measures include the prohibition of displays of affection, isolation and other restrictions on lesbian, gay and bisexual young persons, and mandatory referral to a psychologist.

158. A punitive approach exists in children's homes. The Subcommittee is concerned that judges do not see children's homes as part of a protection system but as a place where children are punished, that institutionalization prevails and that there is a marked absence of alternative programmes. The Subcommittee found that up to nine months may elapse before the first hearing.

**159. The Subcommittee recommends that the State party:**

**(a) Encourage a change of perspective that makes clear, especially to staff in charge of minors, through regulations and protocols, the differences between a repressive and a preventive approach;**

**(b) Adopt without delay a comprehensive strategy to reduce overcrowding in children's and adolescents' homes and improve their conditions;**

**(c) Take the necessary steps to ensure the functioning of alternative care programmes that do not entail the institutionalization of children and adolescents, as the Subcommittee recommended after its previous visit.**

### 3. Migration

160. The delegation visited an immigration shelter – a closed building with bars on the doors. It has one floor for men and one for women, each with a large living room, cribs, bathrooms and a television. Sanitary conditions were inadequate. The shelter does not have any vehicles, so the National Civil Police assists with transfers. On average, detention lasts for a few weeks; however, the Subcommittee found that one person had been there for more than 45 days.

**161. The Subcommittee recommends that the State party bring conditions in the shelter into conformity with international standards. It also recommends that the shelter be converted into an open institution in which residents can come and go as they please.**

162. The Subcommittee also visited the administrative reception area at La Aurora International Airport, which houses persons who are due to be deported. Access to this place is extremely restricted, and not even lawyers are allowed to enter. Airlines are responsible for providing food, but sometimes they neglect to do so, as a way of exerting pressure. Interpreters are not provided, and the area is not equipped for long stays. The delegation spoke with a person who had been detained there for more than 38 days and had been unable to bathe during that time.

**163. The Subcommittee recommends ensuring that the area conforms to international standards, that there is access to sufficient food and drinking water and that the appropriate facilities are provided for personal hygiene. Any agreement with airlines or other private actors does not relieve the State of its inalienable obligations.**

### F. Final recommendations and next steps

**164. The Subcommittee requests that the State party reply to the present report within six months of the date of its transmittal to the Permanent Mission of Guatemala to the United Nations Office and other international organizations in Geneva. The reply should respond directly to all the observations and recommendations made in the report, giving a full account of action that has already been taken or is planned, including timescales. It should include details concerning the implementation of institution-specific recommendations and concerning general policy and practice.<sup>11</sup>**

**165. The Subcommittee considers both its visit and the present report to form part of an ongoing process of dialogue. It looks forward to assisting Guatemala in fulfilling its obligations under the Optional Protocol by providing further advice and technical assistance. The Subcommittee believes that the most efficient and effective way of developing the dialogue would be for it to meet with the national authorities responsible for the implementation of the Subcommittee's recommendations within six months of receiving the reply to the present report.<sup>12</sup>**

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<sup>11</sup> The reply should also conform to the guidelines concerning documentation to be submitted to the United Nations human rights treaty bodies established by the General Assembly.

<sup>12</sup> The State party is encouraged to consider approaching the treaty body capacity-building programme ([registry@ohchr.org](mailto:registry@ohchr.org), with copy to [ohchr-tbcbp@un.org](mailto:ohchr-tbcbp@un.org)), which may be able to facilitate the dialogue. More information on the Special Fund ([opcatfund@un.org](mailto:opcatfund@un.org)) established under the Optional Protocol is available at <https://www.ohchr.org/en/about-us/funding-budget/trust-funds/the-special-fund-focus-torture-prevention>.

## **Annexes**

### **Anexo I**

#### **Lista de lugares de privación de libertad visitados conjuntamente por el mecanismo nacional de prevención y el Subcomité**

Carceletas de las Torres Tribunales

Las Gaviotas (CEJUDUP)

Las Gaviotas Anexo B

## **Anexo II**

### **Lista de lugares de privación de libertad visitados por el Subcomité**

Cuartel Militar Mariscal Zavala  
Centros Preventivo Matamoros  
Centro Preventivo 18 de Hombres  
Granja Penal Pavón  
Centro Preventivo para Mujeres Santa Teresa  
Centro de Orientación Femenino (COF)  
Carceletas de las Torres Tribunales  
Las Gaviotas (CEJUDUP)  
Las Gaviotas Anexo B  
Centro Preventivo de Mujeres Menores Gorriones (CEJUPLIM)  
Centro Juvenil de Detención Provisional Etapa  
Hospital Psiquiátrico Federico Mora  
Casa Intermedia San Jose Pinula  
Hogar Diamantes III (Secretaría de Bienestar Social) (SBS)  
Hogar Diamante I (SBS)  
Hogar Zafiro II (SBS)  
Hogar Zafiro III (SBS)  
Hogar Fraijanes II (SBS)  
Hogar Casa Raíces Nuestras  
Albergue de Inmigración Zona 5  
Aeropuerto Internacional La Aurora  
Comisaría 11

## **Anexo III**

### **Lista de funcionarios gubernamentales y otros interlocutores con los que se reunió el Subcomité**

#### **Gobierno de Guatemala**

##### *Misión Permanente de Guatemala*

Poder Ejecutivo

Ministerio de Relaciones Exteriores

Comisión Presidencial por la Paz y los Derechos Humanos (COPADEH)

Ministerio de la Salud Pública

Ministerio de Defensa Nacional

Ministerio de la Gobernación

Policía Nacional Civil

Dirección Nacional del Sistema Penitenciario

Secretaría Bienestar Social

Secretaría Contra la Violencia Sexual, Explotación y Trata de Personas

Entidades Autónomas

Procuraduría de los Derechos Humanos

Instituto Guatemalteco de Migración (IGM)

Instituto de la Defensa Pública Penal

Organismo Judicial

Corte Suprema de Justicia – Dirección Encargada de Carceletas y Turno

#### **Organizaciones Internacionales**

Comisión Interamericana de Derechos Humanos (CIDH)

Comisión Internacional de la Cruz Roja (CIRC)

UN Oficina del Alto Comisionado de los Derechos Humanos (OACNUDH)

UN Oficina del Coordinador Residente (OCR)

Programa de las Naciones Unidas para el Desarrollo (PNUD)

#### **Mecanismo nacional de prevención**

Oficina Nacional de la Prevención de la Tortura (ONPT)

#### **Organizaciones de la sociedad civil**

Centro por la Justicia y el Derecho Internacional (CEJIL)

Coalición CAT

Colectiva Artesano

Bufete Jurídico de Derechos Humanos

Bufete para Pueblos Indígenas

Unidad de Protección a Defensoras y Defensores de Derechos Humanos (UDEFEQUA)

Asociación de Mujeres Transformando el Mundo

Comité Campesino Altiplano

Red de la No Violencia Contra las Mujeres (REDNOVI)

La Organización Mundial Contra la Tortura (OMCT)

El Instituto de Estudios Comparados en Ciencias Penales de Guatemala (ICCPG)

Colectivo Vida Independiente

Asociación LAMBDA

Colectiva TRANSformación

Comité Campesino del Altiplano (CCDA)

Estudios Comunitarios y Acción Psico Social (ECAP)

Movimiento Cívico por la Inclusión

**Otros**

Operadores de Justicia

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