

Mexico, not only for the general public but also for the police forces; and, the Attorney-General of the Republic (PGR) reiterated the authorities' wish to eradicate a practice that had been so prevalent in previous decades, and referred to the positive effect of constantly challenging it and exposing it before public opinion.

The summary of measures taken by authorities at the federal and state levels are noted in the report as including, *inter alia*: organization of training courses for public servants and members of the judiciary as well as introduction of human rights subjects into the police academy curricula; efforts to purge the Office of the Attorney-General of the Republic (PGR) of all persons, whether working for the police or for the Public Prosecutor's Office, involved in corrupt practices or human rights violations; efforts to strengthen the General Directorate of Human Rights in monitoring compliance with human rights within the Attorney-General's Office; a national census of police and former police staff, drawn up by the Ministry of the Interior, to prevent a police officer sanctioned in one unit from being cleared in another; and at the state level (e.g., Guerrero), introduction of training programmes for police units, the purging of the judicial police and establishment of stricter conditions for joining the force in order to obviate such problems as corruption.

The commentary on the legal protections against torture refers to provisions in the Constitution and the Federal Code of Penal Procedure stipulating that: the accused may not be compelled to testify; a confession made to any authority other than the Public Prosecutor's Office or judge, or made without the assistance of counsel, has no probative value; no confession or information obtained by torture may be cited as evidence; and, but for Puebla and Tlaxcala, all state laws disallow confessions obtained under torture.

The report also provides narrative on the role of defence counsel and the probative value of confessions. On the question of effective remedy, the report covers a number of points from both the governmental and non-governmental point of view. These points include, *inter alia*, that: the Federal Act for the Prevention and Punishment of Torture provides for prison sentences of three to 12 years for anyone committing torture, as well as a fine and disqualification from public office, post or assignment; the Comision Nacional de Derechos Humanos (CNDH) has proposed adding a paragraph to the Federal Act stating that, for the offence of torture, criminal proceedings and punishment under criminal law are impermissible; anyone claiming to have been tortured may lodge a complaint; the creation of the human rights commissions at the federal and state levels has meant that a large proportion of complaints concerning human rights violations, and particularly torture, have been channelled through them; these human rights commissions, however, do not always have staff who are trained to conduct full investigations into events requiring different professional skills; despite this drawback interventions by the commissions have helped to foster respect for integrity of

the person although the burden of proof continues to rest with the complainant in terms of producing evidence sufficient to convince a commission that torture took place.

Other points noted include: following a recommendation by the CNDH investigations can go on indefinitely, in part because, for example, the Public Prosecutor's offices are under-qualified, under-staffed, negligent or corrupt; no single investigation of torture had been initiated without a recommendation from the national Commission; for victims, the preliminary investigation conducted by the Public Prosecutor's Office raised problems, chiefly because victims were exposed to threats for having lodged a complaint and because public servants are brought to public notice in a recommendation made by a human rights commission; as a result, frequently victims no longer want to confirm their complaint or to give evidence to the investigation; at present investigations by the CNDH, are taken as evidence and not accepted as proof by the Public Prosecutor's Office; there remains a need for legal mechanisms that would compel or exert effective pressure on authorities that ignored CNDH recommendations as well as a need to ensure that the Commission's annual reports are not merely formalities but rather followed up by a presidential decision enforcing observance of the Commission's recommendations; and, according to the CNDH, legislation on compensation is highly deficient.

Based on discussions during, and the findings of, the mission, the report concludes that torture and ill treatment frequently occur although not as a manifestation of systematic practice and that it is mainly inflicted in order to elicit confessions or information. The report recommends, *inter alia*, that:

- ♦ the government consider ratifying the Optional Protocol to the ICCPR and make the declaration under article 22 of the Convention against Torture to allow the right of individual petition to the Human Rights Committee and the Committee against Torture;
- ♦ the government consider ratifying Additional Protocol II to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts, and make the declaration contemplated by article 62 of the American Convention on Human Rights concerning the compulsory jurisdiction of the Inter-American Court of Human Rights;
- ♦ a system of independent inspection of all places of detention be established; the system of videotaping interrogations established in one precinct of Mexico City be expanded throughout the country; statements made by detainees not be considered as having probative value unless made before a judge; and after detainees have been brought before a prosecutor, they not be returned to police custody;
- ♦ a radical overhaul of the public defender system be undertaken to ensure a substantial improvement in the competence, remuneration and status of public defenders;