



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

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Committee against Torture Eightieth session

Summary record of the 2111th meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 9 July 2024, at 10 a.m.

Chair: Mr. Heller

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* No summary record was issued for the 2110th meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention

Eighth periodic report of Ecuador (CAT/C/ECU/8; CAT/C/ECU/QPR/8)

1. *At the invitation of the Chair, the delegation of Ecuador joined the meeting.*
2. **A representative of Ecuador** said that the Government's commitment to international human rights instruments was illustrated by its openness to receiving visits to Ecuador from treaties bodies and special procedures, including the 2022 visit by members of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. During its preparations for the interactive dialogue, the Government had identified both challenges and significant achievements, including the decriminalization of abortion in cases of rape and the introduction of a social rehabilitation policy.
3. **A representative of Ecuador** said that, against a backdrop of surging violence and crime in the country, a serious crisis had arisen in the prison system, brought about, in part, by an increase in the prison population due to a rise in organized crime and by attempts by organized criminal groups to take control of detention centres through violence and extortion. In response, the national mechanism for the prevention of torture had been empowered, inter alia, to ensure compliance with legal safeguards, issue opinions on violations of detainees' rights and report on the complaints it received. According to the statistics it had compiled, between 2013 and 2024, the mechanism had undertaken 271 visits to detention facilities. Almost 2,000 disciplinary proceedings had been launched against prison officers since 2021, leading to the dismissal of around 170 persons, and approximately 1,500 new officers had been recruited and trained.
4. The social rehabilitation policy was aligned with international human rights standards and had been developed with the involvement of civil society, human rights defenders, academics, former prisoners and current detainees' families. The Public Defender Service had assisted more than 37,000 detainees between 2021 and 2024. Regulations governing the National Social Rehabilitation System had been issued; they prohibited degrading treatment and guaranteed family and conjugal visits. Overcrowding had been addressed through the pardoning of around 1,300 prisoners between 2018 and 2023, and efforts had been made to accelerate inmates' access to prison benefits and detention regime changes. Significant investment had been made in perimeter security and prison conditions.
5. The judiciary was implementing a strategic plan to combat corruption, strengthen institutions, ensure judicial independence, improve investigations and increase penalties in cases of sexual violence against women and children. To ensure coordination and cooperation between the Indigenous and ordinary justice systems, steps had been taken to give effect to the relevant provisions of the Constitution and the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as to applicable legal rulings.
6. An institutional and policy framework was in place to enable the Ministry for Women and Human Rights, in cooperation with other State bodies, to provide redress to the 464 direct victims of serious human rights violations and crimes against humanity occurring between 1984 and 2008 who had been identified by the Truth Commission. That redress encompassed physical, psychosocial and psychological care, legal assistance, human rights education, the dissemination of the final report of the Truth Commission, symbolic measures, measures of satisfaction and the preservation of the documentary memory of human rights violations. Almost 160 victims had so far received redress, with payments totalling around US\$ 5 million, and the Government was working to secure resources to pay compensation to all the victims.
7. International human rights instruments were applied directly, and the Attorney General's Office had issued guidelines on the application of international human rights standards in investigations into the crime of torture. Nevertheless, criminal legislation had been aligned with the Convention.

8. The Ministry for Women and Human Rights was responsible for comprehensive protection services, including dedicated centres, for victims of gender-based violence, trafficking in persons and the smuggling of migrants, as well as other vulnerable groups, in line with specific legislation on the prevention and eradication of violence against women and the related national plan. Those centres gathered data on trafficking in persons and the smuggling of migrants and assisted migrants of all nationalities. Legislation governed reparation for the families of victims of femicide, while abortion in cases of rape had been decriminalized for all women. Operational standards ensured effective access to abortion and comprehensive aftercare in cases of rape, with 93 women benefiting between 2021 and 2023.

9. To address abuse and sexual violence against minors in schools, a national plan on the prevention of psychosocial risk had been developed with the aim of creating protective educational settings, along with a policy on the eradication of sexual violence in schools. Violence in education facilities was addressed according to mandatory protocols and procedures.

10. The Office of the Undersecretary for Diversity provided specialist support to lesbian, gay, bisexual, transgender and intersex persons who had suffered rights violations, in coordination with the Comprehensive Protection Services and civil society organizations. That community's living conditions and rights were protected by means of an action plan on diversity.

11. Legislation, including an executive decree and regulations on the Organic Act on Human Mobility, had been adopted to address the principle of non-refoulement and the regularization of the status of migrants. Foreigners had been guaranteed access to free health care and education, at a cost to the State of around US\$ 130 million. More than 97,000 temporary residence visas had been granted, including to almost 1,800 minors, half of whom had been unaccompanied, as part of an exceptional regularization campaign.

12. An inter-agency committee had been established to undertake efforts in the areas of prevention, assistance and protection, investigation and prosecution in cases of trafficking in persons and the smuggling of migrants. In the previous four years, moreover, six bilateral agreements had been signed on the prevention and investigation of trafficking in persons and assistance and protection for victims. The Government had updated its action plan on trafficking, as well as disbanding trafficking gangs and preventing almost 4,000 unaccompanied minors from leaving the country. It had also developed relevant protocols, manuals and guides.

13. **Mr. Contesse** (Country Rapporteur) said that, while torture was included among the crimes against humanity punishable under article 89 of the Comprehensive Organic Criminal Code, those penalties applied only to acts committed as part of a widespread or systematic attack directed against a civilian population. Clarification was therefore required as to whether torture not committed as part of such an attack came under the scope of the article. Moreover, he wished to know whether acts of torture committed during the state of emergency that had been declared in response to internal armed conflict were investigated under article 119 of the Comprehensive Organic Criminal Code, which addressed torture during armed conflict – without specifying whether it applied to internal or international armed conflict – or under article 151, which addressed torture that did not take place during armed conflict and did not constitute a crime against humanity.

14. He wondered whether the State party believed – given that the rights and guarantees set out in the Constitution and in international human rights instruments, including the Convention, were directly applicable in Ecuador – that legal amendments to its definition of torture were unnecessary. If so, and if a broad judicial interpretation of the relevant provisions was thought sufficient, it would be interesting to hear whether such an approach would be in line with the constitutional provision that proscribed trials or punishment for acts or omissions not criminalized in law at the time of their commission. The Committee would also like to know what amendments to the Comprehensive Organic Criminal Code were planned and whether they would harmonize the definition of torture contained therein with the Convention. It was important to find out why the State party had yet to undertake such harmonization, what short- and medium-term measures were planned in that regard and whether the Convention had been invoked by the courts or other administrative bodies.

15. In the light of the worsening crisis in the prison system, the Committee would welcome information on prison overcrowding and investigations into riots and killings, including whether perpetrators had been identified, whether criminal investigations remained open, whether administrative investigations had been carried out and whether any of the dismissals of prison officers mentioned by the delegation had been linked to those events. It would also be useful to have information on the prevention measures adopted, including to address the involvement of prison management in such events.

16. The use of the armed forces to guard prisons during states of emergency was a particular cause for concern, with reports of ill-treatment during those periods that could constitute torture under the Convention. He would welcome information on measures taken to prevent acts of torture and cruel, inhuman or degrading treatment in prisons; on training for members of the armed forces on human rights and the prohibition on torture, and methodologies for assessing the effectiveness of that training; on accountability mechanisms for the armed forces; and on investigations opened into torture or ill-treatment during the state of emergency declared in 2024.

17. Given the funding problems that affected prisons, he wondered whether the conversion of the Ministry of Justice, Human Rights and Religious Affairs into a secretariat and the transfer of responsibility for prisons to the Comprehensive Care Service for Adults Deprived of Liberty and Juvenile Offenders had weakened the status of the prison administration. Detailed information on the budget received by the Service and the agencies responsible for implementing policy on prisons would be welcome. He would also like to hear what steps had been taken to ensure the supply of food and medicines to prisons.

18. He would appreciate information on the number of persons deprived of their liberty who had access to public defenders, the current number of public defenders and the number specialized in gender-based violence. Details of the human rights training programmes for public defenders would also be welcome. He wondered how persons deprived of their liberty were informed of the agreement between the Comprehensive Care Service for Adults Deprived of Liberty and Juvenile Offenders and the Public Defender Service on access to justice and free legal assistance for persons deprived of their liberty, how many applications had been filed as a result of such legal assistance, including for writs of habeas corpus, and how many had been accepted. It would be helpful to understand whether the Service's visits to detention centres had led to the collection of information on torture and cruel, inhuman or degrading treatment and, if so, what action had been taken as a result.

19. He wished to know whether the State party intended to amend the law on the Ombudsman's Office to strengthen the independence of the national preventive mechanism and its staff, whether there were plans to increase the mechanism's resources and form a multidisciplinary team for physical and mental health, and whether allegations of torture and cruel, inhuman or degrading treatment had been made to the mechanism during its visits to places of detention.

20. It was a cause for concern that the Council of the Judiciary had resorted, in April 2023, to requesting the intervention of the Inter-American Court of Human Rights because of a lack of resources. In the light of recent developments, he wished to know how compliance was ensured, when disciplinary action was taken against judges, prosecutors and public defenders, with the case law of the Constitutional Court concerning the protection of judicial independence. The President's characterization, in February 2024, of judges as unpatriotic for issuing warnings of rights violations was extremely worrying, since such statements could feed a climate of hostility towards judges and damage the rule of law. Information would be appreciated on the status of investigations into attacks and threats against members of the judiciary, including the late prosecutor César Suárez, and the protective measures adopted to allow them to carry out their work. Details of the steps taken to prevent, investigate and punish corruption in the judiciary would also be welcome. In addition, the delegation should indicate how the State party intended to implement the Committee's recommendation, made in its concluding observations on the seventh periodic report of Ecuador ([CAT/C/ECU/7](#), para. 38), on victim and witness protection.

21. Regarding Indigenous justice he noted that no law had been introduced on coordination and cooperation between the Indigenous and ordinary justice systems, notwithstanding the Committee's recommendation in that regard (CAT/C/ECU/7, para. 20).

22. The adoption of the Comprehensive Organic Act on the Prevention and Eradication of Violence against Women of 2018 was welcome, yet femicide remained an area of particular concern, given a number of recent high-profile cases. Other areas of concern included the lack of means to cross-reference information on sexual violence held by the Attorney General's Office and the Council of the Judiciary, and information indicating that victims of sexual violence must bring legal proceedings themselves, including in cases concerning sexual violence against children and adolescents. The scale of sexual violence against girls and adolescents was especially worrying, as was the number of pregnancies resulting therefrom. Given that children under 14 years of age were not legally able to consent to sex, he wondered how many criminal complaints, investigations and convictions there had been in connection with the rape of girls under 14 years of age. He wished to receive information on the measures taken to prevent violence in the family and the community and in institutions and on the steps taken to establish a system of reliable and timely statistics that could inform policies and interventions in that area. Details would also be appreciated of the mechanisms in place to implement the reparation measures called for in the judgment by the Inter-American Court of Human Rights in the case of *Guzmán Albarracín et al. v. Ecuador* concerning sexual violence in an educational setting.

23. While the adoption of a 2023 law on combating trafficking in persons and the smuggling of migrants was welcome, some challenges remained. For example, he wished to know how the State party ensured that the justice system had properly trained personnel and fostered a culture of reporting trafficking offences. Although the regulations on the Organic Act on Human Mobility provided for the granting of exceptional temporary residence visas to foreign victims of trafficking in persons and smuggling of migrants, reports indicated that the necessary mechanism had not yet been established. The delegation might wish to comment on the situation.

24. It would be helpful to receive information on the measures taken to ensure compliance with the principle of non-refoulement, particularly given reports of deportations of and administrative proceedings against Venezuelans and Colombians linked to their migratory status; on legal provisions that denied international protection to persons who had committed common crimes outside the territory of the State party or who were deemed a risk to public and State security; and on shortcomings in mechanisms to identify asylum-seekers and refugees with specific needs, such as persons with disabilities and survivors of torture or gender-based violence.

25. The delegation was invited to comment on the fact that universal jurisdiction for the crime of torture was applicable only when it constituted a crime against humanity, that torture was not included among the offences that were not subject to a statute of limitations and that most extradition treaties signed by the State party did not include torture as a specific offence for which extradition might be requested. Lastly, detailed information would be appreciated on training programmes in the area of torture prevention, their delivery and evaluation, and on prevention policies and care protocols for acts such as sexual violence.

26. **Mr. Iscan** (Country Rapporteur) said that, despite a number of positive steps taken by the State party, many concerns remained. While combating the activities of organized criminal groups and countering terrorism continued to pose challenges for the State party, human rights and other obligations under international law must be upheld in all circumstances.

27. In that connection, he wished to know whether the National Comprehensive Security Plan for 2019–2030 was still in effect, whether reference was made in the Plan to the international normative framework on human rights, including the United Nations Global Counter-Terrorism Strategy, and what steps had been taken to define terrorism in such a way that anti-terrorism legislation could not be used to restrict the rights enshrined in the Convention. He would appreciate information concerning the legislative and executive measures adopted during states of emergency; he wondered whether those measures complied with the absolute and non-derogable prohibition on torture. He would be interested

to learn whether any complaints had been lodged in that regard and, if so, whether the complaints had been investigated by independent monitoring mechanisms or heard by the national or international courts. He would welcome details regarding any such investigations or court cases.

28. He would be grateful for updated information on interrogation rules, instructions, methods or practices and custody arrangements, together with an indication of the frequency with which they were reviewed. He wished to know what steps the State party was taking to address the absence of a digital register containing up-to-date information on persons deprived of their liberty in all prisons; the poor detention conditions and the failure to cater for the specific needs of detained persons with physical or psychosocial disabilities, older persons and mothers with children; the situation of women prisoners, who were exposed to sexual violence, engaged in sex work in exchange for food and basic necessities, were subjected to invasive searches, and lacked access to specialized medical care and social and labour reintegration programmes; and the situation of lesbian, gay, bisexual and transgender persons deprived of their liberty, who suffered discrimination and ill-treatment at the hands of other prisoners and prison staff. He wondered what legislative and practical measures had been taken or were being developed to alleviate prison overcrowding, whether the State party planned to build new prisons, and whether statistical data was available on the total capacity and occupancy rate of all detention facilities, including the number of remand and convicted prisoners at each facility. It would be useful to have current figures on the use of electronic surveillance devices and information about the coordination between the Comprehensive Care Service for Adults Deprived of Liberty and Juvenile Offenders and the works procurement service to reduce overcrowding and improve prison conditions. The Committee would welcome an update on the prison search protocols and admittance procedures, to supplement the information contained in the State party's report (CAT/C/ECU/8, paras. 106 and 107), and details of how the State party handled complaints concerning those protocols or procedures.

29. He would be interested to learn whether any new legal provisions on the prompt and impartial investigation of all complaints of torture and ill-treatment had been introduced since 2020, whether the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Principles on Effective Interviewing for Investigations and Information-Gathering (the Méndez Principles) had been incorporated into training programmes on investigation and prosecution methods, and whether they were observed in practice. He wondered whether the Public Prosecution Service had the power to initiate investigations *ex officio* if there was reason to believe that acts of torture or ill-treatment had been committed and to refer alleged victims for forensic medical examination, whether alleged perpetrators were automatically relieved of their duties and prohibited from making any further contact with the alleged victims, and what the current status of the cooperation agreement with the International Committee of the Red Cross (ICRC) to facilitate visits to places of detention was. Did the ICRC continue to carry out visits to detention centres? He would appreciate statistical data, disaggregated by type of offence and by sex, age group and ethnic origin or nationality of the victim, with respect to complaints received concerning actual or attempted acts of torture or ill-treatment, or complicity, participation or acquiescence in such acts; complaints that had led to criminal or disciplinary investigations or that had been dismissed; investigations opened into such offences and prosecutions carried out; and the convictions secured, including the criminal and disciplinary sanctions imposed and the length of any prison sentences. He wished to know whether the State party would consider authorizing the publication of the reports by the Subcommittee on Prevention of Torture on its visits to Ecuador in 2014 and 2022.

30. It would be useful to have information concerning the current legislative framework on the use of lethal force and the compatibility of the legislation with the Convention, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. Had there been allegations of disproportionate or excessive use of lethal force against protesters in recent years? If so, he would appreciate information on the investigations conducted, prosecutions initiated and sentences handed down. He wished to know whether the State party had taken measures to ensure that the use of electrical discharge weapons complied

with the principles of necessity, subsidiarity and proportionality and that they were used only in extreme situations as a substitute for lethal weapons by trained law enforcement personnel. He would welcome clarification of the State party's position with regard to the use of and global trade in such weapons.

31. He would be interested to hear the delegation's comments on the legislative and practical measures taken to combat crimes and acts of violence committed against persons on the basis of their sexual orientation or gender identity, in response to the questions raised in the list of issues prior to submission of the eighth periodic report (CAT/C/ECU/QPR/8, para. 36), and on the progress made concerning the voluntary termination of pregnancy in cases of rape, incest and fetal malformation incompatible with life. It would be helpful to have an update on the legislative and practical measures adopted to combat sexual abuse and other forms of gender-based violence, remove obstacles to the right to sexual and reproductive health, and provide access to abortion. He wondered whether the Government would consider reviewing the law regulating the voluntary interruption of pregnancy in order to address concerns that the requirement for pregnant rape victims to have filed a criminal complaint before receiving an abortion might lead to revictimization and that abortion in cases of incest and fetal malformation continued to be criminalized. Lastly, he wished to know what practical steps had been taken to prevent and eradicate discrimination and violence against women and girls, especially those in vulnerable situations, and to combat gender inequality as the root cause of discrimination and violence.

32. **Ms. Racu** said that she would be grateful to receive details of the State party's efforts to implement a system of restorative justice and impartial and specialized trials for juvenile offenders. Regarding the situation of children in prisons, she wondered whether the military officers who had assumed responsibility for managing prisons had sufficient skills to meet the needs of detained children. Further concerns were the limited provision of legal aid and counselling services for children in conflict with the law; the absence of legal provisions authorizing reductions of terms of deprivation of liberty and reviews of social and educational measures imposed on minors; and the apparent stringency of the conditions that must be met in order for minors serving sentences of deprivation of liberty under a closed regime to qualify for detention in a semi-open or open regime.

33. Information on the current number of juvenile detainees, including girls, would be welcome. She would also appreciate information on alternatives to detention that were available to children, including details of how they were monitored and how their effectiveness was measured. She wished to know whether there were complaints mechanisms available to inmates in juvenile detention centres and, if so, how many complaints had been registered, what allegations had been raised and what the outcomes of investigations into such complaints had been. It would be helpful to hear how prison staff were trained to meet the needs of minors and provide adequate social rehabilitation programmes. She would welcome information on measures taken to improve material conditions in juvenile detention centres, access to education and health services, contact with the outside world and with families, rehabilitation programmes and programmes aimed at preventing violence among children in detention. Any other relevant updates on the situation of children in conflict with the law, including relevant legislative and judicial measures, would be appreciated.

34. **Mr. Liu** said that he would like to know about any measures taken by the State party to improve birth registration at the national and local levels.

The meeting was suspended at 11.55 a.m. and resumed at 12.35 p.m.

35. **A representative of Ecuador** said that his Government was currently tackling the scourge of organized crime and was working to improve security conditions for Ecuadorian citizens, including persons deprived of liberty and victims of organized crime. However, the challenging security situation had had a severe impact on the justice system, the prison system, the security and defence forces and law enforcement, as well as the administrative bodies working in those areas. His delegation would need more time to prepare detailed responses to the Committee's questions.

36. **Mr. Contesse** said that he would like to know what measures had been taken by the State party to accelerate the recognition of Venezuelan citizens as a population in need of international protection, to ensure fair and equitable access to asylum and migration status

procedures and to ensure the application of the Convention relating to the Status of Refugees and the Cartagena Declaration on Refugees by facilitating accessible and flexible regularization procedures for individuals without regular migration status in Ecuador. In addition, he would appreciate clarification regarding the legal grounds for the declaration of an internal armed conflict in the State party, particularly given that the Constitutional Court had recently handed down a ruling raising concerns regarding the facts and evidence used to justify one such declaration.

37. **Mr. Iscan** said that, with the armed forces now responsible for prison management, he wondered what mechanisms were in place for the lodging and investigation of complaints and whether persons deprived of liberty had access to those mechanisms.

38. The delegation might wish to provide updated information and statistical data on redress and compensation measures, in particular, the number of requests for such measures, the amounts of compensation ordered to be paid and the amounts received by victims and their families, and the means of rehabilitation ordered by the courts or other State bodies. He also wished to receive additional data on the investigation and prosecution of human rights violations that had occurred between the early 1980s and 2008, as well as updated figures on the number of individual files concerning victims of human rights violations documented in the report of the Truth Commission that had been forwarded to the Secretariat for Human Rights and the number of compensation agreements authorized by the Secretariat. The delegation might wish to respond to reports received by the Committee that sentences had been handed down in only 2 per cent of cases of human rights violations committed during that period and provide updated figures in that regard. It would be useful to know whether there were any specialized rehabilitation programmes in place to assist torture victims.

39. He would like to know whether the use of so-called “net” beds and other cage-like beds in psychiatric and social welfare institutions had been outlawed and whether restrictive practices such as seclusion and physical and chemical restraint were permitted under the law. It would be helpful to know whether the Ombudsman’s Office was assured of unrestricted access to such institutions for monitoring purposes and whether non-governmental organizations were granted access during monitoring exercises.

The meeting rose at 1 p.m.