



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

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Summary record of the 1259th meeting

Held at the Palais Wilson, Geneva, on Friday, 7 November 2014, at 3 p.m.

Chairperson: Ms. Belmir (Vice-Chairperson)

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In the absence of Mr. Grossman (Chairperson), Ms. Belmir (Vice-Chairperson) took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Third and fourth periodic reports of the Bolivarian Republic of Venezuela (continued) (CAT/C/VEN/3-4; CAT/C/VEN/Q/3-4 and Add.1; HRI/CORE/VEN/2011)

1. *At the invitation of the Chairperson, the delegation of the Bolivarian Republic of Venezuela took places at the Committee table.*
2. **Mr. Rangel Avalos** (Bolivarian Republic of Venezuela) said that the election of Hugo Chávez to the presidency of the country in 1998 had brought to an end several decades of constant human rights violations (torture, extrajudicial killings, enforced disappearances) and that each article of the 1999 Constitution had been devised to ensure that the Bolivarian Republic of Venezuela never again had to endure such suffering. In addition to the principles of freedom, equality, justice and international peace, a number of fundamental safeguards were enshrined in the Constitution, including: the duty to investigate any human rights violations perpetrated by State officials and to punish those responsible; the non-applicability of statutory limitations to serious human rights violations, war crimes and crimes against humanity; the inviolability of the right to life; the prohibition of torture and cruel, inhuman or degrading treatment; and the right of victims to redress. The Government was guided in its actions by those constitutional principles. A truth and justice commission had been set up to investigate enforced disappearances and other human rights violations committed in the past and to punish the perpetrators. Thanks to that commission's efforts, the remains of victims had been found and returned to their families following identification, a number of high-ranking military officers had been charged and a number of police officers had been sentenced to 30 years' imprisonment.
3. Returning to the questions asked at the previous meeting regarding the recent demonstrations and their suppression by the forces of law and order, he stressed that the demonstrations in question had been particularly violent and had been organized with the aim of destabilizing the country and turning the people against the Government. The response of the forces of law and order had been to employ anti-riot techniques provided for by national legislation. Those officers who had made excessive use of force would answer for their actions in court. The concerns expressed about armed civil groups were unfounded. Those citizens' groups had been set up, primarily, to organize cultural and social activities. Some of their members did indeed possess firearms, as did members of the opposition; provided that such individuals had obtained the legally required permit, they were not breaking any law. The Committee would be interested to learn that, to date, over 50,000 firearms had been destroyed under a plan devised to combat the illegal possession of weapons. In addition, over 1,000 firearms had already been handed over to the authorities as part of a voluntary disarmament programme under which participants received various benefits, such as study grants and consumer goods.
4. **Ms. Berthé de Heredia** (Bolivarian Republic of Venezuela) said that the Public Prosecution Service was currently dealing with 242 complaints of violations allegedly committed during the violent demonstrations of February 2014. To date, investigations had been launched into 125 of those complaints; 15 members of the security forces had been charged and 2 police officers had been convicted in relation to events that had taken place in the State of Anzoátegui. Of the 121 complaints that had been filed against members of the Bolivarian National Guard, 5 had resulted in criminal charges. Two cases of torture had

been reported, in one of which the alleged victim had been interviewed by the prosecutor three months after the events in question were said to have taken place. However, to date, the individual concerned had refused to cooperate by appearing in person when required for the purposes of the investigation. As to the case of Marvinia Jiménez, an in-depth investigation had been carried out, resulting in the arrest of a National Guard officer. The Committee would be provided with further details in that regard within the 48-hour period specified for the submission of additional information.

5. Rosmit Montilla had been arrested on 2 May 2014 and brought before a judge following a forensic examination. He had been charged on 20 June 2014 with criminal association and incitement to block the public highway, to damage public and private property and to engage in violence. The date of his preliminary hearing had been set for 24 November 2014. He had not filed any complaint of violations of his fundamental rights or discrimination, and had assured the delegation by telephone that he was not being treated differently from other detainees owing to his sexual orientation. The delegation therefore, wished, to know what it was that had led the Committee to believe that Mr. Montilla's situation gave cause for concern. As to the acts of sexual violence allegedly committed during the demonstrations of 2013 and 2014, she invited those persons or organizations that had transmitted information to the Committee in that regard to file complaints in order that an investigation might be launched, in line with the legal procedures in force.

6. According to the Public Prosecution Service, of the 33,598 complaints of human rights violations processed since June 2011, 966 had resulted in charges being brought, 26,555 had been dismissed and 6,067 had been discontinued. Most of the complaints filed were groundless and were intended solely to tarnish the image of national institutions and create political instability. Criminal proceedings were only brought if sufficient justificatory evidence had been provided, in accordance with the safeguards relating to due process. Complaints were only dismissed if it had been established beyond doubt that the alleged acts had not taken place, did not constitute a criminal offence or could not be ascribed to the individual against whom the original complaint had been made. Furthermore, decisions to dismiss complaints were appealable. Consequently, it could not be said that there was a climate of impunity. As to the case of Wuady Moreno, it would seem that, once again, the Committee had been misinformed. Following Mr. Moreno's complaint, all necessary steps had been taken to establish the facts, including the performance of a forensic examination. Neither the interested party nor his lawyer had, at any point, complained of threats from State officials. Her delegation had also been in contact with the prosecutor in charge of the case, who had confirmed that, following a telephone conversation with Mr. Moreno, the latter had denied that he had received threats.

7. The setting-up, within the Public Prosecution Service, of the Criminal Investigation Unit against the Violation of Fundamental Rights represented a major step forward. As well as having access to state-of-the-art laboratories and cutting-edge equipment, the Unit employed forensic scientists who strictly applied the relevant international standards, including the Istanbul Protocol. All persons detained during the February 2014 demonstrations had benefited from the necessary safeguards covering their rights. Consequently, her delegation categorically refuted reports that 3,000 persons had been denied access to a doctor, prevented from informing their families of their situation or subjected to threats. Across the country, there were currently 32 victim-assistance units, which had provided help to 113,496 persons in 2013 and to 109,885 since early 2014. Anyone suspected of having committed an offence was brought before a judge within 48 hours of his/her arrest or, in the absence of sufficiently strong evidence pointing to his/her participation in the events in question, was released unconditionally. Exemptions relating to the law on vagrancy had been introduced, as under that legislation persons accused of vagrancy had not previously enjoyed the fundamental rights to due process and the presumption of innocence.

8. As to the 1989 riots, known as “El Caracazo”, as of 11 November 1999 the Venezuelan State had paid compensation to 162 persons in accordance with a decision issued by the Inter-American Court of Human Rights following a request for compensation submitted by the NGO Committee of Relatives of the Victims of the Events of February–March 1989 (COFAVIC). Aware of its responsibility towards other victims, the State had then decided, on its own initiative, to compensate a further 434 persons, including the Esquivel sisters. Lastly, the former judge María Lourdes Afiuni had refused to file a complaint relating to her claim that she had been raped, casting doubt over the truthfulness of her allegations and raising the possibility that she had collaborated on a book about her case for purely financial reasons.

9. **Ms. Morales** (Bolivarian Republic of Venezuela) said that the first thing the Ministry of People’s Power for the Prison Service had done in 2011 was to inspect detention facilities across the country as part of work to prepare a strategic plan involving the setting up of a new prison system focusing on the detainee as a person and on his/her rehabilitation. That process, with which the detainees themselves had been associated, had resulted in a whole series of programmes based on rehabilitation through work, apprenticeships or art, assistance for families of detainees in difficulty and the re-entry into society of former detainees following their release. All prison administration officials, 7,623 persons in total, were qualified professionals and had received training on the international human rights instruments, including the Convention against Torture. Specialized institutions had been set up in 2014 to train public servants, particularly prison officials; the aim being to ensure that they constantly improved and updated their competence. There were currently 82 detention facilities across the country (50 for adults and 32 for minors), 87 per cent of which met the standards of the new prison system; which should come fully into force in the remaining facilities within the next two years.

10. The Revolutionary Government was working energetically and successfully to combat organized crime in prisons. The new prison system focused on discipline, training, study and emancipation through work. Adults and adolescents were treated differently and were governed by different regulations. Pretrial detainees and convicted detainees were segregated from one another. A number of pretrial detention facilities had been set up to ensure that pretrial detainees were held in the best possible conditions and to enable them to use their time in detention to make preparations for a new life. Furthermore, the authorities were currently building “meeting houses” near detention facilities, where detainees could spend an entire day with their relatives, without any restrictions. The prison service also ran 159 social productive units – training workshops where detainees could carry out paid work, learn a trade and earn remission.

11. Under the new prison system, detainees were guaranteed access to drinking water and sanitary facilities. As to health care for detainees, cooperation links had been established with the various national health programmes, in line with the principle that no distinction should be made between persons deprived of their liberty and the population as a whole. All detention facilities were equipped with an infirmary, mobile health-care units and medical staff who carried out general, specialized and dental consultations. The Government offered free antiretroviral treatments to HIV-infected persons, and discrimination against such individuals was not tolerated in any Venezuelan detention facility.

12. In the detention facilities administered under the new prison system there was no overcrowding or violence; a significant step forward, given the earlier situation. As to the other detention facilities, major work was being carried out to renovate and improve infrastructure and the level of inter-prisoner violence had fallen. The number of deaths in detention had fallen from 576 in 2011 to 402 in 2013. Her Government categorically denied that persons visiting detainees were subjected to treatment that violated their human rights;

non-invasive methods were employed to prevent prohibited substances or objects being brought into prisons. The events that had taken place on 24 June 2014 at David Vilorio prison had arisen following the smuggling into the facility of two grenades that two women had concealed in their private parts. It was precisely owing to the non-invasive methods used by the authorities to search visitors that the grenades had not been detected. In the wake of that isolated incident, the necessary action had been taken to protect detainees. The Government also categorically denied that any prison officers carried out acts of torture. Prison officers always acted within the law and in accordance with the principle of proportionality regarding the use of force.

13. **Ms. Jaimes** (Bolivarian Republic of Venezuela) said that, as a result of various types of Government action, all national police officers had received human rights training. Classes were provided on an ongoing basis to police officers from the various states and municipalities, with the long-term aim of ensuring that they all received training, particularly on the Convention against Torture. The National Experimental University for Security Services had recently been set up with the sole aim of training police officers, investigators and prison officers and played a vital role in that field. An independent national forensic medicine and science service had also been set up.

14. The preliminary bill on the prevention and suppression of trafficking in persons was currently before the National Parliament for its first reading. However, various other laws prohibited that practice. There were five shelters for women victims of violence, which provided protection for victims of trafficking in persons. Furthermore, the National Office for Action to Combat Organized Crime and the Financing of Terrorism offered help to trafficked foreign women and girls, and provided public officials, judges and child-protection counsellors with appropriate training.

15. The State was working to improve the situation in police detention centres by harmonizing the relevant structures and their operation through protocols formulated by the police services directorate. The adoption of the Police Service and Bolivarian National Police Act had had a very positive impact on police performance, as attested by a survey carried out in 2012 by the Ombudsman's Office; 83 per cent of respondents had stated that the Bolivarian National Police Force met its obligations in terms of the observance of human rights. Significantly, the number of complaints of violation of the person filed with the Ombudsman was falling.

16. **Mr. Molina** (Bolivarian Republic of Venezuela) said that the requests for visits received from special procedures mandate holders were currently being considered. The Special Rapporteur on the right to food had been due to visit the country at the invitation of the Government but had postponed the visit owing to a busy schedule. As to the reasons behind the country's decision to denounce the American Convention on Human Rights in 2012, he referred to the relevant statement, which could be found on the Internet at the following address: <http://epuvenezuela.gob.ve/>. The inter-American system had become a platform for systematic political action against the Venezuelan people and national sovereignty. The country had withdrawn from the Inter-American Court of Human Rights in September 2013 and did not intend to go back on that decision. The Bolivarian Republic of Venezuela was cooperating with the International Organization for Migration as part of a project aimed at strengthening the capacities of migration officials. The training manuals used focused on both the Convention and the Istanbul Protocol. As to the contradictions that had been noted between the information provided by the Venezuelan State and that originating from other sources, his delegation wished to point out that they reflected the fact that everyone enjoyed full and comprehensive freedom of opinion and expression in Venezuela and that NGOs consequently had the right to express their views in parallel or complementary reports.

17. **Mr. Modvig** (Country Rapporteur) said that he took note of both the delegation's statements on the Government's acceptance of the criticisms levelled against it and the pluralism that prevailed in the country, which he welcomed. However, the Committee had been informed that the director of an NGO who had participated in the consideration of the situation in the State party had been publicly criticized by politicians and had received threats. The Committee therefore wished to have further reassurance that those organizations which had provided it with information would be able to continue their activities unhindered and in complete safety.

18. The State party had not answered the question contained in paragraph 28 of the list of issues, which referred to measures ordered for the protection of human rights defenders. Neither had the Committee received replies to the questions on: the independence of the judiciary and the implementation of the recommendations formulated in the report of the International Commission of Jurists; the observations made regarding the independence of the National Commission for the Prevention of Torture; measures aimed at strengthening the observance of the fundamental safeguards relating to deprivation of liberty, and the results of the Ombudsman's visits to detention facilities. The delegation had stated that 242 complaints had been filed relating to events linked to the demonstrations of February 2014. More information should be provided on those complaints, particularly on how many of them involved violations of fundamental safeguards and acts of torture. The Committee had also been given to understand that 15 cases against public officials had been resolved; the delegation was requested to describe the steps taken or sanctions imposed against the individuals convicted in that regard. Apparently, 58 demonstrators remained in detention; the Committee wished to know whether they had been charged, or had faced trial. The delegation had also stated that there was evidence that the claim that 3,000 persons detained at the time of the demonstrations had not had the opportunity to inform their families of their situation or to undergo a medical examination was false; perhaps that evidence could be transmitted to the Committee. As to the Istanbul Protocol, the question asked by the Committee had not been whether forensic physicians followed the Istanbul Protocol but whether they were required to do so. Lastly, the delegation was asked to state whether investigations into deaths in detention were carried out by an independent body or by a body within the prison system.

19. **Mr. Zhang Kening** (Country Rapporteur) asked how many of the country's 7,700 detainees were being held in police detention centres. He also wished to know the outcome of the investigations carried out into the two waves of violence which had occurred in prisons in 2011 and 2013, which had resulted in 63 and 50 deaths respectively. The versions of the events provided differed on a number of points and, in particular, on the issue of whether the police had intervened to confiscate the weapons in the hands of the detainees.

20. **Mr. Bruni** pointed to significant discrepancies between the information provided by the Government and that received from other sources, particularly the Venezuelan Prisons Observatory. The State party thus reported that 87 per cent of detention facilities were not overcrowded, while the Observatory stated that, in February 2014, the average rate of overcrowding had stood at 234 per cent. If those two figures were correct, that would mean that the overcrowding was concentrated in 13 per cent of all facilities, making for a truly catastrophic situation. Likewise, the State party reported that there had been no allegations of torture having been committed in the Yare III detention facility; however, the Committee had in its possession a complete report on such allegations. Clarification was required regarding those two points. Lastly, the State party claimed that 87 per cent of detention facilities were free of violence, meaning that the 402 deaths in detention reported by the Government must have taken place in 13 per cent of all facilities. In any case, it was not normal for hundreds of deaths to occur in detention facilities. The delegation was requested

to report on the obstacles encountered by the authorities when attempting to prevent weapons from being smuggled into detention facilities.

21. **Mr. Gaye** said he wished to know how many convictions had been handed down regarding the 31,000 or so human rights violations recorded between 2011 and 2014. He asked whether the Public Prosecution Service could, of its own motion, prosecute Venezuelan nationals who had committed acts of torture abroad. As to Judge Afiuni, he said the fact that she had not filed a complaint, perhaps owing to the traumatic experience she had suffered, did not mean that there should be no discussion of a case that had implications for the workings of the judicial system and raised fundamental questions regarding compliance with the law.

22. **Mr. Tugushi** noted that Venezuelan prisons were reputed to be very violent places. In that regard, he would like to know the conclusions of the investigation into the events that had taken place on 25 January 2013 at Uribana prison, when many persons had died as a result of the intervention of the armed forces. He asked whether those conclusions had been made public. The delegation was requested to state whether there was a mechanism in place that ensured compliance with article 6 of the Special Act to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment, which provided for the right of victims of torture to protective and follow-up measures. Examples demonstrating the effectiveness of the protection afforded to victims and witnesses would also be welcome. He asked for information on budgetary resources allocated to torture victim rehabilitation programmes and services and on their operation and assessment. In addition, he wondered why, after having made so many efforts to set up a national civil police force, the authorities had chosen to place both that body and its training school under the control of the armed forces. Lastly, he asked the delegation to indicate whether police officers who had cooperated with armed civil groups as part of law enforcement operations had received penal or administrative sanctions.

23. **Ms. Gaer**, turning to several questions which remained unanswered, asked whether the Venezuelan authorities had agreed to the visit of the eight special procedures mandate holders who had requested permission to travel to the country and whether the national legislation contained safeguards ensuring that allegations made by “cooperating patriots”, such as those made against Rosmit Montilla, did not violate the Convention, the principle of the presumption of innocence and the right to due process. The State party had reported that Judge María Lourdes Afiuni was currently free, but had also stated that her freedom of movement would be restricted for five years; an explanation was required in that regard. It would also be interesting to know on what grounds Leopoldo López continued to be held in pretrial detention and whether an investigation had been carried out by an independent body in order to determine whether allegations that he was currently being held in solitary confinement were accurate. As to prison overcrowding, the delegation should provide the data requested in paragraph 18 (a), (b) and (c) of the list of issues.

24. The delegation was invited to describe the steps taken by the Venezuelan authorities to tackle the climate of impunity in which perpetrators of torture operated and to prosecute the members of paramilitary groups who had allegedly used excessive force against demonstrators during rallies held between 12 February and 15 April 2014. Since the answers provided by the State party to the questions raised in paragraph 21 of the list of issues were incomplete, the delegation was requested to: indicate what practical steps the State had taken following the large number of complaints of acts of torture and ill-treatment committed by members of the State security forces; and provide statistics, disaggregated by type of offence, sex and age of the victim and geographical location, on the number of complaints of torture or ill-treatment allegedly committed by members of the security forces, including members of the armed forces or “combat units”. Lastly, the delegation was asked whether there were any plans to set up torture victim rehabilitation services.

25. **The Chairperson**, speaking as a Committee member, again asked how much progress had been made with the reorganization of the judiciary, a process that had been launched more than a decade previously. The State party was the only one in the world to employ provisional or temporary judges and that, as a result of their unique status, those judges did not enjoy all the safeguards associated with the office of judge, including tenure. It would be useful if the delegation could comment on that point.

26. *The meeting was suspended at 5.15 p.m. and resumed at 5.20 p.m.*

27. **Mr. Devoe** (Bolivarian Republic of Venezuela) said that, to date, the Ombudsman's Office had received seven notifications submitted by members of the police force, the prison service or the Public Prosecution Service reporting acts of torture or ill-treatment under article 15 of the Special Act to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment. The National Commission for the Prevention of Torture was a fully independent body which reported to the Ombudsman's Office and had operational, financial and administrative autonomy. The President of the Commission enjoyed immunity from prosecution in the exercise of his duties. The scope of the Commission was broader than that of a national prevention mechanism; as well as being responsible for visiting detention facilities, the Commission oversaw the coordination of the national torture prevention strategy. From January to September 2014, the Commission had carried out 2,042 visits to detention facilities, 1,634 of which had been to pretrial facilities. Recommendations had been formulated following each of those visits and had been published in the annual report of the Ombudsman's Office.

28. Article 33 of the Special Act to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment provided that statements obtained through torture were inadmissible. Furthermore, under that Act, the State was duty-bound to enforce the right of victims to redress. One component of the national torture prevention plan was devoted entirely to comprehensive care for torture victims and President Maduro had announced that a national institute for the protection and rehabilitation of victims of violence would be set up. It should be emphasized that no NGO had been or would ever be subjected to reprisals for having transmitted information to the Committee, and that human rights defenders who feared reprisals owing to their activities were covered by protective measures.

29. **Mr. Damiani** (Bolivarian Republic of Venezuela) said that Vincenzo Scarano and Daniel Ceballos had been sentenced to 10 and 12 months' imprisonment respectively, for having refused to comply with a Supreme Court of Justice decision and were currently serving their time in jail. Leopoldo López was facing various charges, including the violation of certain provisions of the Organized Crime and Financing of Terrorism Act. He was being held in pretrial detention following a decision issued by a judge of first instance, who had considered Mr. López to be a flight risk who might obstruct the investigation if he were to remain at liberty.

30. From the early 1960s until the arrival in power of Hugo Chávez, the judiciary had not been independent of the executive. From 1999 onwards, reforms had been introduced to safeguard the separation of powers and to combat corruption. Provisional judges had been appointed to fill vacancies and to ensure that the courts continued to operate. In 2013, only 38 per cent of the country's judges had had provisional status, compared to 97 per cent in the 1990s.

31. **Ms. Berthé de Heredia** (Bolivarian Republic of Venezuela) pointed out that Leopoldo López received weekly visits from a representative of the Public Prosecution Service, during which he could report any violations of his rights. A Caracas court had ruled that the Director of the Venezuelan Prisons Observatory, Humberto Prado, should have the benefit of protective measures. He was escorted between his home and his place of

work. Furthermore, 242 investigations had been launched into the incidents that had occurred as part of the violent demonstrations (“*guarimbas*”) of February 2014, with 51 per cent of those cases having been resolved. At the present time, 117 investigations were still ongoing. As to Rosmit Montilla, she repeated that that individual had stated that he was not being subjected to discriminatory treatment. Moreover, those relatives and friends who visited him in detention had not reported any violations of his rights. The Public Prosecution Service was aware of the need to safeguard the independence of the judiciary. In October 2008, a training school for prosecutors had been set up and 371 students had graduated since its creation. The NGOs which transmitted information to the Committee had no reason to fear reprisals. The concerns expressed by the Committee members in that regard were all the more surprising since representatives of those organizations were attending the current meeting on the consideration of the report. Furthermore, various State bodies and the Public Prosecution Service regularly received visits from members of those organizations.

32. **The Chairperson** thanked the delegation of the Bolivarian Republic of Venezuela and invited it to transmit its additional replies to the Committee within 48 hours in order that that information might be taken into consideration in the Committee’s draft concluding observations.

The meeting rose at 6.05 p.m.