



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

Distr.: General
10 November 2014

Original: English

Committee against Torture
Fifty-third session

Summary record of the first part (public)* of the 1256th meeting

Held at the Palais Wilson, Geneva, on Thursday, 6 November 2014, at 10 a.m.

Chairperson: Mr. Grossman

Contents

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

Combined third and fourth periodic reports of the Bolivarian Republic of Venezuela

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1256/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Section, room E.5108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.14-20022 (E) 101114 101114



* 1 4 2 0 0 2 2 *

Please recycle The universal recycling symbol, consisting of three chasing arrows forming a triangle.



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

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

Combined third and fourth periodic reports of the Bolivarian Republic of Venezuela (CAT/C/VEN/3-4)

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), introducing the State party's report (CAT/C/VEN/3-4), said that the Bolivarian Revolution guaranteed the human rights of all Venezuelans without distinction. Past regimes had promoted State terrorism but today Venezuela had numerous and effective human rights policies in place, covering such groups as the police and security services, as well as people deprived of liberty and other vulnerable sectors of the population.
3. The Government was seeking to build a democratic and inclusive society on the basis of a Constitution approved by popular referendum, which had made human rights the foundation for the workings of the State. The Constitution specifically provided that no one could be subjected to torture or other cruel, inhuman or degrading treatment or punishment, and that victims of torture had the right to redress. In the past torture had been used as a political weapon, and thousands of Venezuelans had suffered while perpetrators had enjoyed impunity and State protection. Now the State guaranteed human rights and any public official who practised torture was subject to the full rigour of the law.
4. Despite repeated terrorist attacks by external and internal enemies, the Government had made considerable progress in promoting peace and understanding and respecting political pluralism and diversity. During recent violent incidents in which 43 citizens had lost their lives, the security forces had acted in strict accordance with the law. The few individuals arrested had not been peaceful demonstrators but persons who had perpetrated acts of violence. Their physical integrity as well as their right to defence and a fair trial had been guaranteed by the judiciary.
5. The periodic report, which reflected the recommendations of the Committee, had been prepared in a participatory manner which had involved State institutions at the highest level as well as a large number of civil-society organizations.
6. The Bolivarian Revolution was radically transforming society by dismantling the repressive structures of the past and providing reparation for victims and their families. A reform of the police system had begun in 2006 with the creation of the National Commission for Police Reform. The findings of the Commission had been taken into account in the drafting of the Police Service and Bolivarian National Police Force Act, under which the police were required to act in accordance with the human rights treaties ratified by Venezuela. The National Experimental University for Security Services had been established in 2009 to provide police officers with training in human rights.
7. The powers of the Public Prosecution Service and other organs of the judiciary had been increased in order to improve the system of investigation and punishment of human rights violations, while the recently created Criminal Investigation Unit against the Violation of Fundamental Rights and Specialist Forensic Medicine Division guaranteed the impartiality of investigations into crimes of torture. The Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment (Special Law on Torture), which had come into force in 2013, had been inspired by the Convention and embodied recommendations made by the Committee. Among other things, it proscribed obedience to orders from a superior officer as a ground for justification and made provision for the

creation of the National Commission for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment. The mandate of that Commission included making unannounced visits to places of detention and conducting private interviews with detainees. A Truth Commission to investigate disappearances and torture during the period 1958–1998 had also been set up.

8. Other advances included a law sanctioning human rights violations committed for political reasons and the creation of the National Human Rights Council in 2014. The prison system was governed by the human rights provisions contained in the Constitution and a new ministry dealing exclusively with prisons had been created in 2011. The United Nations Standard Minimum Rules for the Treatment of Prisoners were fully upheld, as was evident from the fall in reoffending.

9. **Mr. Modvig** (Country Rapporteur) commended Venezuela for having incorporated the Convention's definition of torture into its national law. However, he noted that the law referred only to the torture of persons in custody and wished to know how torture of persons not in custody was punished. He also praised the State party for having criminalized attempted torture, and asked whether instigation and consent to torture were also punishable offences.

10. He asked what measures were in place to ensure basic safeguards for people under arrest, including the right to a lawyer and to a medical examination. Reports had reached the Committee that the rights of people detained during the unrest in February had not always been respected. He wished to know how many complaints of torture or ill-treatment had been filed following that unrest and how many investigations had ensued. He asked the delegation to supply information about the number of criminal investigations initiated during 2013. In how many of those cases had defendants been assigned a lawyer at public expense and what budget had been earmarked for legal aid in 2014?

11. He asked whether the right to an independent medical examination was extended to all detainees and to what extent that right was enjoyed in practice. He enquired how the doctors who carried out examinations were chosen, how their independence was guaranteed and to whom they reported. He wished to know the number of cases in which the use of torture had been confirmed. The Committee had information that not all medical reports fulfilled the standards of the Istanbul Protocol and he asked whether the State party had considered training doctors in the Protocol.

12. He wished to know if Venezuela had plans to extend an invitation to the Special Rapporteur on the question of torture, who would be able to provide important input to the Government's plans for preventing torture. He asked why Venezuela had withdrawn from the jurisdiction of the Inter-American Court of Human Rights.

13. He would like to receive disaggregated data on persons who had received assistance from the victim-care units mentioned in paragraph 20 of the State party's replies to the list of issues, and more information about deadlines for the judicial review of detention orders.

14. He asked the delegation to provide more precise information about the status of a draft law on trafficking and wanted to know what measures had been taken to develop protocols to help the police handle cases of trafficking. Were there any protective measures in place for victims of trafficking? He would also be interested know when a proposed manual of best practice on violence against women would be ready for issue and when the Technical Unit for Attention to Female Victims of Domestic Violence would be established. He invited the delegation to clarify the information presented in tabular form in its replies to the list of issues. He wished to know the average processing time for cases of gender violence, whether there was a backlog of cases, what sentences had been imposed and what compensation granted.

15. He enquired how many notifications the Ombudsman had received from public officials since March 2014, when he had informed them of their duty to report violations of the 2013 anti-torture legislation. He also asked how many of the complaints of torture and ill-treatment reported to the Ombudsman between 2002 and 2014 had been processed, and how the Government intended to ensure the cooperation of the police and the military in its effort to investigate and prosecute perpetrators. He hoped the delegation could provide further information about complaints made against the police and asked who undertook the investigations and what procedures were followed. He commended the State party for the numerous visits made by the Ombudsman to detention centres, but wished to know how many were made without prior notification and what changes they had led to.

16. He expressed concern that 6 of the 13 members of the National Commission for the Prevention of Torture were appointed by the Government. It was important for the Commission to be completely independent as it could become a national preventive mechanism if the State party were to ratify the Optional Protocol to the Convention. He also asked whether Venezuela could provide a timetable for the process of ratification of the Optional Protocol.

17. The International Commission of Jurists had reported that judges' lack of independence made it difficult to uphold the rule of law and he wished to know whether Venezuela intended to follow the recommendations made by the Commission.

18. **Mr. Zhang Kening** (Country Rapporteur) noted that a number of police, prison and military officers had received human rights training. He wished to know what percentage of the total number of officers they represented, what kind of training they had received and whether that training also included the Convention. He complimented Venezuela for its plans to offer younger police and prison officers university-level training on the obligations of the State under international law.

19. He would appreciate a comment on reports that forensic examinations were performed late and that medical records were sometimes not shared with lawyers or detainees. Information on whether immigration officials were given training on the Convention and the Istanbul Protocol would also be welcome.

20. In view of the seemingly contradictory figures given in the State party's replies to the list of issues, he wished to know exactly how many correctional facilities were operating under the country's new prison regime. He asked how the new prison regime would be affected by the country's ongoing social change, whether the separation of prisoners awaiting trial and convicted prisoners provided for under the new regime was a reality on the ground, and whether reports of prisoners being allowed visitors only once a month, and only female visitors, were accurate. Prison capacity had increased, but the prison population had grown too. For that reason he requested updated information on overcrowding and on the ways that the State party was dealing with the problem, and also on the number of people in police custody and the date by which the State expected the new prison regime to be fully in place. He also asked whether prisoners were compensated for their labour and who decided which prisoners could choose to work. Access to water and health care were apparently guaranteed in the prisons operating under the new regime, but information on the situation in the prisons run under the old system and in police holding facilities would also be welcome.

21. He noted that prisoners awaiting trial accounted for more than 60 per cent of the prison population but wondered what that proportion would be if prisoners in police facilities were included in the count. In addition, the State party had not furnished updated statistics on prison violence. He requested current information on complaints of torture received by the Ombudsman's Office and on the status of several ongoing investigations. The figures for the compensation that the Government had provided to victims were

welcome, but disaggregated data would have been even more helpful. The authorities of the State party should also do what was necessary, if they had not already done so, to ensure that evidence obtained illegally, including through torture, was inadmissible. Lastly, he requested further information on the measures in place to prevent attacks on persons who disagreed publicly with official policies.

22. **Mr. Bruni** requested an account of the results of the sociodemographic appraisal of the prison population mentioned in the State party's report and information on the policies adopted on the basis of those results. Prison overcrowding was widespread worldwide, but instances of overcrowding in Venezuela were sometimes extreme. Tocorón, for example, a prison built to house 750 inmates, currently held 7,000. Prison violence was another acute problem. He therefore wished to know what measures were being taken to stem the tide of violent deaths in prisons. He also wished to know whether the reports of torture and degrading treatment at Yare III and the David Vilorio Penitentiary Centre were accurate, and asked the delegation to indicate what measures were in place to ensure the safety of prison inmates and personnel, put a halt to arms trafficking in prisons and punish officials responsible for torture.

23. **Mr. Gaye** said that the fundamentally divergent descriptions of the situation on the ground strengthened his impression that, despite the delegation's assertion to the contrary, NGOs and other civil-society actors had not contributed to the State party's report. If the country ratified the Optional Protocol to the Convention against Torture and extended invitations to special procedures mandate holders, the degree to which it was meeting its obligations under the Convention could be assessed more dispassionately. He therefore wished to know what its intentions were in that regard. He also wondered whether the recommendations of the National Commission for Police Reform had been made law, what progress had been made following the enactment of the Special Law on Torture, and whether the Police Work Statute Act of 2009 had led to a reduction of the impunity that the police seemed previously to have enjoyed. Lastly, regarding the case of Judge María Lourdes Afiuni, he wondered what ordinary citizens might face if even a judge could be imprisoned and raped just for doing her job.

24. **Ms. Belmir** asked whether the reorganization of the judicial system, which had already been under way in 2001, was continuing. The ease with which temporary judges and prosecutors could be dismissed also warranted an explanation. Lastly, she wondered whether the situation in Venezuela was really such that maintaining order required using the army and the Bolivarian National Militia and whether civilian cases would continue to be tried in military courts.

25. **Ms. Pradhan-Malla** asked what had been done to enforce the law making domestic violence a crime, and requested information on efforts to make the law widely known, the number of support centres in place and other related matters. She also wished to know whether those who had targeted women taking part in the protests of 2013 and early 2014 had been prosecuted, how many cases of gender-based violence had been reported and how many had led to convictions, and what kinds of crimes women fell victim to. Lastly, she asked whether the State was dealing with the practice of mediation and conciliation, which had apparently not been eradicated, even though it had recently been made illegal.

26. **Ms. Gaer** asked whether any investigations had been carried out into the human rights violations allegedly committed by a number of military officers involved in crowd control during demonstrations and what measures were in place to ensure that paramilitary groups were held to account for any crimes they committed. She wished to know whether anyone had been found responsible for the disproportionate use of force that had resulted in injuries to more than 800 demonstrators and asked the delegation to comment on the cases of four high-profile prisoners who were enduring prison conditions that amounted to torture.

Beatings were common in women's prisons, as were searches of body cavities, to which even visiting family members were subjected. Had any of those practices been investigated?

27. In view of the very small number of public officials convicted for torture over a period during which human rights organizations had documented more than 5,000 cases of torture, she wondered what the authorities were doing to combat the evidently high levels of impunity in the country. It also struck her as odd that Venezuela, a member of the Human Rights Council, had not extended an invitation to a single one of the eight Special Rapporteurs who had sought to visit the country, including the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Lastly, she asked whether the treatment that Judge Afiuni had been subjected to did not diminish the independence of lower-court judges and requested information on the involvement of the informers referred to as "cooperating patriots" in the harassment of Rosmit Mantilla.

28. **The Chairperson** asked whether the Special Law on Torture was being implemented, given assertions by NGOs that groups tolerated by the State had breached that Law. In that connection, he asked whether there had been any convictions for attempted torture, which was also punishable under the Special Law. Reports had also been received of harassment of journalists and he requested the delegation's comments on that question. As for the rule that a person could not be kept for longer than 48 hours before being brought before a judge – which was arguably too long, in any case, he asked whether the provision was respected and whether any complaints of delays had been received. He further wished to know whether the relevant professionals received training in the Convention and the Istanbul Protocol. He asked what resources had been set aside for women victims of domestic violence and how the law relating to such violence was enforced.

29. According to NGOs, there were some 53,000 prisoners in the State party, 60 per cent of them in pretrial detention, and he requested comments from the delegation. The percentage in pretrial detention was very high, compared with the figures for Chile or Argentina (approximately 30 per cent). He trusted that the State party adhered to the principle of the presumption of innocence. The riots at Uribana prison in 2013, in which over 60 people had died, had shown that there were serious problems in Venezuelan prisons. He noted that the State party had not replied to any of the points raised in question 21 of the list of issues and requested a reply. He asked how the law on impunity was implemented. He commended the adoption of the law on children's rights but drew attention to a discrepancy between the 39 cases that the State party claimed had come before the courts and the much higher number given by NGOs. He asked how many convictions for violence against children had been obtained over the past 10 years.

30. The Committee needed more information on discrimination on the grounds of sexual orientation and gender identity, which was a significant issue. He asked whether there had been any prosecutions or convictions of persons engaging in cruel treatment on such grounds and whether any reparation — in the form of recognition or material compensation — was granted to victims.

31. **Mr. Modvig** noted that the Special Law on Torture contained no specific provisions on the rehabilitation of victims, which was a requirement under article 14 of the Convention. He asked whether the State party would consider rehabilitation services for torture victims, perhaps as part of the health-care system. He also asked for an explanation of the provisions under the Organic Law on Security relating to the options available to the police in controlling demonstrations. He wondered whether the use of force was legitimate and what body monitored the police and security forces to ascertain whether the force used was proportionate. He further asked whether the State party would denounce and disband the *colectivos*, which were groups outside the law enforcement agencies but acted in coordination with them. Lastly, he asked about the procedures followed in cases of deaths

in custody. He wondered whether there was an independent investigatory body that oversaw such procedures.

The public part of the meeting rose at 12.05 p.m.