



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Argentina

Concluding observations (117th session): CCPR/C/ARG/CO/5, 10 August 2016

Follow-up paragraphs: 12, 14 and 24

Follow-up reply: CCPR/C/ARG/CO/5/Add.1, 14 July 2017

Committee's evaluation: Additional information required on paragraphs 12[C][A], 14[C][B] and 24[B]

Additional information: Office of the Ombudsman for the Prison System

Paragraph 12: Voluntary termination of pregnancy

The State party should revise its legislation on abortion, including its criminal legislation, by, *inter alia*, introducing additional exceptions to the prohibition on abortion, such as in cases where the pregnancy is the result of rape, irrespective of the woman's intellectual or psychosocial capacity. The State party should also ensure that all women and girls have access to reproductive health services in all parts of the country and that women are not obliged, as a consequence of legal obstacles, the exercise of conscientious objection of health workers or the lack of medical protocols, to resort to clandestine abortions that put their lives and health at risk. In light of the situation in the Belén case, the State party should consider decriminalizing abortion, and should review the Belén case in light of relevant international standards, with a view to her prompt release. Furthermore, the State party should increase education and awareness-raising programmes and ensure their implementation in both formal spheres, such as public and private schools, and informal arenas, such as the mass media and other forums, on the importance of using contraceptives and the right to sexual and reproductive health.

Summary of State party's reply

Access to legal abortion on the grounds laid down in the Criminal Code is one of the main priorities of the National Programme for Sexual Health and Responsible Parenthood. Under the Programme, awareness-raising, training and technical and legal assistance activities for comprehensive personal care have been conducted throughout the country.

* Adopted by the Committee at its 126th session (1–26 July 2019).



In addition, training is provided with a view to consolidating the policy on legal abortion. A sexual health training programme for students has been in place since 2012; between 2012 and 2016, this programme covered 44,100 schools and 115,200 teachers.

As regards the Belén case, the Tucumán Supreme Court acquitted Belén in March 2017, after she was released in August 2016.

Committee's evaluation

[C]: The Committee regrets the lack of specific information on: (a) measures taken to revise abortion legislation by introducing additional exceptions to the prohibition on abortion, such as in cases where the pregnancy is the result of rape, irrespective of the woman's intellectual or psychosocial capacity, and (b) measures taken since the adoption of the concluding observations to ensure that women are not obliged, as a consequence of legal obstacles, the exercise of conscientious objection of health workers or the lack of medical protocols, to resort to clandestine abortions. The Committee takes note of the information on the training courses that have been run, especially those aimed at students, but requests additional information on training that has taken place since the adoption of the concluding observations, on the importance of using contraceptives and the right to sexual and reproductive health.

[A]: With respect to the Belén case, the Committee welcomes the judicial decisions to release and acquit Belén, which were handed down in August 2016 and March 2017, respectively.

Paragraph 14: Torture and ill-treatment

The State party should:

- (a) **Ensure that all complaints of torture and ill-treatment are investigated promptly, thoroughly and independently and that the perpetrators of such acts are brought to justice;**
- (b) **Ensure that victims receive appropriate reparation, including health and rehabilitation services;**
- (c) **Ensure that forensic examinations performed in presumed cases of torture and ill-treatment committed by State officials are impartial, comprehensive and conducted in accordance with the Istanbul Protocol;**
- (d) **Implement a unified registration system for acts and victims of torture with a view to establishing specific policies for the prevention of torture and cruel, inhuman or degrading treatment, including by conducting systematic human rights training programmes for law enforcement and security officers; and**
- (e) **Expedite the adoption of the necessary legal measures to ensure that the national preventive mechanism is established in all regions of the country, as provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and ensure that this mechanism is provided with sufficient human and financial resources to enable it to function efficiently.**

Summary of State party's reply

- (a) According to the Code of Criminal Procedure, offences may be reported to the courts, the public prosecutor's office or the police.

The Corruption Prevention Service and the Violence Reduction Service have been established within the Federal Prison Service. In addition, a body of lawyers has been established to investigate events that have occurred and two complaint hotlines have been set up by the Federal Prison Service. Decision No. 1088/2014 led to the establishment of the Prison Monitoring and Inspection Service, which is in charge of the internal oversight of prisons.

In the Ministry of Security, the Coordinating Body for the Management of Complaints is the institutional channel through which complaints and claims regarding acts of institutional violence can be filed. The Directorate for Monitoring the Causes of Institutional Violence and Crimes of Federal Interest keeps a record of complaints of institutional violence. After opening an administrative case file, it may then conduct an administrative investigation or bring the case before the courts.

(b) A unit that coordinates the provision of support and assistance to victims of crime has been established within the Directorate for Monitoring the Causes of Institutional Violence and Crimes of Federal Interest, in accordance with decision No. 855-E/2016. Although the unit does not, strictly speaking, deal with the health and rehabilitation of victims, it does provide emotional support, assistance and advice to victims of crime.

The Dr. Fernando Ulloa Centre for Victims of Human Rights Violations was founded in 2011. In 2017, it treated at least 391 patients.

(c) The State party referred to the legal framework for the activities of the Forensic Medicine Division and reported that medical professionals receive ongoing training on the subject.

(d) The Ministry of Security has taken steps to modernize the professional training curriculum. The training courses are structured in accordance with international human rights standards and instruments.

The State party also referred to various training programmes for prison staff.

(e) The progress made in implementing local mechanisms varies from place to place. The State party referred to improvements in specific provinces. The Office of Human Rights and Cultural Pluralism has offered to assist the 24 provincial authorities by advising them on approving local preventive mechanisms, adapting regulatory frameworks, and using and maintaining the local preventive mechanisms that have already been established.

Information from the Office of the Ombudsman for the Prison System

As far as torture is concerned, the situation has not changed much in recent years. Torture and ill-treatment continue to be used recurrently in detention centres. The victims fear reprisals and, in 2016, only 39 per cent of victims consented to file a criminal complaint. Although there have been some specific improvements, impunity remains an obstacle in the fight against torture. The judicial response to allegations of torture and ill-treatment remains inadequate in the vast majority of cases.

Committee's evaluation

[C] (a), (d) and (e): The Committee notes the information provided by the State party but requests specific information on measures taken since the adoption of the concluding observations to ensure that all allegations of torture and ill-treatment are investigated promptly, thoroughly and independently. The State party should also provide information on measures taken since the adoption of the concluding observations to ensure that the perpetrators of acts of torture and ill-treatment are brought to justice and, if available, information on sentences handed down since the adoption of the concluding observations.

The Committee notes the information provided by the State party but regrets the lack of information on measures taken to implement a unified registration system for acts and victims of torture. It notes the information provided on the curriculum modernization process and decisions Nos. 554 and 555/2016 but requests more information on the establishment of specific policies for the prevention of torture and cruel, inhuman or degrading treatment.

The Committee notes the information supplied by the State party but requests further information on specific steps taken since the adoption of the concluding observations with a view to expediting the adoption of legal measures to ensure that the national preventive mechanism is established in all regions of the country. In particular, the State party should clarify which provinces established a local mechanism after the adoption of the concluding

observations. The Committee also requests information on steps taken to provide additional human and financial resources to the mechanism so that it can operate efficiently.

[B] (b) and (c): The Committee takes note of decision No. 855-E/2016, establishing the unit that coordinates the provision of support and assistance to victims of crime, but requests more information on the unit's work to ensure that victims receive appropriate reparation, including health and rehabilitation services. It also requests further information on measures taken since the adoption of the concluding observations to implement the Committee's recommendation.

The Committee notes the information provided by the State party regarding ongoing training for the Forensic Medicine Division but requests further information on the number of training sessions held since the adoption of the concluding observations and the way in which this training contributes to the implementation of the Committee's recommendation. In addition, the Committee requests information on the General Regulation on Searches and Inspections and would like to know whether the State party intends to issue a permanent regulation.

Paragraph 24: Conditions of detention

The State party should adopt effective measures to improve material conditions in its prisons, reduce overcrowding and duly meet the basic needs of all persons deprived of their liberty, particularly with respect to their access to health services, in accordance with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The State party should also consider making wider use of non-custodial measures, such as electronic surveillance devices, parole and community service.

Summary of State party's reply

According to the 2015 report of the national statistics system, there is overcrowding of 10 per cent on average nationwide and over 30 per cent in some provinces. The situation is at its worst in Buenos Aires and a prison emergency has been declared in that jurisdiction.

The facilities of the Federal Prison Service are being expanded to provide the federal system with an additional 2,150 places. A workplan allowing for the renovation of almost all the country's infrastructure between 2017 and 2022 is being developed. Under the plan, the number of places available in prisons will double by 2023 and 5,000 places in old and outdated facilities in urban centres will be abolished.

Decision No. 86/2016 extends the use of electronic monitoring devices to the whole country. The State party listed the persons who were entitled to use such devices.

With regard to health services, the State party provided information on the national programmes available.

The new Code of Criminal Procedure of 2015 brought about a shift within the criminal justice system from an inquisitorial procedure to an adversarial procedure. The Unification of Jurisdictions and Single Judge Act provides for measures that expedite legal proceedings and facilitate the investigation and prosecution of offences. These initiatives will reduce the use of pretrial detention.

Information from the Office of the Ombudsman for the Prison System

The prison population has increased in recent years and the federal prison system currently has the highest rates of incarceration. The State party should establish a clear and transparent procedure for determining the number of places available in each place of deprivation of liberty in accordance with international standards.

The Office of the Ombudsman for the Prison System mentioned three maximum security units, in Rawson, Chaco and Neuquén, whose buildings are in such poor condition that they do not meet minimum standards for accommodation.

The Office of the Ombudsman for the Prison System expressed concern at the State party's plan to expand the facilities of the Federal Prison Service to create an additional

18,000 places in detention centres. The State party should not double the number of federal prisoners; instead, it should apply a rational criminal justice policy that incorporates non-custodial penalties, a reduction in the use of pretrial detention and respect for the rights of persons deprived of their liberty.

Committee's evaluation

[B]: The Committee notes the information provided on the measures taken to reduce overcrowding and to improve material conditions in prisons, especially the plans to expand the facilities of the federal prison system, but requests clarification on the information received by the Committee indicating that the prison population has actually increased in recent years and that the federal prison system has record rates of incarceration. The Committee notes the increase in the use of electronic monitoring devices but requests information on the use of other non-custodial measures to tackle overcrowding in the State party. It also requests specific information on the current conditions of detention in the maximum security units in Rawson, Chaco and Neuquén and measures taken to improve the conditions of detention in these places. The Committee requests information on the implementation of the plan to expand the facilities of the Federal Prison Service referred to by the State party.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report: 15 July 2022.
