



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

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Seventy-sixth session

Summary record of the 1978th meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 18 April 2023, at 10 a.m.

Chair: Mr. Heller

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* No summary record was issued for the 1977th 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

Sixth periodic report of Colombia (CAT/C/COL/6; CAT/C/COL/QPR/6)

1. *At the invitation of the Chair, the delegation of Colombia joined the meeting.*
2. **Ms. Taylor Jay** (Colombia), introducing her country's sixth periodic report (CAT/C/COL/6), said that her delegation wished to commend the Committee on the proactive and constructive way in which it had addressed the human rights situation in Colombia. A primary objective of the Government headed by President Petro Urrego was to transform the country into a "world Power of life" founded upon a new social contract and the State's international human rights commitments. Government action would focus on the inclusion of women, the transition to an economy centred on progress, environmental protection and human rights, the consolidation of democracy and the formation of a culture of peace. The ultimate goal was to achieve total peace, which was a fundamental constitutional right.
3. The Government was determined to safeguard the entire range of individual and collective human rights, and providing protection from serious human rights violations, such as torture and ill-treatment, was the cornerstone for that commitment. The Government would never again allow State officials to perpetrate or abet torture or ill-treatment and would work with international human rights bodies, civil society organizations and the judiciary to build a more democratic and peaceful society.
4. Her country's new foreign policy was grounded in the promotion and protection of human rights and centred on people and the environment. It would seek to secure the support of the international community for negotiations with new actors in the armed conflict aimed at achieving the kind of peace that would ensure respect for human dignity and facilitate the fulfilment of international commitments.
5. The Government had begun renewing those international commitments by ratifying additional instruments and withdrawing reservations incompatible with its rights-based approach. In particular, in line with the Committee's previous recommendations, early in the year it had introduced a bill for the ratification of the Optional Protocol to the Convention, which would enter into force following its adoption by Congress and its review by the Constitutional Court. The bill would open the way for redress and guarantees of non-repetition for the victims of torture and demonstrated the State's commitment to preventing torture and to addressing the problematic situation in the country's prisons. Following the bill's ratification, the Government would work with civil society, the prosecution service and the judiciary to ensure compliance with the Optional Protocol. At long last, with the support of United Nations agencies, an action plan on the implementation of Security Council resolution 1325 (2000) on women and peace and security was also being developed.
6. Meanwhile, the Government was moving ahead with measures to prevent torture and ill-treatment in the country's prisons and jails and had put forward a bill for the modernization and humanization of the prison system that was intended to transform prisons from "universities of crime" to places of social reintegration. Since 2007, the National Prisons Institute had been using a centralized computer application that gave real-time access to information about all persons deprived of their liberty. That system would play a vital role in ensuring compliance with the State's obligations under the Convention and the Optional Protocol. The Institute had also created an online registry, which any interested person could consult to determine the status and whereabouts of persons in detention.
7. As soon as a prisoner arrived at a correctional facility, information on that person was entered into the centralized information management system and the person underwent a medical examination. A post-examination follow-up procedure, implemented nationwide, allowed for the timely identification of persons with health conditions requiring attention, and those prisoners were then referred to the appropriate health services.
8. Since 2015, with technical support from the International Committee of the Red Cross, the National Prisons Institute had held annual workshops on human rights and the use

of force that covered, among other topics, the Convention, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, prison regulations, the code of conduct for law enforcement officials and negotiation methods.

9. The Ministry of Defence had issued guidelines on human rights training for the security forces that covered international humanitarian law, the prevention of sexual and gender-based violence, recognition of the mandates of international organizations and respect for indigenous peoples and Afro-Colombian, LGTBIQ+ and Roma persons. Almost 30,000 officers had received that training in the previous two years. The Ministry of Defence was analysing what additional measures were needed to ensure that its personnel respected human life and dignity in all circumstances.

10. Since 2012, the Comprehensive Victim Support and Reparation Unit had conducted vital work to assist the victims of armed conflict, providing both individual support and collective reparations. Comprehensive reparations incorporated individual, collective, material, moral and symbolic forms of redress consisting of rehabilitation services, monetary compensation, measures of satisfaction, restitution and guarantees of non-repetition. In addition, the State provided support to ensure the effective enjoyment of the rights to education, health, housing and employment, coupled with measures for the restoration of dignity, memory and truth.

11. Under the Administrative Programme for Collective Reparations, campesino, ethnic and other communities and peoples and social movements, groups and organizations had received redress for the collective harm they had suffered. Collective reparations also involved a political dialogue between institutions and civil society about past events and measures of redress with a view to restoring trust and achieving reconciliation. A gender-focused psychosocial support programme was in place that drew upon the participants' collective memory of harm suffered as a result of the conflict in the past to help them build a better future through self-realization and empowerment. Between 2019 and 2022, more than 4,500 women had benefited from this strategy.

12. A differentiated approach to the provision of rehabilitation services for children, victims of sexual violence, older persons and persons with disabilities helped beneficiaries give new meaning to their experiences, rebuild their life plans and strengthen their coping skills. Between 2019 and 2022, as part of the comprehensive reparation programme, this form of support had been provided to 345 survivors of torture, and measures of satisfaction had been furnished to 2,011 survivors of the armed conflict.

13. Peace was a necessary precondition for the fulfilment of the obligations assumed under the Convention, and every effort was being made to implement the 2016 peace agreement with the former Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia – People's Army) (FARC-EP), to negotiate successfully with other groups and to support the work of the transitional justice system, comprising the Unit for the Search for Persons Deemed Disappeared, the Special Jurisdiction for Peace and the Commission for the Clarification of Truth, Coexistence and Non-Repetition.

14. The Special Jurisdiction for Peace had priority jurisdiction over cases involving acts committed before 1 December 2016 as part of the armed conflict by former FARC-EP combatants, members of the security forces or, under certain circumstances, civilian third parties. The Jurisdiction placed priority on the most serious cases and on perpetrators in the most senior positions. The sentences it imposed took into consideration whether the perpetrators acknowledged responsibility and gave a full and truthful account of what had occurred. In accordance with international human rights standards, persons responsible for crimes such as torture, extrajudicial executions, enforced disappearance, sexual violence and the recruitment of minors were not eligible for amnesty, pardon or waiver of prosecution.

15. In line with its commitment to human rights and to the achievement of total peace, the Government was pursuing renewed negotiations with the Ejército de Liberación Nacional (National Liberation Army) (ELN) and the comprehensive implementation of the 2016 peace agreement. Those undertakings involved recognizing the disproportionate impact of armed

conflict on historically marginalized groups and developing policies to address the social models that had contributed to discrimination and inequality.

16. The Colombian Government maintained a policy of cooperation with the Committee against Torture and stood ready to resolve any concerns that the Committee might have and to act upon its recommendations with a view to the full implementation of the Convention against Torture.

17. **The Chair** (Country Rapporteur) said that he was heartened by the willingness shown by the Government of Colombia to rise to the many human rights challenges it faced and to address the sociopolitical consequences of the country's past. The periodic report was particularly relevant in the light of the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, signed in 2016 between the Government of Colombia and FARC-EP. Although numerous obstacles to its implementation remained, the Agreement had already yielded important results, including the demobilization of FARC-EP, the creation of the new Comunes political party, the establishment of transitional justice mechanisms and the political participation of victims in the areas of the country most affected by the armed conflict thanks to the establishment of 16 special transitory peace electoral districts.

18. Nonetheless, an increase in violence in rural areas and in some urban centres was affecting the community life of the most vulnerable groups, including indigenous peoples, campesinos and persons of African descent, who together accounted for around 15 per cent of the population. Moreover, some aspects of the Agreement had been implemented inequitably, in which regard it was important to recall that, according to the Economic Commission for Latin America and the Caribbean (ECLAC), Colombia had the second-highest level of inequality in the region. To address those issues, it was vital to implement comprehensive agrarian reforms and to take a new approach to drugs policies.

19. He had been encouraged to learn of the ambitious political drive for "total peace" being promoted by President Gustavo Petro, which had been enshrined as official State policy in a new law enacted in November 2022, and of the fact that the pursuit of total peace had entailed the renewal of negotiations with ELN and the announcement of a unilateral ceasefire with five other non-State armed groups and criminal organizations.

20. While, in an overall sense, the new approach taken by the Government on the basis of the implementation of the Final Agreement was generally positive, grave challenges remained, including, in particular, persistent violence by illegal armed groups and an increase in threats and violence directed at community leaders, human rights defenders, journalists and former combatants, with 355 of the latter having been killed since the signing of the Final Agreement in 2016. Since 2022, moreover, at least 115 children had been recruited by non-State armed groups, of which there were more than 30 still operating in Colombia. In fact, armed groups controlled an expanse of territory in which 7 million persons – or more than 15 per cent of the population – lived, where they were responsible for grave human rights violations against civilians, including summary executions and torture.

21. The Committee had received reports pointing to the need to bring certain aspects of the definition of torture in the Criminal Code into line with the Convention. For example, under the existing provisions, alleged perpetrators who were not public officials but rather private citizens could also be prosecuted for the offence of torture. He hoped that the delegation could therefore inform the Committee about any investigations into cases of torture where the alleged perpetrators were private citizens.

22. Despite the claim made in the periodic report that fundamental safeguards were fully upheld, the Committee had received information about detentions described as "protection-related transfers" being carried out during the national strike of 2021. Persons thus detained had reportedly been denied legal assistance and their habeas corpus rights. The Committee had also received reports of persons being held in detention in unofficial facilities and of physical and gender-based violence, including sexual violence, against protestors which, in at least one case, that of Elvis Vivas, had led to the person's death. He looked forward to hearing about any investigations into such allegations.

23. The bill currently before Congress by which the Government intended to ratify the Optional Protocol to the Convention against Torture was not only a very welcome initiative

but also constituted a radical shift on the part of the State, which had previously categorically refused to contemplate ratification. Since the process required the approval of the Constitutional Court, it seemed likely that it would take some time to complete; perhaps the existing national human rights institution – the Ombudsman’s Office – could act as an interim national torture prevention mechanism until such time as the Optional Protocol had been ratified and a permanent mechanism could be created. Could the delegation report on any plans the Government might have to recognize the competence of the Committee to consider individual communications in accordance with article 22 of the Convention?

24. In the light of a 2016 ruling by the Constitutional Court that military tribunals could not be seized of cases involving torture, he wished to know how many such cases had been transferred from military to civilian courts. The Colombian Commission of Jurists had recorded 495 cases of torture between 2015 and mid-2022, more than 50 per cent of which had been committed by public officials and around 20 per cent by paramilitary and guerrilla groups. In view of those figures, he would be interested to know how many investigations into torture-related offences were currently being conducted or had been concluded and how many convictions had been handed down by the courts. He also hoped to hear about the methodologies used to document cases of physical and psychological torture and about any measures in place to facilitate the use of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

25. In its concluding observations on the fifth periodic report of Colombia (CAT/C/COL/CO/5), the Committee had expressed concerns regarding prison conditions, the excessive use of force by law enforcement officers and redress for victims of torture and ill-treatment. Those concerns had since been amplified by the measures taken to counter the coronavirus disease (COVID-19) pandemic in already overcrowded prisons and by the excessive use of force against participants in the protests that had taken place between 2019 and 2021.

26. The Committee was concerned by the violence that had marked the national strike of 2021, which had been organized by trade unions and other civil society actors to protest against changes in tax laws introduced by the Government of the then president. According to reports, at least 46 persons had been killed, including 11 passers-by who had been caught up in the events. Evidence gathered by the United Nations and other organizations pointed not only to an excessive and disproportionate use of force on the part of the Mobile Anti-riot Squad, but even to the involvement of army units in attacks on demonstrators. In addition, the Committee had received troubling reports about an army operation in March 2022 that had led to the deaths of 11 persons in Putumayo. It would be appreciated if the delegation could inform the Committee about any investigations into those incidents, cases brought to court and sentences handed down. In particular, he hoped that the delegation could comment on the fact that prosecutors had chosen to bring such serious charges as terrorism and criminal conspiracy against young, peaceful protestors.

27. He wondered if there were any plans to assess the role of the Mobile Anti-riot Squad and whether protocols concerning the use of force and of less-lethal weapons had been revised in the wake of the 2021 incidents. Could the delegation confirm reports that the new Government intended to reform the police and to remove the police force from the jurisdiction of the Ministry of Defence?

28. Reports had reached the Committee regarding the use of various forms of torture as a means of maintaining order inside prisons. At the prison of San Isidro de Popayán, inmates had allegedly been confined to their cells for three months in 2020 as a punishment for protesting against measures taken to combat the COVID-19 pandemic. He wondered whether the delegation could confirm such reports and, in particular, whether solitary confinement was ever used as a form of punishment. Had any investigation been conducted into the riot at La Modelo prison in Bogotá in March 2020, in which 24 persons were reported to have died? The Committee was also concerned by the practice of transferring prisoners to temporary detention centres as a way of easing prison overcrowding and by reports that women, indigenous persons, persons of African descent and lesbian, gay, bisexual, transgender and intersex persons had been subjected to violence and abuse at the hands of prison staff because of their identities.

29. While welcoming the adoption of legislation prohibiting amnesties or pardons from being granted in cases of serious human rights violations, he was concerned that the same law provided for a programme of conditional release for State officials and former FARC-EP members, regardless of the gravity of the offence, without also establishing an effective monitoring system. He wondered whether such a programme had actually been established.

30. It would be interesting to know how many cases had been brought before the Special Court for Peace against military personnel and former FARC leaders accused of participating in hostage-taking and extrajudicial killings of civilians. He had noted that, in 2022, the Court had sentenced former FARC leaders to “special sanctions” for their role in various crimes, and he wished to know what was meant by that term in practice.

31. Given the threat to peace posed by the continued presence of paramilitary groups in the country, he would welcome information on the progress made towards achieving the objective of total peace and, in particular, how that tied in with the decision to authorize a ceasefire and suspend arrest warrants to ensure the safety of members of illegal armed groups and criminal groups.

32. As drug trafficking remained a main driver of violence in areas affected by the conflict, he wished to know what initiatives had been adopted to foster a new, less punitive international approach to combating the problem, as called for by the President.

33. Since Colombia was hosting the largest number of Venezuelan refugees, asylum-seekers and migrants in the region, he wished to know whether the Government intended to amend decree No. 167 of 2008 in order to grant refugee status to asylum-seekers in transit areas and whether refugee status gave holders the right to residence and to work. He wondered whether the situation of Venezuelan citizens living in Colombia had been addressed during the bilateral discussions on the normalization of relations between the two countries and whether there were any plans for cooperation between the two Governments in that connection. It would also be useful to know what measures had been taken to provide assistance, protection and access to justice for migrants making perilous journeys through Colombian territory.

34. He wished to know what the State party was doing to prevent violence against human rights defenders and community leaders, how many cases of such violence had been investigated and what results had been achieved. Lastly, he would be interested to learn what structural reforms were planned to provide increased protection for such persons and, in particular, whether the State party intended to implement the emergency plan proposed by civil society.

35. **Mr. Iscan** (Country Rapporteur) said that he welcomed the State party’s reaffirmation of its commitment to human rights and supported its approach to achieving peace. He noted that the consolidation of peace would depend on both the comprehensive implementation of the peace agreement and the ability of the authorities to curb the ongoing violence.

36. He wished to know whether acts of torture were considered universal crimes under Colombian law and whether any further extradition arrangements had been introduced since the publication of the State party’s report. He wondered what steps had been taken in recent years to ensure that all civil servants had a full understanding of the Convention, to develop a methodology for assessing the impact of human rights training and to provide training for judges, prosecutors and medical staff on the detection of the physical and psychological consequences of torture. He would welcome statistical data on the number of people who had received such training and wondered whether the Ministry of Defence continued to cooperate with the International Committee of the Red Cross in its provision. It would be useful to know whether the methodological guidelines developed by the Ministry of Health and Social Security for individual and family-based psychosocial care for victims of torture and cruel, inhuman or degrading treatment or punishment in the context of the armed conflict had been issued and, if so, what the impact of their application had been.

37. He would be interested to learn whether the authorities had updated the Government’s interrogation rules, instructions, methods and practices or arrangements for the custody and treatment of persons under arrest, detention or imprisonment and how frequently such standards were reviewed.

38. He would also appreciate updated statistics on prison overcrowding and conditions of detention. It would be useful to know what measures the State party had taken or planned to take to mitigate prison overcrowding. Information would also be welcome on the current status of laws and regulations concerning solitary confinement, including statistics on its use in practice and any other action taken by the State party in that connection. Up-to-date information on violence among prisoners, complaints about possible negligence on the part of prison staff in that respect, the related investigations and their outcomes would also be helpful. He would like the delegation to comment on reports that some minors in detention centres had been forcibly medicated as a means of coercion. With a view to ascertaining the efficacy of measures to prevent deaths in places of deprivation of liberty, he would like the delegation to provide updated statistics concerning that issue.

39. The information provided in the periodic report did not enable the Committee to determine whether the State party was fulfilling its obligation under article 14 of the Convention to ensure that victims of torture obtained full and effective redress and compensation, and further details in that connection would therefore be appreciated. He wished to know what means of rehabilitation had been ordered by the courts or other State bodies and provided in practice to the victims of torture and ill-treatment or their families. He would also appreciate an indication of the number of requests for compensation made, the number of requests granted and the amounts of compensation ordered and provided.

40. Given that in 2021 the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had requested to visit the State party, he wondered whether any arrangements had been made for such a visit.

41. **Mr. Buchwald** said that he would like to know whether the Special Jurisdiction for Peace considered hierarchical superiors to be responsible for acts of torture perpetrated by their subordinates if, under the circumstances, they should have known that torture was taking place, or whether they were held responsible only if they had had actual knowledge of the torture. It would also be useful to have clarification as to whether, under the Colombian Criminal Code, public officials were held criminally responsible if they acquiesced to the infliction of severe pain by another person on a victim.

42. **Ms. Racu** said that she would be interested to learn about any measures taken to improve access for women deprived of their liberty to health care and hygiene services and to provide them with access to educational or employment programmes. She also wished to know how the issues of contact with the outside world, family visits and disciplinary sanctions were dealt with in the case of women prisoners. She wondered whether a complaint mechanism was in place for women prisoners and, if so, how many complaints had been lodged over the preceding two years and what the outcomes of the related investigations had been. It would be helpful to gain a better understanding of any relevant legal provisions, best practices and other measures taken to improve the conditions of detention for women in the State party. Information on the situation in the El Buen Pastor prison would be particularly welcome. What were the most recent developments regarding alternatives to incarceration for women?

43. She would appreciate updated information on the number of foreign nationals who were in prison in the State party and an indication of whether those who could not speak Spanish had access to educational or vocational programmes. Clarification would be welcome regarding reports of violence and discrimination against foreign prisoners.

44. It would be useful to have further information on restorative justice measures for children. She would also like updated figures on the number of girls who were deprived of their liberty. The information available to her indicated that quite a large number of girls had been in prison in the last few years. If that number remained high, she would like to know why. She would be keen to learn whether any educational or vocational training programmes were in place for children deprived of their liberty. Did those children have access to paediatric medical care and rehabilitation programmes?

45. **Mr. Liu** said that, while he commended the 2022 decision of the Constitutional Court that had decriminalized abortion up to the 24th week of pregnancy, there were reports that access to safe and legal abortion was still limited and unequal. He would therefore like to know what obstacles were hindering the authorities' ability to guarantee safe and legal access

to abortion and what measures had been taken to implement the above-mentioned legal decision.

The meeting was suspended at 12.15 p.m. and resumed at 12.50 p.m.

46. **A representative of Colombia** said that women made up 7 per cent of all persons deprived of their liberty in his country, with some 6,560 women being held in prison and 631 in temporary detention centres. Since the submission of the periodic report, his country had been working to mainstream a gender perspective in the penitentiary system. Act No. 2261 of 2022 had established a menstrual health policy for women deprived of their liberty which included the provision of menstrual care products and a preventive health component. While menstrual care products had been supplied before the introduction of the policy, they had now become a priority issue.

47. Act No. 2291 of 8 March 2023 established an alternative to imprisonment for women who received a prison sentence of less than 8 years. Women were eligible for alternative non-custodial sentences if they were the head of their household and had perpetrated a crime in the context of marginalization or poverty. Those criteria were based on empirical evidence. The alternative to imprisonment was the performance of unremunerated community work in non-profit or public entities. The aim was to ensure that the women involved became more employable so that they could escape the situation of marginalization in which they had committed a crime and thus be less likely to reoffend. His country was deeply invested in the success of that legislation, whose implementing regulations would be prepared in the first half of 2024 and would enter into force in the second half of that year. It was not yet possible to provide statistics on the impact of the new law, but surveys were being carried out to allow the authorities to ascertain how many positions would need to be created for the beneficiaries of the programme. Those positions would contribute to the development of a career in the formal sector rather than perpetuating negative stereotypes.

48. Two laws had been adopted and a draft bill was being prepared with a view to providing better non-custodial alternatives for both men and women. Those provisions would ensure that repeat offenders received longer sentences while perpetrators of petty crimes were less severely punished.

49. **Ms. Taylor Jay** (Colombia) said that her country was ready and willing to receive a visit from the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and would set a date for the visit in the coming months.

The meeting rose at 1 p.m.