



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

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Committee against Torture Seventy-third session

Summary record of the 1899th meeting*

Held at the Palais Wilson, Geneva, on Thursday, 5 May 2022, at 10 a.m.

Chair: Mr. Heller

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* No summary record was issued for the 1898th 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 *(continued)*

Fourth periodic report of Uruguay ([CAT/C/URY/4](#); [CAT/C/URY/QPR/4](#))

1. *At the invitation of the Chair, the delegation of Uruguay joined the meeting.*
2. **Ms. Ache** (Uruguay), introducing her country's fourth periodic report ([CAT/C/URY/4](#)), said that Uruguay was firmly committed to upholding international human rights standards, as demonstrated by its ratification of all the main treaties and the optional protocols thereto and its standing invitation to any inter-American or United Nations special procedures mandate holders who wished to visit the country.
3. Since the submission of the report, the Government had been forced to redirect public expenditure to address the public health and social impact of the coronavirus disease (COVID-19) pandemic. It had adopted a range of policies designed to ensure that persons deprived of their liberty had access to vaccines and were able to continue their educational activities and receive family visits.
4. In its efforts to ensure the highest possible level of protection for human rights, the Government had prioritized the promotion of equality and the fight against discrimination. It had also taken measures to protect the dignity of detainees. In the previous two years, legislation had been adopted to allow detainees to produce goods to sell outside prison, to ensure greater involvement of the Ministry of Social Development in the prison system, to establish the category of "young adult" with the aim of improving access to rehabilitation services for young persons deprived of their liberty, and to provide support to businesses employing former prisoners.
5. The prison system had undergone wholesale reform: prison facilities had been expanded and improvements had been made to prison conditions and to social rehabilitation activities. Alternatives to detention were now used more widely in order to reduce overcrowding. The Government was continuing its efforts to bring the country's prisons into line with international standards. One of its main areas of focus was the provision of human rights training for officials from law enforcement agencies, the National Rehabilitation Institute, the Ministry of the Interior, the judiciary and the National Institute for the Social Inclusion of Adolescents. The national preventive mechanism and the Parliamentary Commissioner for the Prison System worked together to conduct visits to places of detention with the aim of preventing torture and ill-treatment.
6. The adoption of the Mental Health Act had introduced a human rights-based approach to the management of mental health conditions. Reforms under way would bring about a gradual closure of institutions and a shift towards community-based care. The human rights approach would help improve treatment for inmates with addictions. In the area of child and adolescent mental health, great strides were being made towards a socio-educational model. The Government was committed to ensuring that hospitalizations were kept as short as possible.
7. The rights protection system managed by the Uruguayan Institute for Children and Adolescents was being consolidated, and its strategy was being refocused away from residential settings and towards family and community integration. The National Institute for the Social Inclusion of Adolescents, which had been set up in 2015, had been allocated its own budget, enabling it to train staff and organize recreational, sporting and socio-educational activities.
8. National laws and plans had been adopted to improve inter-agency coordination in tackling sexual exploitation, trafficking in persons and domestic and gender-based violence. The first specialized courts had recently been established to deal with cases of domestic, gender-based and sexual violence.
9. While much progress had been made, there was still work to be done. For example, the definition of the offence of torture in the Criminal Code still needed to be brought into line with article 1 of the Convention, as recommended by the Committee in its previous

concluding observations (CAT/C/URY/CO/3). However, amendments to criminal law required a lengthy consultation process that it had not yet been possible to complete.

10. **The Chair** (Country Rapporteur) said that the report gave the general impression that there was an imbalance between the State party's unquestionable commitment to human rights and the shortfall in human, financial and material resources allocated to give full effect to the provisions of the Convention. A particular concern was the existence of an extremely punitive juvenile justice system. Another was the prevalence of highly unsatisfactory conditions in places of detention.

11. He would like to know whether the State party had given further consideration to defining torture as a stand-alone criminal offence, in line with article 1 of the Convention, and establishing a national registry of cases involving torture. He would appreciate updated information on the follow-up that had been given to the six complaints of torture referred to in paragraph 14 of the State party's report.

12. During its visit to the State party in 2018, the Subcommittee on Prevention of Torture had heard many allegations, mainly from adolescents, of torture and ill-treatment, reportedly committed by members of the special police operations unit known as "Los Halcones" (the Hawks) and GRECO (the Organized Crime Squad). The Committee would appreciate information on whether those allegations had been investigated and the perpetrators punished.

13. He would be grateful for an update on the status of the bill amending Act No. 18446 on the creation of the National Human Rights Institution and the Ombudsman's Office. He would welcome the delegation's assessment of the situation of the National Human Rights Institution, which was also the national preventive mechanism, with a particular focus on the human and financial resources made available to it and its ability to properly and independently fulfil its functions of monitoring and torture prevention throughout the country. It would be useful to hear how the authorities ensured that there was no duplication of functions in the work of the national preventive mechanism and the Parliamentary Commissioner for the Prison System. It would also be helpful to hear the delegation's response to reports that certain political parties wished to dismantle the National Human Rights Institution.

14. The Committee was concerned about numerous aspects of Act No. 19889, which had been adopted in 2020 under the fast-track legislative procedure (*ley de urgente consideración*). The new offences and the punitive approach set out in the Act risked a step backwards with respect to the State party's international human rights commitments. The Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had voiced particular concern about the provisions regulating the use of force by law enforcement officials and restrictions on the right to assembly and peaceful protest. Human rights defenders, civil society organizations and the National Human Rights Institution considered that relaxing the regulations on the legitimate use of force in self-defence would send the wrong message to police officers. He recalled that international standards required that force should be used by law enforcement officials only when required and that the principles of reasonableness, necessity and proportionality should be adhered to strictly and not only "to the extent possible", as provided in the Act.

15. Non-governmental organizations (NGOs) had recommended the repeal of numerous articles of the Act on various other grounds, including that they restricted the space for alternative forms of justice or conflict resolution and infringed due process rights. It was true that a proposal to repeal 135 articles of the Act had been rejected in the recent referendum, but only by a slim majority. In such a context, where opinion was polarized, did the State party see any possibility of reviewing those provisions of the Act that related to police procedures and that reinforced police discretionary powers, with a view to ensuring compliance with international standards?

16. Civil society organizations had also pointed out that security policies had resulted in recent years in the increased presence of police, and also quasi-military police, across the country. He wondered whether the situation of social and criminal violence in the State party

was really serious enough to warrant coercive policies that were a threat to human rights and whether any social policies had been considered as a response to such trends. Recalling the Committee's view that measures to ensure greater public security should not be introduced at the expense of human rights and fundamental freedoms, he said he would be interested to hear more about the underlying causes of the situation and the potential impact of those policies on the rule of law.

17. According to information received, the number of deaths in police custody had risen between 2017 and 2019. He would be grateful if the delegation would provide statistics on allegations of police violence received since 2019. It would be useful to know whether the State party intended to introduce specific legislation providing for the lodging of complaints of police violence, and whether it intended to set up mechanisms for the impartial investigation of complaints of torture, in accordance with article 13 of the Convention.

18. Noting that Act No. 19889 had created new offences and introduced harsher punishments, exacerbating prison overcrowding, he said that he would like to know whether the State party had a strategy to deal with the problem, for example by introducing more alternative measures to deprivation of liberty. As to complaints from prisoners, he had been struck by the statement "95 per cent of the complainants were white" in paragraph 163 of the State party's report. He wondered whether Uruguayan law drew distinctions between racial groups.

19. As it was clear that Uruguay complied with its international obligations in respect of asylum seekers and refugees, he would be interested to know whether migration officials received training on the relevant international instruments. The considerable rise in the numbers of asylum applications since 2017 had placed an additional burden on the system that had, among other things, caused significant delays in refugee status determination procedures. In addition, for certain asylum seekers, the authorities also needed to evaluate their degree of vulnerability to domestic, gender-based or sexual violence. He would like to know whether human and financial resource allocations had been increased to meet the growing demand. Had any thought been given to establishing procedures that would permit the identification of persons in need of international protection at the point of entry to the country?

20. The National Human Rights Institution had noted the existence of discrimination against certain migrants based on nationality and economic status. He would be interested in any information that could be provided on the Solidarity Resettlement programme for persons fleeing the violence in northern Central America, which the State party had reportedly implemented on an experimental basis. He would appreciate hearing the delegation's comments on those issues. Up-to-date figures on refugees and asylum seekers in the country would also be appreciated.

21. Referring to paragraphs 168 to 170 of the State party's report, dealing with alleged crimes against humanity and other human rights violations committed between 1968 and 1985, he said that, notwithstanding the establishment of special mechanisms, as well as applications by prosecutors to try a number of such crimes, little progress appeared to have been made in combating impunity; indeed, some retrograde decisions had been taken, such as the Supreme Court rulings of 2017 reinstating the statute of limitations for crimes against humanity committed by State officials. In 2018, following the reopening of the cases of sexual abuse and torture of 28 women, committed between 1972 and 1983, the National Human Rights Institution had recommended that the State make a public apology and acknowledgement of responsibility, but there had not been a response from the State. He would like to hear the delegation's comments on that situation.

22. Lastly, he would like to know whether any further complaints had been made against members of the State party's peacekeeping missions and what the State party's policy was on such complaints. He would also appreciate an update on the progress of proceedings in respect of the complaints of torture referred to in paragraph 175 of the State party's report.

23. **Ms. Racu** (Country Rapporteur) said that the Committee welcomed the fact that some of the State party's law enforcement agencies received training in certain aspects of human rights. She would like the delegation to clarify whether the prevention of torture, the absolute prohibition of torture and indeed all the provisions of the Convention were mandatory topics

in the curricula of the institutions responsible for the training of judges, prosecutors, court officials, lawyers and police and prison personnel. It would be useful to know whether training sessions dealing with ill-treatment and torture were based on those officials' real training needs, how many such officials had received training on the Convention in recent years and how many still required training. She would also like to know whether the State party provided mandatory training on the prevention of torture and the use of force to the military, intelligence officers and security guards and, if so, how many such officials had received training.

24. She wondered whether police officers received training on the Code of Conduct for Law Enforcement Officials and on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. She would welcome more detailed information on the training provided to police officers on new interrogation techniques, including non-coercive interrogation. It would be helpful to know how many police officers had received such training and how effective it was, and whether the initial training for law enforcement officials and prosecutors covered methods of gathering evidence and conducting questioning without recourse to unlawful measures.

25. As it appeared that judicial officials still lacked the capacity to address violence against women from a human rights perspective, she would like to know what training was provided to such officials and other State actors on the prevention of gender-based violence and domestic violence. She also wished to know whether the medical personnel dealing with prisoners had received training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and, if so, whether the training had been evaluated.

26. Turning to the question of fundamental legal safeguards, which the State party's report did not address, she said that, according to some reports received by the Committee, persons apprehended by the police were not always afforded fundamental legal safeguards, such as the right to legal counsel, from the very outset of their deprivation of liberty. They thus faced a significant risk of ill-treatment. She would like to know how the State party intended to ensure that the police respected legal safeguards that protected detained persons from torture and ill-treatment. It would also be useful to know how the State party guaranteed access to a lawyer for those detained, how many lawyers were available under the State's free legal aid scheme, how often lawyers were allowed to meet with clients in police custody, what facilities were available for such meetings and how much time was allowed per meeting. She wondered what measures were in place to ensure that detainees were informed of their right to counsel and what remedy was available to a detainee who had not been given access to an attorney.

27. Act No. 19889 appeared to allow the discretionary use of force by the police, which could lead to abuses. She would appreciate clarification as to how individual officers' decisions to use force were reviewed and what penalty officers might incur if they were found to have used excessive force. Legal provisions that permitted the use of the armed forces for the maintenance of internal security, the lack of legislation on the reporting of cases of institutional and police violence, and provisions that had weakened the protections afforded to detainees were all causes of concern, particularly in the light of allegations of torture and ill-treatment of detainees reported by the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

28. She wished to know what protocols were in place in the event that a medical professional documented injuries resulting from acts of torture, ill-treatment or inter-prisoner violence, and whether prisoners could access their medical reports and be seen by a medical professional of their choosing. Information on efforts to ensure that appropriate medical examinations took place on admission to police detention units would be appreciated, including details of whether the medical professionals performing those examinations reported to a specific authority, what provisions were in place to report cases of possible torture and ill-treatment and what the outcome of any reported cases had been in terms of investigation and the prosecution and punishment of perpetrators. She would like to know whether a procedure was in place for notifying detained persons of their rights from the outset of detention and whether such notification was provided in writing in a language that the persons understood. She would also be interested to learn whether the electronic custody

records system was fully functional and contained a comprehensive record of all aspects of custody.

29. The Subcommittee on Prevention of Torture had found deplorable conditions in most of the Uruguayan detention facilities it had visited in 2018, including lack of mattresses and bedding, lack of water and hygiene, poor ventilation and lighting, and faulty electrical systems that had caused some prisoners to be electrocuted. The prison population had increased steadily, and Uruguay now had the highest incarceration rate in South America. She would be grateful if the delegation would explain the State party's overall vision for reducing incarceration rates, improving detention conditions and reducing overcrowding, including through alternatives to detention and plans to address outdated infrastructure and construct new detention facilities. She noted that the 2020 report of the Parliamentary Commissioner for the Prison System had classified prisons by level of ill-treatment, opportunities for social integration and other variables; she wondered how that classification had been used to monitor and improve conditions.

30. Given reports of staff shortages in detention facilities, she would welcome information on staffing levels and the steps taken to ensure that staff had the requisite skills, including with regard to crisis management and violence prevention. Statistics on the use of physical force and special means would be helpful, as would an indication of whether there were plans to move responsibility for prison management, which came under the Ministry of the Interior, to a different government department. Up-to-date figures on the total number of prisoners would be appreciated.

31. In the light of reports of poor access to health care and unsanitary conditions in prisons, she wished to know whether there was a shortage of medical staff, including psychiatrists, in prisons and what measures had been taken to provide prison health-care units with medicines and medical equipment. She would also welcome data on prisoners with COVID-19 and their treatment and on the vaccination of prisoners against COVID-19. It would be interesting to hear what measures were taken to prevent the spread of communicable diseases in prisons, whether prisoners were offered health education on communicable diseases and how prison officials helped prisoners comply with treatment plans.

32. Details of the mechanism used to record and report incidents of inter-prisoner violence and the measures taken to protect vulnerable prisoners, prevent reprisals and reduce the influence of prison gangs and levels of violence would also be welcome. Given the alarming information provided in the State party's report on deaths in custody, she would appreciate more details on the process for investigating such deaths and the outcomes of those investigations, including the filing of any criminal cases. She wished to know whether the State party had analysed the main factors that contributed to deaths in custody, including suicides, and taken measures to prevent those deaths.

33. Welcoming the improvement of conditions in some detention units for female prisoners, she said that she would appreciate an update on the detention regime for women, including access to health services and hygiene supplies, and compliance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules). Confirmation that the Bangkok Rules had been applied in the construction of unit No. 29 in Florida would be welcome. Details of the measures taken at the institutional and legislative levels to improve conditions in women's prisons and updated data on the number of female prisoners, including those on remand, would also be appreciated. She would be interested to hear an explanation of the decision to transfer the "El Molino" special detention centre, which had been specially designed to house mothers and their dependent children, to Unit No. 5, the women's prison.

34. Studies had revealed serious rights violations at children's detention centres, including beatings and isolation, and those threats had reportedly increased during the COVID-19 pandemic. Act No. 19889 had increased the minimum and maximum sentences for juvenile offenders and the use of deprivation of liberty as a first resort for adolescents, which was a serious concern, as was the high number of young people in pretrial detention. She noted that a protocol for the care of children and adolescents deprived of liberty had been adopted, but she would appreciate additional information on steps taken to ensure that children in

detention had access to social and educational programmes, sports activities and programmes aimed at reducing juvenile recidivism. Updated figures on the number of children currently held in detention, either on remand or following a conviction, would be appreciated. It would also be useful to receive updated figures for the set of indicators on adolescents in conflict with the law.

35. She would like to know whether juveniles had access to a complaint mechanism and whether juvenile detention centres were monitored by the national preventive mechanism and other relevant bodies, including civil society organizations. She also wished to know how many cases of self-mutilation, suicide and other violent incidents had been recorded in juvenile prisons in the previous four years, what measures the State was taking to prevent and combat such acts, and whether prison staff received specific training on how to interact with minors, including during riots. It would also be useful to know whether domestic laws provided for alternatives to detention.

36. The Committee was concerned by the low number of prosecutions and convictions in cases of violence against women and would appreciate updated statistics on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of gender-based violence, including domestic violence, over the preceding four years, along with information on the redress granted to victims and the support services available to them. In that connection, she would welcome an explanation of the huge discrepancy between the number of complaints received in 2017 and the number of women who had used support services the same year. She wished to know what was being done to enhance data collection in that area and to improve the investigation of complaints and the prosecution of perpetrators of violence against women. Lastly, she asked whether the current level of funding for protection and support services for victims of violence, including domestic violence, was adequate, and whether the Government intended to increase the amount of funding for such services.

37. **Mr. Touzé** said that he wished to know in what circumstances the provision on the presumption of legitimate self-defence for law enforcement officers under Act No. 19889 could be applied and whether there were limitations to its use. The Committee was concerned about a bill which proposed that soldiers, police officers and civilians over the age of 65 who were responsible for crimes of humanity, acts of torture or enforced disappearances and who had already been sentenced to prison could instead be placed under house arrest, as such a law could lead to impunity for torture offences and even crimes against humanity. He wondered whether the Government supported the bill and what the chances were that it would be adopted.

38. **Mr. Iscan** said that he would appreciate detailed information on the measures of redress and compensation, including rehabilitation, awarded by the courts or other State bodies and actually received by victims of torture and ill-treatment. He would also like the delegation to clarify the statement in paragraph 181 of the State party report that there had been no specific rehabilitation processes since no cases of torture or ill-treatment had come to light.

39. **Mr. Buchwald**, pointing out that torture should be penalized as severely as crimes against humanity and similar crimes, said that he wished to know what the justification was for penalizing torture more leniently under the bill referred to by Mr. Touzé.

40. **Ms. Maeda** said that she would like to know more about the State party's participation in the Quito Process for coordinating the regional response to the Venezuelan migrant crisis. She wondered whether Uruguay had accepted the conditions and safeguards to protect refugees' human rights in the context of the Convention.

The meeting was suspended from 12.30 p.m. to 12.40 p.m.

41. **Ms. Ache** (Uruguay) said that the Government had no intention of dissolving the National Human Rights Institution or the national preventive mechanism. The Government remained committed to maintaining the National Human Rights Institution and upholding human rights.

42. **Mr. Novella** (Uruguay) said that Act No. 18026, adopted in 2016, had amended the Criminal Code to allow for the full application of the Rome Statute, including the provisions

on genocide and crimes against humanity. While the Act defined the crime of torture, the definition was not fully in line with the Convention. The legislature, which had sole authority to amend domestic legislation, had yet to reach consensus on aligning the provisions of Act No. 18026 with article 1 of the Convention. The Constitution of Uruguay contained no express provisions on the supremacy of international instruments over domestic law; the decision as to whether to give preferential application to international instruments was therefore discretionary. A domestic court had, however, confirmed that torture offences were considered crimes against humanity, in accordance with the definition in the Rome Statute.

43. Torture was therefore not written into the legislation as a stand-alone offence, but rather as part of a normative corpus. Judges could apply a range of alternative penalties for related offences, such as abuse of authority against detainees, which ensured that such offences did not go unpunished. As torture was not defined as a specific offence under domestic law, no register of torture cases was maintained. In 2018, four complaints of torture had been recorded, none of which had led to charges being filed. No complaints had been lodged in the years since. Only one court trial for torture offences had taken place, in 2016.

44. **Mr. Petit** (Uruguay) said that there was no duplication in the functions of the National Human Rights Institute and the Parliamentary Commissioner for the Prison System. The office of the Parliamentary Commissioner had been established in 2003, with broad competences regarding the protection of detainees' rights, including the power to present individual complaints. When Uruguay had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2005, the Parliamentary Commission had already been serving as a national preventive mechanism. The National Human Rights Institution had been established in 2018 and had been formally designated as the national preventive mechanism. Nonetheless, the Parliamentary Commissioner also continued to function as a national preventive mechanism. As permitted under the Optional Protocol, Uruguay had chosen to establish a plural, multifaceted national preventive mechanism, in which the National Human Rights Institution and the Parliamentary Commissioner worked together to coordinate preventive action and strengthen resources. Both entities had full technical, administrative, judicial, political and budgetary autonomy.

The meeting rose at 12.55 p.m.