



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

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Committee against Torture Seventy-second session

Summary record of the 1869th meeting

Held at the Palais des Nations, Geneva, on Friday, 26 November 2021, at 3 p.m.

Chair: Mr. Heller

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

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

Fourth periodic report of the Plurinational State of Bolivia (continued)
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1. *At the invitation of the Chair, the delegation of the Plurinational State of Bolivia joined the meeting.*

2. **The Chair** (Country Rapporteur) said that it was crucial for the human rights violations that had occurred since October 2019 to be thoroughly investigated. Those responsible should be punished in accordance with the law, regardless of their political affiliations. He understood that a high-level commission comprising members of both the Government and the opposition had been formed to put forward proposals on how to make the judiciary more independent. He would be interested to learn of any progress made by that commission.

3. Since the elections of 20 October 2019, there had reportedly been a great deal of inflammatory rhetoric on the part of both public servants and private citizens and a series of violent, racially motivated acts aimed at indigenous persons. The majority of the people injured, killed or detained since 10 November 2019 had apparently been campesino or working-class members of indigenous communities. He wished to know whether investigations had been carried out into those acts or into the activities of the paramilitary group known as Resistencia Juvenil Cochala, whose members had allegedly participated in the egregious public humiliation of Patricia Arce. Ms. Arce had later allegedly been tortured by police when detained in April 2020. It was his understanding that, although charges had been filed against the perpetrators, who had been clearly identified, no further steps had been taken against them. It would also be helpful to know whether there had been any prosecutions in connection with the racist language targeting indigenous peoples allegedly used on social media by the Office of the President during the tenure of the interim Administration. He would welcome information on any measures that were under consideration by the State party to address the structural links existing between racism, political violence and torture and ill-treatment. He also wished to hear the delegation's views on the possibility of reopening an office representing the United Nations High Commissioner for Human Rights in Bolivia.

4. **Mr. Rodríguez-Pinzón** (Country Rapporteur) said that definitions of the offence of rape should not be limited to the use of force or violence; rather, they should also address the issue of consent. It would be helpful if the delegation could identify the specific protocols that police officers were required to follow when questioning people and indicate what training was given to officers concerning those protocols and how often the protocols were reviewed. The Principles on Effective Interviewing for Investigations and Information Gathering could serve as a useful reference when the protocols were examined on the next occasion.

5. The rate of prison overcrowding indicated by the State party – 176 per cent – represented a welcome improvement over previous levels. However, it was still worrisome. The Committee understood that the decrease in overcrowding had been achieved in part by increasing the number of beds in certain prisons. It would be helpful to know how many beds had been added and in which prisons. He wished to know whether significant cuts had been made to prison budgets in 2021, as had been reported to the Committee.

6. The Committee had received reports of acts of violence against women deprived of liberty, including acts of sexual abuse and torture committed by three police officials in Santa Cruz in August 2020 and the rape of a Brazilian prisoner by police officers in Rurrenabaque. According to other reports, certain vulnerable groups faced continuous abuse in prisons while their abusers enjoyed impunity. He would appreciate information on any measures or protocols in place to address the special needs of women, minors, members of indigenous groups, persons with disabilities, older adults and lesbian, gay, bisexual, transgender and intersex prisoners.

7. He would appreciate a detailed description of how the State party ensured that solitary confinement was employed in a manner consistent with international standards, particularly the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). He was curious to know whether there had been any assessment of the impact on the level of inter-prisoner violence of the “Alternatives to Violence” programme mentioned in the State party’s report. He wished to learn about any preventive measures that had been taken to ensure safety in prisons and to fight corruption and wondered whether any cases of inter-prisoner violence were associated with negligence on the part of prison staff or members of the security forces. It would be helpful to have data, disaggregated by sex, age and ethnic origin or nationality, on persons who had died in prison during the period under review and a description of the investigations into their deaths and their findings. He would also appreciate information on any steps that had been taken to prevent similar cases from occurring in the future and on the compensation provided to family members of the deceased.

8. He wished to learn how the report of the Truth Commission on the events occurring between 1964 and 1982 had been disseminated to the public. He was keen to know what type of reparation had been provided to victims and whether any prosecutions concerning those events were moving forward.

9. He would also welcome information about any mechanisms for guaranteeing the right to rehabilitation of victims of torture, including the types of treatments that such mechanisms provided and the levels of material, human and budgetary resources allocated to them. He wished to know whether victims could file civil lawsuits for compensation in the absence of a criminal conviction and whether the State could be sued in tort for acts of torture committed by its agents. It would be helpful to have information on the compensation that had been ordered by the courts and actually provided to victims of torture and their families during the period under review, including the number of applications for compensation that had been filed, the number that had been accepted and the amounts that had been awarded and disbursed in each case.

10. **Mr. Siles Bazán** (Plurinational State of Bolivia) said that on 10 December 2020, the Government had announced that the Plurinational Council on Human Rights would resume its work, and efforts were under way to reactivate it. All the pardons granted under the repealed amnesty decree had been granted on humanitarian grounds; none had been granted on political grounds. The new amnesty decree would provide for pardons only on humanitarian grounds. The Government planned to present a package of measures for strengthening the independence of the judiciary in March 2022 that would include a law on the implementation of recommendations made by international organizations.

11. In addition to the changes being made in the criminal definitions of the offences of terrorism, sedition and torture and the drafting of a law on comprehensive reparations for victims of human rights violations, other legal amendments to comply with the Committee’s recommendations on abortion and rape were also being considered.

12. **Ms. Huacani Zapana** (Plurinational State of Bolivia), speaking via video link, said that disciplinary proceedings had been opened against 22 police officers, of whom 10 were being dismissed from the police force, for incidents between 20 October and 25 November 2019 involving the excessive use of force. Collective complaints had been lodged against police officers for offences such as acting outside the law, exceeding their authority, misuse of police assets and incitement to riot. The pretrial detention of the officials in question had been ordered.

13. **Mr. Limpias Esprella** (Plurinational State of Bolivia), speaking via video link, said that the Sentence Enforcement and Supervision Act set out a procedure for the provision of health care starting as soon as a prisoner arrived at a place of detention. Significant progress had been made in that regard since the Subcommittee’s last visit.

14. In 2020, the lack of public health measures, medicines and testing in prisons had led to 51 deaths from coronavirus disease (COVID-19). Prisoners had complained about the situation to the Directorate General of Prisons, the Office of the United Nations High Commissioner for Human Rights, the International Committee of the Red Cross, the Ombudsman and the national preventive mechanism. During 2021, the newly elected Government had worked to improve matters and had vaccinated over 90 per cent of the prison

population. The previous Administration had prevented prisoners from seeing their families at all, whereas the current Government kept prisoners in isolation only when medically necessary.

15. In line with the Subcommittee's recommendations, the Government had been striving to eliminate systems of self-governance in prisons. Since 2018, internal rules and regulations for each prison had been drawn up to replace the previous system of self-governance. As part of that new system, three prisoner representatives, responsible for education, work and legal matters, were designated at each facility in accordance with the Sentence Enforcement and Supervision Act. Disciplinary sanctions were now imposed only in accordance with the rules and never by other prisoners.

16. In response to Mr. Rodríguez-Pinzón's earlier question in connection with the reduction of overcrowding, the Committee would be receiving more detailed statistics on the individual prisons where capacity had been increased and facilities had been expanded. Specific policies applicable to women prisoners, juveniles, indigenous prisoners, prisoners with disabilities and lesbian, gay, bisexual, transgender and intersex prisoners were being developed. The "Alternatives to Violence" programme was still under way. Its benefits would be assessed and, if warranted, it would likely be extended to other prisons.

17. **Ms. Huacani Zapana** (Plurinational State of Bolivia) said that violence against women had increased in recent years. Since the adoption of Comprehensive Act No. 348 of 2013 on guaranteeing women a life free of violence, 882 cases of femicide had been recorded. There had been over 100 cases every year since 2015. A particularly high rate of femicide had been observed during the COVID-19 lockdown in 2020. The increased violence reflected in crime statistics was partly due to increased awareness and willingness to report domestic violence to the authorities.

18. Measures adopted to address the increased violence included the establishment of a special joint commission to investigate judicial delays in femicide cases, the adoption of a law expanding the scope of authority of the police and administrative services to support victims of violence and the issuance of a decree on the reinforcement of mechanisms to protect women facing violence. That decree provided for preventive action to be taken by a number of ministries and institutions and for an increase in the budget of the Anti-Violence Squad. In 2021, the Ministry of Justice and Institutional Transparency had established a national commission on femicide that would work to put an end to impunity. The Gender Unit of the Bolivian Police had also been set up in 2021 to monitor incidents of violence against female police officers perpetrated by fellow members of the police force and to conduct workshops on masculinity for male police officers.

19. Several policy instruments for combating sexual violence against children had been developed. A total of 27 specialized courts to hear cases involving gender-based violence had been established nationwide. Four new women's refuges for victims of domestic violence were planned, in addition to the 19 refuges and 11 temporary shelters already in operation. Prosecutors specializing in gender-based offences, juvenile justice and trafficking in persons were working in over 100 municipalities in both urban and rural areas. Psychologists and social workers were attached to prosecutors' offices to provide comprehensive support and prevent revictimization. A special directorate had been established within the Public Prosecution Service to furnish guidance on effective investigative and prosecutorial techniques and to provide ongoing training to specialized prosecutors.

20. In accordance with Constitutional Court judgment No. 0206/214, judicial authorization for the performance of an abortion was no longer required when the pregnancy was the result of rape or incest or when the mother's life or health was at risk. Safe, legal abortions were carried out upon presentation of the corresponding police report. The Ministry of Health and Sports had issued a number of directives to ensure that health-care providers at all levels offered legal abortion services in accordance with the judgment and with the laws on combating violence against women that were in force. In cooperation with the main stakeholders working to combat violence against women under the Plurinational Plan for the Prevention of Pregnancy among Adolescents and Young Persons, the Ministry of Justice and Institutional Transparency had developed a guide on support for victims of sexual violence in order to help ensure compliance with the Constitutional Court judgment.

21. **Mr. Ríos Sanjinés** (Plurinational State of Bolivia), speaking via video link, said that the Bolivian Public Safety and Anti-Drugs Observatory collected, analysed and disseminated data on a range of offences, including those involving trafficking in persons. Both private and public entities were required to provide the Observatory with information upon request. In accordance with the Act on Summary Criminal Procedure and Strengthening Measures to Combat Violence against Children, Adolescents and Women, the information systems of the Supreme Court of Justice, the Council of the Judiciary, the Public Prosecution Service, the Bolivian Police Force and the Directorate General of Prisons had been made interoperable.

22. Through the “Justicia Libre” (“free justice”) case management system, which was gradually being rolled out to the country’s police units, standardized forms for submitting complaints and initiating investigations were being introduced. The Observatory was coordinating with all the different offices in the criminal justice system to systematize and improve statistical records for use in decision-making and in the preparation of reports for international organizations.

23. The country had six shelters for trafficking victims. The four State-run shelters and the two that were owned by non-governmental organizations offered professional mental health support to facilitate victims’ social reintegration. Medical assessments were also carried out. A hotline for reporting trafficking cases was already operational in the country’s largest cities and would be rolled out to other towns. Legal support and reparation for victims were coordinated by national and local agencies, including the Plurinational Victim Assistance Service, the Directorate for Combating the Trafficking and Smuggling of Persons and the Office of the Ombudsman for Children and Adolescents.

24. Anti-corruption instruments included a national transparency and anti-corruption policy, the Act on Corruption, Illegal Enrichment and Scrutiny of Wealth, Supreme Decree No. 214 and various regional and international anti-corruption conventions. In 2017, a law had been adopted that required all public entities to have transparency and anti-corruption units. Those units provided a way for people to report cases of corruption, confidentially if necessary.

25. The police force had an internal investigations unit which was empowered by law to investigate reported incidents of police corruption and initiate internal disciplinary proceedings. Any police officer found to have committed an act of corruption would be dismissed from the force. Campaigns had been conducted to make police officers aware of the disciplinary and legal action that they could face if they engaged in acts of corruption, including the extortion of sex workers. Between 2019 and the first half of 2021, the Transparency Unit of the Supreme Court of Justice had received 147 complaints of corruption and had initiated 20 criminal cases and a number of administrative proceedings.

26. **Mr. Siles Bazán** (Plurinational State of Bolivia) said that, in response to the recommendations made in the report of the Truth Commission, work had begun on what would be known as a “house of remembrance” and on walls of remembrance. An entity similar to the one that was being established to follow up on the recommendations of the Interdisciplinary Group of Independent Experts still had to be set up to coordinate the efforts to act upon the Truth Commission’s recommendations. President Arce Catacora had been categorical that the racist and anti-indigenous acts committed during Jeanine Áñez’s presidency would not go unpunished, and the investigations in that connection had been expanded to cover the period starting from the post-electoral violence and continuing on to October 2020. The Committee would be kept informed of legal action taken in that regard, including the measures adopted to safeguard the right to reparation of victims and their families.

27. **Ms. Belmir**, recalling the impact of states of emergency on the enjoyment of human rights, asked whether it had really been necessary to declare states of emergency in response to fires, floods and utility cuts that had occurred during the post-election period in 2019.

28. **Mr. Siles Bazán** (Plurinational State of Bolivia) said that what had been declared in those cases was not a state of emergency, which, under the Constitution, was reserved for extreme or emergency situations. Rather, a wholly unconstitutional and arbitrary decree had been issued to allow the armed forces and the police to descend into the streets and repress the Bolivian people. Those responsible, including Jeanine Áñez, ministers under her

Government and members of the police and military, would face criminal proceedings with all due process guarantees. Investigations were progressing, and charges had already been laid in some cases. As for the COVID-19 restrictions, they had been unnecessary, unfounded and solely aimed at keeping Ms. Áñez in power as long as possible.

29. **Mr. Rodríguez-Pinzón** said that, while the requirement that individuals who were arrested had to be brought before a judge within such a short period of time was laudable, it was still important for other safeguards, such as access to a lawyer and a medical examination and communication with family, to be respected during that eight-hour time span as well. He recalled the Committee's previous concern at the fact that corruption and violence directed at women should be dealt with by two separate offices within the Public Prosecution Service. He welcomed the delegation's frankness in acknowledging shortcomings and noted the fact that having part of the delegation in Geneva and part in the Bolivian capital had been fruitful in terms of the Committee's receipt of information that would not otherwise have been easily accessible. Nevertheless, the Committee would greatly appreciate receiving statistical data and other information in writing on, in particular, gender-based violence, human trafficking, the assessment of training provided to law enforcement personnel, border officials and prison guards, and the means by which the State party had so notably reduced prison overcrowding.

30. **Ms. Huacani Zapana** (Plurinational State of Bolivia) said that, of the 26 cases opened against police officers in connection with the events of 2019, 10 officers had been dismissed from the force; the rest of those cases were still at the hearings stage. Disciplinary proceedings had been brought against 22 police officers, 10 of whom had been dismissed from the force for serious offences, including abuse of power, acts dishonouring national symbols and misuse of police equipment. The code of police conduct included provisions on the proportionate use of force.

31. **Mr. Ríos Sanjinés** (Plurinational State of Bolivia) said that the withdrawal of the *wiphala* – a national symbol and source of patriotic pride – in 2019 had been a great affront to the over 40 per cent of the population who identified as native, indigenous or campesino. In the Rurrenabaque rape case, disciplinary and judicial proceedings had been brought against the police officers involved but both had been disallowed.

32. **Mr. Siles Bazán** (Plurinational State of Bolivia) said that, in practice, lawyers often resorted to a habeas corpus action when their clients' rights were violated during the initial period following their arrest; that measure necessarily involved the prosecutor and resulted in the issuance of a detention order or in the person's release.

33. The Plurinational State of Bolivia worked closely with the Office of the United Nations High Commissioner for Human Rights, which it had invited to visit the country to corroborate the allegations of violence and serious human rights violations committed in 2019. With the Office's technical support, the Government was making progress in several areas highlighted by various international entities, in particular the question of comprehensive reparations for victims. The Government was committed to preventing impunity, as demonstrated by the transfer of the torture prevention mandate to the Ombudsman's Office and the efforts being made to improve the definitions of various serious offences. Furthermore, swift adoption by the legislature of the special law on the implementation of international organizations' recommendations, which would pave the way for prison reform, was expected. The Government was fully committed to memory, truth and justice.

The meeting rose at 4.45 p.m.