



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

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## Committee against Torture Sixty-sixth session

### Summary record of the 1727th meeting

Held at the Palais Wilson, Geneva, on Friday, 26 April 2019, at 3 p.m.

*Chair:* Mr. Modvig

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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)*

*Seventh periodic report of Mexico (continued)* (CAT/C/MEX/7 and CAT/C/MEX/QPR/7)

1. *In accordance with rule 73 of the Committee's rules of procedure, Mr. Heller Rouassant withdrew during the consideration of the report.*
2. *At the invitation of the Chair, the delegation of Mexico took places at the Committee table.*
3. **Mr. Fonseca Leal** (Mexico), replying to questions raised at the 1724th meeting (CAT/C/SR.1724), said that it was not necessary for each of the 32 federative entities to align their legislation with the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, since the Act was applicable to all federal and state authorities alike and constituted the minimum standard to be applied at both levels of government. A draft of the National Programme on the Prevention and Punishment of Torture had been provided to the national preventive mechanism, the National Conference of State Attorneys General (*Conferencia Nacional de Procuración de Justicia*), civil society organizations and the Office of the United Nations High Commissioner for Human Rights in Mexico, among others, for their input. A discussion forum on the General Act on Torture and the accompanying National Programme was to be held shortly, with representatives of civil society, public authorities and international agencies in attendance.
4. One of the main challenges faced by the Mexican Government was in developing indicators and producing comprehensive, reliable statistics on the number of investigations, prosecutions and convictions relating to cases of torture and ill-treatment. To enable the country to comply with that obligation, the General Act on Torture had provided for the creation of a national register of crimes of torture to provide general information on cases of torture and ill-treatment, the alleged perpetrators and victims, and the status of the investigations. The register was ready to be put into operation, with information from federal and state jurisdictions set to be incorporated as soon as the necessary agreements between the Federal Prosecutor General's Office (*Fiscalía General de la República*) and the Offices of the State Attorneys General had been signed. At the current time, the Federal Prosecutor General's Office was dealing with some 4,200 torture-related inquiries under the previous inquisitorial system of justice and 645 investigations under the new adversarial system. In that regard, the federal courts had handed down 45 convictions between 2013 and 2018.
5. The use of *arraigo* (precautionary detention without charge) – a measure provided for under the Constitution and therefore subject to stringent controls – was permitted only in cases of organized crime and only when strictly necessary, such as when there was a real and present likelihood that the person concerned would evade the authorities or interfere with the investigation. Since the introduction of the adversarial system of justice, however, there had been a significant reduction in the number of persons detained in that manner, falling from more than 1,900 in 2011 to just 21 in 2018.
6. Under the harmonized protocol on the investigation of the crime of torture, the Prosecution Service was required to take immediate action as soon as it became aware of a complaint of alleged torture or ill-treatment, including by requesting the assistance of medical experts and specialized psychologists, locating victims to obtain their testimony and inform them of their rights, and notifying the relevant Special Prosecutor's Office. Such activities did not, however, constitute a pre-investigation process or represent an obstacle to the investigation of offences of torture; rather, they were designed to provide the alleged victim with the necessary care and support and to assist the special prosecutors by ensuring that evidence was gathered without delay.
7. The Federal Prosecutor General's Office had established two electronic systems to facilitate the anonymous reporting of complaints of torture. The first sought to foster a

culture of complaint by raising public awareness of the work of the Federal Prosecution Service and receiving complaints of alleged illegal acts or irregularities committed by its employees in the exercise of their functions. A second system was intended to strengthen communication between the public and the Federal Prosecutor General's Office by introducing new methods of communication for reporting complaints and requesting information and guidance. Both systems were staffed round-the-clock, with contact agents able to respond to members of the public by telephone, email, in writing or in person.

8. **Ms. Herrerías Guerra** (Mexico) said that the Federal Prosecutor General's Office was acutely aware of the importance of medical examinations as a means of gathering evidence in cases of torture and ill-treatment. For that reason, medical and psychological certificates were provided through the General Office for the Coordination of Expert Witness Services, which had achieved ISO 9000 certification and thus operated in accordance with international standards. Staff members of the General Office were subject to strict guidelines and ethical standards that, if breached, could warrant criminal prosecution.

9. There were two critical windows of opportunity for documenting possible cases of torture. The first was during the medical examination by a forensic doctor of a person deprived of liberty. In that case, the doctor was required to report to the Prosecution Service any signs of possible torture or ill-treatment. The second was following the receipt of a complaint made by the victim to the Prosecution Service. In all cases, the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and other relevant standards, as well as the recommendations of the National Human Rights Commission, were strictly adhered to by medical professionals, who worked independently to document any and all signs of torture, linking those injuries with the facts as they were described by the victim and providing their own expert opinion on the matter. In that way, the evolution of the victim's symptoms and the time lines and causal links between the victim's complaint and the medical expert's opinion were established, ensuring that objectivity was maintained. All medical professionals were subject to continuous supervision to guarantee that examinations were carried out in an impartial manner. In 2018, specialized training had been provided to a number of psychologists and doctors with the aim of increasing the pool of medical professionals who were able to provide supervision in detention facilities around the country. In-service training was also conducted, covering a range of issues, including providing care to victims of torture and using the Istanbul Protocol.

10. Between 2013 and 2018, there had been 24 convictions for human trafficking by the federal courts. The Office of the Special Prosecutor for Trafficking in Persons had drawn up a victim-focused model to help trafficking victims gain access to the comprehensive support they needed. Training incorporating a gender- and human-rights-based approach was provided to the staff of the Prosecution Service and awareness-raising was conducted to sensitize the public to the issue of trafficking in persons. Victims or members of the public could report cases or seek information through a hotline set up for that purpose. National forums on combating trafficking were held annually to develop strategies aimed at combating impunity and improve communication and cooperation between prosecutors around the country. In that connection, Mexico had signed a number of bilateral and subregional agreements to prevent and combat trafficking in persons. It also participated in a Central American regional coalition to combat human trafficking and migrant smuggling as well as various working groups and regional operations, including Operation "Breaking Chains", an initiative involving Mexico, Colombia and the countries of Central America and the Caribbean and aimed at combating human trafficking.

11. The Government had yet to decide whether or not to establish an independent forensic medical institute. It was currently evaluating the provision of expert witness services around the country, with a view to facilitating the identification of human remains and providing answers to the family members of missing persons. In that connection, special emphasis had been placed on investigating alleged acts of torture in relation to the 43 students who had disappeared in Ayotzinapa. As part of inquiries into the circumstances surrounding the detention of persons in that case, investigating officers had called on the assistance of a unit specialized in investigating torture. Where public officials of the former

Office of the Attorney General of the Republic had been implicated, the Inspectorate General had provided supervision to ensure the application of the Istanbul Protocol and the full investigation of the facts. The Office of the Special Prosecutor for Torture was continuing its inquiries to determine whether or not acts of torture had taken place; if they had, criminal proceedings against the officials involved would be initiated.

12. **Mr. Pipitone de la Roche** (Mexico) said that the Government was committed to combating torture and other cruel, inhuman or degrading treatment or punishment and recognized the challenges it faced in that regard. It was not true to say, however, that the use of torture and ill-treatment was a widespread practice in Mexico. As a result of the training that had been provided to members of the security forces, in line with article 10 of the Convention, there had been a downward trend in complaints of alleged torture or ill-treatment at the federal level. In the past few years, the number of complaints of human rights violations and acts of torture committed by the Federal Police had fallen by 50 per cent and 90 per cent, respectively. Regarding the conduct of Ministry of Defence personnel, the National Human Rights Commission had received 60 per cent fewer complaints of human rights violations between 2013 and 2018 and had issued the Ministry with 22 recommendations in that regard – a reduction of 80 per cent in comparison with the period 2007 to 2012 – of which 11 had concerned torture and ill-treatment.

13. Using illegal methods to re-establish legality was absurd; the Government would never order the security forces to commit human rights violations and would not allow them to act with impunity. For that reason, one of the objectives of the National Public Security Strategy was to ensure full respect for and promotion of human rights. The Government was in the process of creating the National Guard and adopting legislation on the use of force and on detention registers, which would enable a human-rights-based approach to be taken to tackling violence in Mexico. The legislation on detention registers, which would be finalized shortly, made provision for a new national detention register, which would require all public security institutions to immediately register the detention of any person; the legislation also governed the use of personal data and stipulated which persons were authorized to access such data. There were also plans to establish a centralized system to facilitate the exchange of information and the investigation and prevention of abuses.

14. **Ms. Moreno Borbolla** (Mexico) said that the prison system admittedly faced enormous challenges, especially at the state level. However, since 2015, no overcrowding had been reported in the federal prison system, which currently had an occupancy rate of 46 per cent. The National Conference of Prison Services had issued a number of protocols to be observed by prisons, such as the protocol governing the admission of persons deprived of liberty to places of detention, which included the conduct of a medical examination to establish the medical history and physical condition of an individual and provided the opportunity for any signs of torture or ill-treatment to be identified. Protocols on dealing with injuries and deaths in custody and on handling riots had been adopted, with the latter having enabled the authorities to stamp out inmate self-rule in federal prisons. Regarding deaths in custody, between 2013 and 2018 there had been 220 deaths of persons deprived of liberty in the federal prison system and just over 2,500 in the prisons of the federative entities. Deaths in custody related to violent incidents were referred to the relevant authority for investigation; the Federal Prosecutor General's Office was currently investigating 10 such cases.

15. There were currently around 1,400 minors in conflict with the law in Mexico. They were treated in accordance with international conventions and could only spend a minimum period in pretrial detention. All persons deprived of liberty had access to basic health care within the prison system. In addition, an interministerial commission was being established to facilitate access to comprehensive public health care. As things stood, that was only possible through specific cooperation agreements between the specific prison and health authorities at the state and federal levels.

16. The National Criminal Enforcement Act prohibited the use of solitary confinement as a punishment for a period of more than 15 days; established that disciplinary measures must be in line with the principles of legality, proportionality, rationality and necessity; and guaranteed to persons deprived of liberty their right to health, personal safety and integrity.

17. The National Prison Conference had issued a protocol to ensure implementation of the sanction of temporary solitary confinement in a lawful manner that guaranteed the right to health, safety and integrity of persons deprived of their liberty. In the case of persons deprived of their liberty who did not have a private defence lawyer, federal prison staff asked the Public Defender Service to appoint one.

18. The physical and mental health of detainees to whom the sanction had been applied was checked every morning and evening, thereby ensuring they had human interaction at least every 22 hours. The measure did not restrict or prevent communication with the person's defence lawyer; in addition, the right to a trial and due process were guaranteed. If the person deprived of liberty challenged the decision, the sanction was suspended until the enforcement judge confirmed or revoked it. The relevant statistics and protocols would be provided to the Committee.

19. **Ms. Salinas Durán** (Mexico) said that it was not certain that the national survey of persons deprived of their liberty would be reinstated; however, the State compiled qualitative and quantitative annual data on persons deprived of their liberty.

20. Every year the National Human Rights Commission carried out an inspection of federal and state prison conditions, during which questionnaires were given to prison authorities, guards and inmates, and physical and material conditions were assessed in situ.

21. Information generated by the national censuses on government, public security and prisons, carried out by the National Institute of Statistics and Geography, was also available to the State, as were the statistical data on national prisons generated by the Ministry of Public Security and Citizen Protection.

22. The draft amendment to the Constitution to abolish the provisions on *arraigo* (precautionary detention without charge) consisted of a draft decree that had been submitted in April 2018 to the Chamber of Deputies, with a view to repealing the eighth paragraph of article 16 of the Constitution, and was currently being considered by the Senate. Regarding the possibility of changing the practice of unofficial pretrial detention, the categories of offences giving rise to such detention had admittedly been expanded, but there had previously been a considerable reduction in the catalogue of offences, with the entry into force of the adversarial criminal justice system; the results of the recent reforms would therefore be evaluated.

23. The State fully respected the autonomy of the National Human Rights Commission in management and budget matters and undertook to comply with its recommendations; the Commission was in direct contact with Congress for the management of its budget, thereby strengthening its autonomy.

24. With regard to measures to implement the recent ruling of the Inter-American Court of Human Rights in the case of *Women Victims of Sexual Torture in Atenco v. Mexico*, two organizational meetings had been held and the relevant bodies had endorsed compliance with the ruling. As a result, work was being carried out in the areas of investigation of criminal responsibility, compensation and guarantees of non-repetition. The National Commission for the Prevention and Elimination of Violence against Women had submitted a bill to have sexual torture categorized as a separate offence; in addition, work was being carried out in conjunction with the police of Mexico State and the Federal Police to incorporate a gender perspective in their action protocols and training programmes. Screening had begun with a view to the placement of women detainees who claimed to have been victims of sexual torture.

25. Regarding the investigation of the Valentina Rosendo Cantú case, and punishment of the perpetrators, on 1 June 2018, two persons had been convicted of rape and torture and sentenced to 19 years and 5 months in prison; they had appealed the conviction, but the courts had upheld the sentence. In the case of Inés Fernández Ortega, one of the defendants had died and the criminal proceedings had therefore been halted; however, another trial had commenced to investigate offences including torture and rape. In both trials, the rights of indigenous Tlapanec women had been guaranteed. In the case of Daniel García Rodríguez and Reyes Alpizar, Mexico was in discussions with the Inter-American Commission on

Human Rights with a view to signing an amicable settlement that would secure their release.

26. With regard to the protection of journalists and human rights defenders, July 2012 had seen the establishment of the national mechanism to ensure compliance with article 1 of the Human Rights Defenders and Journalists Protection Act. A Citizens' Council, made up of four human rights defenders and four journalists, formed part of the governing board of the mechanism for the protection of human rights defenders and journalists, and approved the broad lines of the mechanism's work and its individual protection plans. The Mexico Office of the United Nations High Commissioner for Human Rights (OHCHR) was a permanent observer on the governing board, with the right to vote. The protection measures implemented included removals, placements and the provision of shelters and bodyguards.

27. In the area of prevention, civil servants received training on the importance of the work of human rights defenders and journalists, and work was also carried out to raise public awareness of the importance of human rights.

28. The mechanism for the protection of human rights defenders and journalists covered 790 persons: 292 journalists and 498 human rights defenders. Improvements to the mechanism were being considered; to that end its operating budget had recently been audited and an external evaluation by the Mexico Office of OHCHR had been requested.

29. Herón Sixto López, Alberto López Bello, Arturo Hernández Cardona, Félix Rafael Bandera Román and Ángel Román Ramírez were not covered by the protection mechanism.

30. **Ms. Ochoa Avalos** (Mexico), replying to questions on the measures adopted to address impunity for violence against women, said that the relevant legal and public policy framework included the General Act on Women's Access to a Life Free of Violence, the National System for Prevention, Care, Punishment and Eradication of Violence against Women and the Programme of Prevention and Care for Victims of Domestic and Gender-based Violence. The National Commission for the Prevention and Elimination of Violence against Women had a mechanism for a gender-based violence alert, which had generated 19 alerts in 17 states since 2015. There were 44 Women's Justice Centres in 27 states, providing women with the comprehensive care they needed. While legislation in all 32 states provided for the crime of femicide, further legislative standardization was required. There were some 31 "houses for indigenous women" in 16 federative entities, which implemented care policies incorporating a gender-based, intercultural and human rights perspective. Regarding the number of complaints, convictions and sentences for domestic violence and femicide, 2,745 cases of femicide had been recorded between January 2015 and February 2019. Between 2011 and 2017 some 709 judgments had been handed down, namely 573 convictions and 136 acquittals. Data disaggregated by year would be provided to the Committee subsequently; data were not currently broken down by ethnic origin, age and nationality.

31. On 9 September 2015, a mechanism for follow-up of cases of sexual torture against women had been set up; it had since dealt with five cases and had submitted conclusions for three of them, which included actions to guarantee that the relevant proceedings complied with international standards.

32. Since 2004, the National Commission for the Prevention and Elimination of Violence against Women had a representative in Ciudad Juárez, and the policies adopted to prevent and eradicate violence against women had reduced those crimes; for that reason, there were currently no gender-based violence alerts there.

33. **Ms. Tovar Fernández** (Mexico) said that undocumented migration was not penalized, and migrants were not criminalized under any circumstances. The Government received information on the number of asylum requests received and the number granted. The law provided for both asylum and complementary protection and the number of requests in both categories had increased exponentially. In 2013, some 1,296 people had requested protection, of whom 280 had been granted asylum and 33 complementary protection. In 2018, the total number had risen to 29,644, of whom 1,327 had been granted asylum and 654 complementary protection. There were no disaggregated data on torture,

since the protection system was very broad and the positive decisions by the Mexican Commission on Assistance for Refugees did not specify whether grounds were related to torture or not. Many migrants did not request asylum or protection; nevertheless, the National Institute of Migration granted visitor permits on humanitarian grounds and in 2018 had issued 14,819 such permits. Updated statistics on requests for asylum and complementary protection could be found on the website of the Ministry of the Interior's migration policy unit, disaggregated by continent, region, country of nationality and sex.

34. The State party was fully committed to the principle of non-refoulement, which was guaranteed by law. No person was returned if they had been granted asylum, complementary protection or a visitor permit on humanitarian grounds. The sole instrument governing expulsion was the Constitution, which required the lawfulness of such action to be verified. The national Government was the only body that could order the expulsion of foreign nationals, but there had to be a prior hearing, in compliance with the law and with previously established procedures. No registers of expulsions of foreigners were kept.

35. Persons in an irregular situation who did not request protection from the Mexican authorities were returned to their country of origin by means of assisted returns or deportation, in accordance with rules previously agreed with countries of origin. Persons under a deportation order could appeal, using the remedy of judicial review, action for annulment or *amparo* proceedings.

36. The protection of persons brought before the migration authorities was supervised and audited by various bodies, including the National Human Rights Commission, which was represented at all migrant holding centres and all ports of entry. In line with the recommendation by the national mechanism for the prevention of torture, 5 migrant holding centres and 13 facilities for temporary stays had been suspended, as they did not meet minimum housing conditions.

37. To meet the enormous challenges arising from unusually large migration flows, the Government was doing its utmost to satisfy migrants' basic needs, including food, shelter and medical care, with the support of international organizations. Alternative migrant shelters had been set up near migrant holding centres, for example, which had facilities for overnight stays and specific areas for categories including women with children or unaccompanied children. Efforts were also being made to reform migration rules and procedures to guarantee transparency, certainty, lawfulness and effectiveness.

38. Competent human rights authorities and authorized civil society organizations could enter and inspect migrant holding centres at any time. In July 2016, a programme of alternatives to migrant holding centres had been set up for persons applying for asylum or protection and had received technical assistance from UNHCR. The alternative housing took the form of shelters administered by civil society or in authorized housing centres.

39. **Mr. Trujillo Sánchez** (Mexico) said that in 2014, Congress had approved amendments to article 57 of the Code of Military Justice, whereby military courts would not have jurisdiction in cases where human rights of civilians had been violated. In 2011, when the constitutional reform had been approved, military judicial authorities had started a process of ceding jurisdiction to civilian courts, which had concluded in 2014; since then, there had been no investigations by military courts into cases involving violations of civilians' human rights.

40. The Prosecutor General's Office had trained virtually 100 per cent of its operational staff on the prevention of torture. The Ministry of Security and Citizen Protection had trained 100,847 staff, including at state and federal level, and the Ministry of Defence had trained approximately 1,700,000 staff over six years.

41. During the period 2016–2018, the Ministry of Security and Citizen Protection had received 457 complaints, only 13 of which had given rise to recommendations. From 2013 to 2018, the Ministry of Defence had received 230 complaints, compared to 651 in the previous period, and 11 recommendations, compared to 54 in the previous period.

42. On 9 April 2019, the Government of Mexico had signed an agreement with OHCHR, including on evaluation methodology, which would help the State party continue to improve its results.

43. **Mr. Rochín del Rincón** (Mexico), replying to questions relating to comprehensive redress and specific care for victims of torture, said that between 2014 and 2018, the specialized support unit for victims of torture had dealt with 1,518 cases involving 2,949 direct victims and 754 indirect victims, 691 of whom had been included in the national register of victims following recognition by ministerial or judicial authorities. Registers of victims at local level continued to be a major challenge.

44. In addition, follow-up was being given to 42 recommendations from the National Human Rights Commission, which involved 165 direct victims and 67 indirect victims.

45. During the period in question, 51 decisions on comprehensive redress had been handed down, with the approximate amount paid out being \$10,300,000. Some 13 other cases were currently under consideration.

46. During the same period, approximately one-third of recognized victims had requested assistance measures. Although the Commission had specially trained staff, victims were referred to public health-sector institutions, owing to the large number of cases.

47. The financial amounts he had referred to covered not only the reimbursement of expenditure already incurred by victims of torture but also possible future expenditure. The national health system had recently been asked to set up a multidisciplinary programme for comprehensive care and redress, specializing in problems arising from serious human rights violations.

48. **Mr. García Mondragón** (Mexico), referring to extraditions requested by Mexico, said that guarantees relating to the physical integrity of the persons concerned had been sought on seven occasions. Further details in writing would be provided to the Committee. Guarantees of non-violation of human rights were provided by means of a diplomatic note submitted by the Mexican Embassy in the country in which the international extradition was to be carried out, to the corresponding Ministry of Foreign Affairs, in the name of the Mexican Government.

49. Extradited persons had the right to object to their extradition in a written submission to the Federal Prosecutor General's Office, the Ministry of Foreign Affairs, or the State that had extradited them. No complaint in that regard had been received to date.

50. The International Extradition Act also prohibited the extradition of persons to States where there was reason to believe that they would face the risk of torture or enforced disappearance.

51. Between 2014 and 2018, Mexico had received no requests for extradition in relation to acts of torture, nor had it made any such requests. There were no cases in which a request for extradition had been denied. The bilateral extradition treaties that Mexico had entered into with other States parties covered the offences referred to in article 4 of the Convention. Those treaties provided for the dual-criminality principle prohibiting the international extradition of a fugitive unless the offence involved conduct that was punishable under the laws of both the requesting and the requested State. Mexico had granted 3 of the 18 requests it had received for judicial assistance in cases involving torture.

52. Accused persons enjoyed the constitutional right to be informed of the reasons for their arrest and to remain silent. Confessions obtained in the absence of a legal representative could not be used as evidence against the accused. Furthermore, evidence obtained through torture or duress was inadmissible under the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Supreme Court had afforded further protections against the use of such evidence by reducing the requirements for substantiating claims of human rights violations during investigations. For example, the perpetrators no longer needed to be identified to prove that such violations had occurred. His delegation would provide the Committee with further information on the matter and the requests for judicial assistance in writing.

53. **Mr. Ballinas Valdés** (Mexico), replying to the question raised by the Chair concerning his Government's commitment to implementing the Committee's



recommendations, said that, under the new foreign policy on human rights, Mexico was determined to work with international organizations to ensure that it could fulfil its treaty obligations. While there were many remaining challenges to be overcome, much progress had been made. The Government was currently systematizing all of the recommendations made to it by international human rights mechanisms, and indicators had shown that it had acted on more than half of those recommendations.

54. Mexico had contributed some \$35,000 to the United Nations Voluntary Fund for Victims of Torture in the previous five years.

55. The Government had issued a decree in December 2018 with a view to bringing the facts in the Ayotzinapa case to light. A Truth and Justice Commission set up for that purpose was working together with the family members of the disappeared students. A mechanism had been established in cooperation with the Inter-American Commission of Human Rights and an agreement had been signed in early April 2019 with the Office of the United Nations High Commissioner for Human Rights to provide guidance and technical assistance in the case. The Truth and Justice Commission met every month and would continue its work until the case was resolved.

56. **Mr. Rodríguez-Pinzón** (Country Rapporteur) said that he would appreciate an update on the status of implementation of the General Act. It would be useful to have a time frame for its implementation. He wished to know whether there had been any further consultations on the National Programme on the Prevention and Punishment of Torture since the meeting of the National Conference of State Attorneys General in October 2018. He wondered whether the programme was still at the drafting stage. It was difficult to understand why specific procedures for the investigation of crimes of torture had been introduced rather than using the same procedures as those for other criminal investigations.

57. He urged the State party to eliminate the institution of *arraigo* (precautionary detention without charge) and wondered whether the Government was prepared to take steps to do so. He would be interested to hear more about the prisoner register referred to in the delegation's opening statement, including whether the prison registers of all states would now be linked to a central database. He also wished to know whether the register included persons held in migrant holding centres and any other persons deprived of their liberty. Further information on the national survey of persons deprived of liberty would be helpful. In particular, he wondered whether the Government intended to conduct such surveys on a regular basis. If not, clarification was needed as to the reasons why.

58. Turning to the issue of free legal assistance, he said that the 1,000 lawyers providing such assistance was a very low figure for a country as large as Mexico. Other countries with half its population had far higher numbers of public defenders. He would like to know more about what the State party was doing to ensure that free legal aid was available.

59. **The Chair** (Country Rapporteur), noting that the State party had recorded few complaints of torture, said that the decrease did not necessarily mean that torture was on the decline. Increased fear of the consequences of filing complaints might also lead to a decrease in the number of cases reported. He wished to know who had investigated the complaints that had been lodged. Was there an independent police complaints commission for that purpose?

60. He had not received an answer to his question about plans to discontinue the military's participation in public security. He would also be grateful if the delegation could comment on overcrowding in the Chalco, Lerma and Jilotepec prisons. It would be useful to learn to the extent to which persons held in pretrial detention contributed to such overcrowding.

61. He appreciated the information provided about Daniel García. However, he would like to know whether he had been released or was still in custody, after 16 years without a verdict. He failed to understand how such a case could drag on for so many years.

62. He was interested in learning about the ratio of prison staff to inmates. He wished to know if the State party had indicators to show whether or not there were situations of inmate self-rule in prisons. The Committee had received an account from the delegation of what rules applied with respect to solitary confinement but not what measures were taken

by the Government to ensure that the rules were implemented in practice. He would be grateful if the delegation could address the question he had raised earlier concerning the compliance of the American Correctional Association's accreditation criteria with international standards. He would also appreciate receiving numerical data on inter-prisoner violence.

63. He thanked the delegation for its data on deaths in custody but wondered whether all cases of such deaths were actually reported, as the figures seemed low. He would also like a reply to his question about the procedures for the investigation of deaths in custody and whether the standards of the Minnesota Protocol on the Investigation of Potentially Unlawful Death were applied in all cases.

64. He wished to know how many cases of newly arrived prisoners with signs of torture had been reported following medical examinations. The delegation should provide more information on the investigations, prosecutions and arrests described in paragraph 109 of the State party's report with regard to members of the Army, Navy and Federal Police. It would be useful to have an account of the average waiting times for medical examinations that were required under the Istanbul Protocol. The Committee continued to hear reports that the examinations carried out did not comply with the standards of the Protocol and that the burden of proof for persons who made allegations of the use of torture lay with the victims. He urged the State party to reconsider establishing an independent forensic medical institute to provide medical and psychological services in accordance with the principles of the Protocol.

65. He asked how many torture victims had received comprehensive redress and compensation and what steps were taken to ensure that the rehabilitation measures provided were effective. Noting that the delegation had stated that it did not know whether or not asylum seekers were torture victims, he said that the State party had an obligation to investigate any claims by such persons that they had been subjected to torture.

66. **Ms. Racu** said that she would appreciate hearing what steps had been taken to improve the conditions of detention in the Juvenile Offenders Remand and Rehabilitation Centre in Monterrey since the visit to that facility by the Special Rapporteur on torture in 2014.

67. **Ms. Belmir** said that she would appreciate a reply to her questions regarding the role of the military in maintaining public order and the prerogatives exercised by the Prosecution Service to the detriment of other law enforcement and judicial officials.

68. **Mr. Rodríguez-Pinzón** said that it would be helpful to know whether the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment could be applied in the federative entities, whether there was a judicial mechanism to appeal expulsion orders, as opposed to administrative mechanisms, and whether migrant holding centres were overcrowded. He would appreciate clarifications on whether the State party applied the requirement of dual criminality to cases other than extradition. He wished to know whether the 45 convictions for torture handed down between 2013 and 2018 were at the federal or state level. He would also appreciate the delegation's comments on the nature of the consultations undertaken with regard to the national programme for the implementation of the General Act. The State party ought to collect data on cases where individuals were not expelled because they faced a risk of torture in the country of return.

*The meeting was suspended at 5.10 p.m. and resumed at 5.30 p.m.*

69. **Ms. Herrerías Guerra** (Mexico) said that civil society organizations and academia had been invited to the National Conference of State Attorneys General held in October 2018 to discuss the implementation of the General Act. The reason why initial enquiries into cases of torture were handled by local branches of law enforcement was to provide victims with prompt access to justice. The findings of the local authorities were then forwarded to the appropriate special prosecutor. That procedure was applied not only to cases of torture but also to enforced disappearance and trafficking in persons.

70. **Mr. Fonseca Leal** (Mexico) said that the harmonized protocol on the investigation of the crime of torture did not delay the process; on the contrary, the Prosecution Service

took immediate action when it was made aware of a case. The Federal Prosecutor General's Office, and its predecessor, the Attorney General's Office, had issued other investigation protocols adapted to the nature and complexity of the offences concerned. Under the Constitution, there were three levels of legislation, namely federal, local and constitutional. Laws of constitutional rank, such as general acts and international treaties, were uppermost in the hierarchy and their application was compulsory. The Office's main responsibility was to prosecute federal offences, in other words to obtain evidence through its auxiliary, the police, and to present it before the competent court. The system functioned in a similar way to the system of investigating judges.

71. Mexico's system of justice was currently in a state of transition: the Office of the Attorney General of the Republic (*Procuraduría General de la República*) that had come under the authority of the executive branch of government, was to be transformed into the Federal Prosecutor General's Office (*Fiscalía General de la República*), an autonomous body. The relevant law had entered into force at the end of December 2018, and the first Federal Prosecutor General under the new autonomous system had only recently been appointed. He had been given one year to review the structure of the Office and effect the transition. Under the new adversarial system, interviews were recorded with defence lawyers present, so it was impossible for confessions to be extracted under torture.

72. **Ms. Delgado Peralta** (Mexico) said that 146 doctors and 114 psychiatrists provided their expertise to prosecution services, so the system was indeed saturated, though there was no waiting list as had been suggested by the Committee.

73. **Ms. Herrerías Guerra** (Mexico) said that the backlog was at the state level, and efforts were under way to strengthen expert services, including through training in the Istanbul Protocol, so that the states could better cope with cases.

74. **Ms. Salinas Durán** (Mexico) said that the concept of precautionary detention without charge (*arraigo*) had not been removed from Mexican law, but had been strictly regulated to limit its use. Under the Federal Code of Criminal Procedure, 10 precautionary measures could be applied, but only with regard to serious offences and with prosecutorial oversight. Regarding the case of Daniel García and Reyes Alpizar, both men remained deprived of their liberty and the Committee should take into account the fact that they had lodged numerous appeals, thereby extending proceedings. Nevertheless, Mexico was looking into the possibility of a settlement. The State was in partial compliance with the decisions of the Executive Commission for Victim Support on redress. Regarding the Rosarito case, all four men had been registered in the National Victims Registry but only two had been released from custody. A visit was programmed the following week to the location where the remaining two were being held, and a road map for medical and psychological support would be drawn up. The Executive Commission would be kept apprised of progress in the area of redress. Work on establishing a specialized centre for victims of torture would begin shortly in cooperation with the Ministry of Health, the Ministry of the Interior and the Executive Commission. She was not in a position to say whether or not another national survey of persons deprived of their liberty would be carried out, but the State did have useful data at its disposal nonetheless.

75. **Mr. Pipitone de la Roche** (Mexico) said that the law on the new detention registry, which would include migrant holding centres, should be adopted within the next two months. Every detainee would be assigned a number and there would be a bridge between the information recorded by the police, prosecution services and the prison authorities. The drop in the number of complaints of torture was an established trend – though not yet a victory – resulting from fewer cases, not from a fear of reprisals for lodging a complaint. Victims could file a complaint not only with the police but also with the Ministry of Defence, the National Migration Institute and the Federal Prosecutor General's Office. Pursuant to a recently introduced reform, the National Guard, an entirely civilian body under the Ministry of Public Security and Citizen Protection, had five years to develop its operations and deploy throughout the country. During that period, the President could use the armed forces for public security tasks. To withdraw the army from certain areas of the country would be a mistake at the present time.

76. **Mr. Rochín del Rincón** (Mexico) said that the figures on legal aid referred to persons prosecuted by the federal authorities, who represented only a small proportion of all defendants, and therefore did not give a full picture of legal aid recipients. Nevertheless, there were shortcomings in the legal aid system. Of the 691 registered victims of torture, 403 received State assistance, including rehabilitation measures. Support was provided by victims' associations and the national health-care system. The Executive Commission for Victim Support did not have a dedicated programme, but the national health-care system had been requested to set up a multidisciplinary programme of assistance and rehabilitation for victims of serious human rights violations.

77. **Ms. Ochoa Avalos** (Mexico) said that there had been 28 recorded cases of femicide in 2018. The National Commission for the Prevention and Elimination of Violence against Women had issued guidelines for municipalities and states on eradicating violence against women and providing support to victims. There was no early warning system for gender-based violence in Chihuahua or Ciudad Juárez, but steps had been taken to prevent violence against women in coordination with the state and municipal authorities and with various women's organizations. Also in Ciudad Juárez, prevention activities were conducted in schools, the police had adopted a protocol on the provision of support to victims of gender-based violence and an inter-institutional network had been established to support such victims. Over 1,100 drivers of both sexes had received training as part of a joint scheme between the network and the association of textile workers to ensure that female workers could travel to and from work safely.

78. **Ms. Delgado Peralta** (Mexico) said that Mexico was grateful for the opportunity to hold an open and direct dialogue with the Committee and to describe its achievements and challenges. While it went without saying that the police and the military would never be turned against the people of Mexico, those and other institutions needed to be strengthened. The population's desire to see the end of impunity and corruption had prompted the Government to make those issues and human rights its top priorities. In order to resolve those huge challenges and promote the rule of law, Mexico required the help of civil society, academia, the private sector and international organizations. Thus, it looked forward to the Committee's concluding observations and recommendations.

*The meeting rose at 6 p.m.*