



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

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## Committee against Torture Sixty-fifth session

### Summary record of the 1689th meeting

Held at the Palais Wilson, Geneva, on Friday, 16 November 2018, at 10 a.m.

*Chair:* Mr. Modvig

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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)

*Seventh periodic report of Guatemala (CAT/C/GTM/7 and CAT/C/GTM/QPR/7)*

1. *At the invitation of the Chair, the delegation of Guatemala took places at the Committee table.*
2. **Mr. Borrayo Reyes** (Guatemala) said that a bill to be introduced in December 2018 would amend the definition of torture set forth in the Criminal Code to include the element of discrimination, thereby bringing it into line with the provisions of the Convention.
3. As at the end of September 2018, the prison population had totalled 24,320 individuals, some 50 per cent of whom were awaiting trial. Persons with disabilities accounted for around 1.5 per cent of those incarcerated, while less than 1 per cent belonged to the lesbian, gay, bisexual, transgender and intersex (LGBTI) community. Approximately 20 per cent of the prison population self-identified as indigenous or had not declared their ethnicity.
4. The Ministry of Health and Social Welfare provided appropriate treatment for persons deprived of their liberty who had been diagnosed with HIV, tuberculosis or diabetes. An agreement was in place to regulate interagency coordination in connection with transfers of persons deprived of their liberty between places of detention and medical facilities. Between January and October 2018, 42 detainees had died as a result of violence, while 52 had died of natural causes.
5. The rate of prison overcrowding stood at 270 per cent. In 2019, construction was due to begin on three new detention facilities, namely a pretrial detention centre, a regular prison and a maximum-security facility. More than 1,500 requests for alternatives to detention had been granted as part of efforts to reduce overcrowding.
6. In August 2018, the appointment process had been completed for the five rapporteurs and five alternate rapporteurs of the National Office for the Prevention of Torture, which served as the national preventive mechanism. Subject to approval by Congress, the mechanism's budget would be increased to 8 million quetzales in 2019. Complaints could be submitted to the mechanism anonymously via an online platform to avoid reprisals. The mechanism's new team was in discussion with the National Institute of Forensic Sciences and the General Directorate of the Prison System regarding the arrangements for interagency cooperation on training designed to prevent torture. Procedures for visits were being evaluated and guidance was being developed on follow-up action in cases of torture.
7. In 2017, as part of plans to strengthen the National Civil Police, particularly with a view to replacing the army in functions involving the maintenance of public order, almost 3,000 new officers had been trained and a further 3,100 were due to graduate in December 2018. There had been a slight increase in the number of private security firms that had met the requirements established in law.
8. Between 2017 and November 2018, the judicial authorities had registered 27,686 cases of violence against women, and 5,944 convictions had been handed down. Between January and October 2018, there had been 307 cases of femicide. In March 2018, the Second Appeals Chamber for cases of femicide had begun its work. A number of judicial bodies were working together to implement a policy on interagency cooperation aimed at improving the handling of cases of violence against women. In 2018, the Ministry of the Interior had concluded agreements with the Guatemalan Women's Group and 6 centres for women who had experienced violence. The organizations had been allocated budgets of 9.5 million quetzales and 11 million quetzales respectively.
9. In November 2018, the National Institute of Forensic Sciences had adopted a number of procedures relating to the handling of suspected cases of torture, as well as a handbook on specialized psychological evaluations. The new instruments incorporated the provisions of the Minnesota Protocol on the Investigation of Potentially Unlawful Death

and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Staff working in the areas of prevention of torture and care for the victims of torture were provided with regular human rights training.

10. The authorities had implemented a number of campaigns to prevent human trafficking and raise awareness of the issue. Guatemala had in place a national coordination mechanism as part of the regional strategy for the delivery of comprehensive assistance and support to victims of human trafficking in Central America. Between January and November 2018, the authorities had recorded 348 cases of human trafficking; convictions had been secured in 4 of them.

11. With regard to persons in need of international protection, the Government was implementing the Comprehensive Regional Protection and Solutions Framework with support from the Office of the United Nations High Commissioner for Refugees.

12. A bill on the establishment of a national commission tasked with the search for disappeared persons was due to be submitted to civil society for consultation at the end of November 2018.

13. As at November 2018, Federico Mora National Mental Health Hospital had 185 long-term and 140 short-term patients. Those who were serving sentences for criminal offences were now housed separately from others.

14. The Government had paid out more than 190 million quetzales in financial compensation to approximately 2,220 families for human rights violations relating to the Chixoy hydroelectric facility. By 2019, payouts would have been made to all the families affected.

15. In implementation of the ruling of the Inter-American Court of Human Rights in the case of *Human Rights Defender et al. v. Guatemala*, the Government continued to work towards the development of a policy for the protection of human rights defenders. The Special Rapporteur on the situation of human rights defenders had made a contribution to that work during his visit to Guatemala in February 2018. In addition, the mandate of the Unit for the Analysis of Attacks on Human Rights Defenders had been extended. In May 2018, the Public Prosecution Service had adopted general instructions on the conduct of investigations into attacks on human rights defenders.

16. In all juvenile detention centres, minors were now separated according to their age group and whether they were being held in pretrial detention or serving a sentence. The Public Prosecution Service had adopted general instructions for their treatment. Under the new care pathway for adolescents in conflict with the law, the reintegration centre was being remodelled and its programme redeveloped. In a first for the region, in 2019 a new transitional facility with 60 places would begin to receive adolescents who were entering the final six-month period of their sentence.

17. The Government regretted the terrible events that had occurred at the Virgen de la Asunción children's home in March 2017. The 15 survivors had been granted a life pension, and the families of other children affected were in receipt of an allowance from the State.

18. **Mr. Rodríguez-Pinzón** (Country Rapporteur) said that the Committee would welcome details of the steps taken by the State party to move forward with the adoption of the draft legislation on the implementation of the Rome Statute of the International Criminal Court.

19. He would be grateful for clarification regarding how many of the 59 disciplinary cases for human rights violations opened by the National Civil Police between 2012 and 2015 had related to torture or ill-treatment, and how many of the 308 complaints of torture registered by the Public Prosecution Service during the same period had implicated police officers. He wished to learn about any steps that had been taken to establish a central register of complaints of torture and ill-treatment. It was unclear whether the prison information analysis units would be responsible for maintaining the register.

20. The Committee was concerned at reports that police officers often did not provide persons deprived of their liberty with the guarantees set forth in the Convention from the

outset of their detention, and that they sometimes subjected minors in detention to the practice of placing a bag of pepper spray over their heads. He wished to learn what measures the State party was implementing to prevent such forms of torture and ill-treatment and to guarantee full respect for fundamental legal safeguards. It would be helpful to receive information regarding the system in place for medical examinations of persons detained at police stations, including the number of doctors conducting such examinations.

21. It would be useful to hear about the current status of the renovation of the Women's Orientation Centre. It was unclear whether video surveillance systems had been installed in other detention facilities.

22. With regard to the members of the National Office for the Prevention of Torture, the Committee wished to receive information on the implementation of the rules on incompatibilities and conflicts of interest. The Committee had received reports of pervasive problems in the functioning of the Office, including, inter alia, the absence of complaints of torture or ill-treatment filed with the competent authorities and the lack of spending on victims' care.

23. Furthermore, the Office, in its role as the national preventive mechanism, had no interdisciplinary teams and employed just one physician, who was also its current president. The Committee wished to know what measures had been taken or were being planned to remedy the Office's structural shortcomings. Specifically, what were the criteria for the nomination, selection and removal of members? Did candidates have to have prior experience in human rights or in the prevention of torture, and how did the State party ensure their effectiveness and impartiality? How were the Office's rapporteurs selected, and what role did civil society organizations play in the selection process?

24. As the Committee had learned of budget cutbacks planned for 2019, it would also be useful if the delegation would set out the annual amounts appropriated for the Office's operation and the amounts earmarked for its different budget items. The delegation should also inform the Committee how many reports the Office had issued and how many allegations of torture it had handled, and it should describe how such allegations had been followed up. It was still not possible for the Committee to discern a clear strategy for the mechanism's prevention of reprisals and threats against the persons it interviewed during visits. The participation of civil society organizations in the mechanism's visits was of paramount importance, and he wondered whether such participation could be facilitated through the advisory board of the mechanism.

25. Notwithstanding the State party's explanations of the procedures for the selection, functioning and removal of judges and prosecutors, the Committee had received disturbing reports of measures taken against a number of officials, including Iris Jazmín Barrios Aguilar and Claudia Paz y Paz, which were indicative of a failure to respect the independence of the judiciary. The national preventive mechanism had evidently been used to pursue spurious legal actions compromising the independence of Ms. Barrios Aguilar and another judge, Lorena Aifan Dávila, in the context of a much publicized case involving a Russian family of asylum seekers, the Bitkovs. The Committee was particularly concerned about the attacks on the independence of the judiciary, and all the more so in the case in question, as it involved action that undermined the authority of the national preventive mechanism.

26. The Committee, in its previous concluding observations ([CAT/C/GTM/CO/5-6](#)), had noted with concern that the National Civil Police had lacked the resources to address the level of violence in the country and that the army had been called in to ensure public safety. In the State party report, the Government had indicated that the military was used only in support of civilian law enforcement services, among other things to fight organized crime, and in specific circumstances. The authorities had stated that in 2017 they would stop supporting Citizen Security Squadrons assistance for the police. Had the State party carried out an evaluation of the violence attributable to organized crime in the country and its effect on internal displacement and migration?

27. The Committee had received reports that some private security companies had taken on functions that should be carried out by the National Civil Police, thus creating an

environment of intimidation. Could the delegation describe the training given to the staff of such companies and explain how the State supervised and monitored their work and qualifications?

28. The delegation should comment on reports that the Migration Code did not include the principle of non-refoulement of applicants for asylum, which would be at variance with article 3 of the Convention. It should indicate whether the regulations called for in the Code to support various fundamental rights had in fact been adopted. If so, the Committee would like to receive information on the specific procedures established under the regulations and to hear how they ensured the principle of non-refoulement, along with specific information on the practical implementation of the principle. Were persons subject to return or expulsion informed of their right to invoke non-refoulement, and if they did so, did their action have a suspensive effect? What appeals procedures were available to them?

29. Noting that the State party had provided only desultory statistics in response to specific requests for complete and disaggregated information on the number of persons requesting asylum, the number subject to expulsion, reasons for expulsion and countries of destination, he asked the delegation to reply in greater detail, with updated and disaggregated data. The delegation should also comment on reports received by the Committee according to which Guatemala had proceeded with collective expulsions and returns of unaccompanied minors without first determining the risks such minors faced, and it should provide information on the use of diplomatic guarantees for the return, expulsion or extradition of persons to or from Guatemala.

30. The Committee was concerned about reports of migrants from Central America who set out for Mexico and the United States of America, often in so-called caravans of thousands of persons, and who returned home after suffering trauma during their attempted migration. Those who returned to Guatemala often found themselves lodged in shelters with deplorable living conditions. What measures was the Government adopting to provide them with minimum subsistence, lodging and health services?

31. The State party had still not provided sufficient information on the adoption of a bill for the implementation of the Rome Statute of the International Criminal Court. It had not described the content and scope of the bill, nor had it explained the legal effect of defining torture as a crime against humanity. The delegation should also specify whether the State party's extradition treaties included crimes mentioned under article 4 of the Convention as grounds for extradition and whether the Convention was cited as the legal basis for such extradition. The State party had reported that there had been no change since the submission of the last report in the training of police officers, judges, forensic physicians and medical staff caring for persons deprived of their liberty, and it had in the report even cited training activities for the judiciary that predated the period of the report. The scant information that it had provided about the training of judges was excessively general in nature. It was clear to the Committee that the scope of training activities for the police, migration officers, prison guards and members of the justice system was extremely limited.

32. The Committee would like to receive detailed statistical information, broken down by year, mentioning all training activities, the number of officials covered, hours of training and institutions involved, as well as the content of the curricula used for the training of such personnel. Did the curricula address the specific needs of women, indigenous people and LGBTI persons at migration centres, prisons, juvenile centres and police stations? The Committee had requested the State party to adopt a specific methodology to evaluate the effectiveness of training programmes in reducing the prevalence of torture and ill-treatment. Its failure to carry out any evaluation seemed to indicate that low priority was assigned to prevention.

33. He noted that Guatemala had made progress in providing reparation and compensation to victims in various cases involving torture and ill-treatment, including some that had been heard by human rights bodies of the inter-American system. The Committee would like to receive specific information about the amounts paid and to find out whether they were in keeping with the respective rulings. In one case, dating from 2004, the Inter-American Court of Human Rights had called for the State party to provide a non-monetary remedy by helping to find the mortal remains of Marco Antonio Molina Theissen,

who had been a victim of enforced disappearance, and a recent court ruling had convicted four former members of the Guatemalan military for Molina Theissen's disappearance, recognizing that sexual violence, torture and enforced disappearance had been part of the strategy of the military during the Guatemalan armed conflict. The family of the victim had, however, been subjected to stigmatization and harassment.

34. The State party had unfortunately not provided the Committee with any information about reparation or compensation ordered by domestic courts. It was the national authorities that had the primary responsibility to protect human rights, which required a qualitative and statistical monitoring of the implementation of such rights by the domestic authorities and courts. A bill relating to missing persons had been proposed in the mid-2000s, but had evidently never been adopted. The Committee would like to learn more about the status of the bill.

35. Regarding compensation and reparation for victims of the armed conflict, the Committee welcomed the State party's report of the provision of reparation in various cases. It would appreciate receiving more detailed information about the form of reparation provided and about how the gender of victims of sexual assault was taken into consideration. The budgetary resources allocated to the National Compensation Programme reportedly fell short of the amounts established in the Peace Accords, and victims who applied for compensation reportedly faced significant administrative barriers, as they had to submit documentation that was not readily available. Some had waited five years before receiving compensation, and others had never received any compensation at all. In addition, the Government apparently placed greater importance on monetary compensation than on other forms of reparation, such as physical and psychological rehabilitation. Noting that the information provided by the Government on compensation provided under the National Compensation Programme was excessively general in nature, he asked the delegation to make available to the Committee more detailed and disaggregated data, and to describe what steps were being taken to improve the benefits and services provided under the programme.

36. The State party had not answered the Committee's questions about specific programmes for the reparation and rehabilitation of victims of torture. The delegation was thus requested to provide detailed, disaggregated data, by year, on such remedies, specifying the various types of monetary and non-monetary reparation, including measures to provide victims with medical and psychological rehabilitation. Lastly, he expressed concern about legislative initiatives aimed at amending the National Reconciliation Act so as to ensure the impunity of persons who had committed grave violations of human rights during the armed conflict. One such initiative, presented in January 2018, would block the prosecution of persons who had committed acts of torture or ill-treatment; it had already been approved by the Congressional Committee on Legislation and Constitutional Issues. If adopted, the law would present a serious obstacle to the State's performance of its international obligation under the Convention to investigate and punish such acts. He invited the delegation to comment on that initiative.

37. **Ms. Racu** (Country Rapporteur) said that she had noted positive trends in the State party's implementation of the Convention, including the adoption of the National Prison Reform Policy 2014–2024, which had been applauded by various bodies. She requested more detailed information about the specifics of the policy, especially in respect of the budget, how many new prisons had been planned or built and whether the policy included changes to the criminal legislation and penalties.

38. The Government had adopted several strategic documents and had taken action to address institutional concerns and the treatment of vulnerable prisoners, but the Committee remained concerned about overcrowding, deteriorating health conditions and prison violence. The prison system was designed to accommodate 6,800 prisoners and currently held more than 24,000; certain facilities were reportedly running at over 500 per cent capacity. The reality behind those figures was obviously a source of major concern. The overcrowding was a result of a "tough on crime" policy that included abusive recourse to preventive detention and delays in the system of justice. In 2015, nearly half of the persons deprived of liberty had not been tried, and the average time spent in remand before trial had been 10 months. According to some sources, nearly 4,000 people could easily be released,

as they had been jailed for minor offences or had already completed their sentences. The Committee had also heard that untried detainees were not held separately from convicted offenders and that police stations were used for detention purposes. Hundreds of people reportedly served their sentences at police stations, where the conditions of detention were among the worst in the country. She invited the delegation to update the Committee on the number of people deprived of liberty and on the number in pretrial detention, by sex, age and time spent awaiting trial.

39. The adoption of a decree allowing for the implementation of remote monitoring of prisoners had helped to somewhat alleviate overcrowding in prisons. The delegation was invited to update the Committee on the use of such devices and on other non-custodial measures that had been put into practice. The Committee had been informed by a number of sources that the conditions of detention at places of deprivation of liberty were inadequate in terms of sanitation facilities, food, drinking water, medical care, ventilation, temperature control and lighting, and there was reportedly widespread drug use, while inmates had no access to addiction treatment. The prison administrations had complained of gang violence, escape attempts, contraband and the fabrication of weapons; at some prisons, gangs effectively managed the institution. The poor quality of conditions of detention, including a lack of mental health programmes, impeded social reintegration and seriously undermined the dignity and threatened the life of inmates. The Committee welcomed the construction, with support from the European Union, of a detention facility specifically designed for mothers and their children. It would like to learn about plans to build other new facilities or to refurbish old ones.

40. The delegation was invited to inform the Committee about the use of solitary confinement. It should specify the average time spent in isolation, whether such treatment was reserved for certain categories of prisoners and whether prisoners could appeal against decisions to place them in solitary confinement.

41. The quality of medical care in places of deprivation of liberty was often poor, as there was a lack of qualified staff and access to medication was limited. There had been reports of delays in the transfer of inmates to hospitals, owing to inaction on the part of judges and the lack of an administrative protocol for hospital treatment, and the Committee had also heard of a disconcerting situation of prisoners living with HIV/AIDS. She asked the delegation about the current ratio of doctors to inmates at places of detention. The number of violent deaths and suicides registered in prisons, which had already been high, had recently increased still more; a number of particularly appalling incidents in 2015 had resulted in numerous deaths. The Office of the Human Rights Advocate had pointed out that there was no protocol or procedure for dealing with prison deaths.

42. Violence and prison deaths had not been mentioned in the report. The delegation was thus requested to inform the Committee about the number of such incidents, the number of resulting casualties, and investigations, including into deaths in custody. It should also report on measures taken to prevent violence, including self-mutilation and suicide among inmates, for example by disarming them and keeping weapons and illicit items out of the prisons, and to combat corruption and keep criminal organizations from operating in correctional facilities. Did detention facilities have sufficient medical personnel, crisis management staff and correctional officers?

43. The Guatemalan authorities had established an office of the special prosecutor for femicide and special courts to deal with violence against women, along with a National Coordination Agency for the Prevention of Domestic Violence and Violence against Women and victim support offices. The Committee was, however, still concerned about gender-based violence. The number of complaints of violence against women and sex crimes had increased and the rates of hate crimes against lesbian, bisexual and transgender women, rape and forced pregnancy had risen. The low prosecution rate and lenient sentences for such crimes, combined with the failure to provide reparation and insufficient prevention activities and victim support, resulted in systemic impunity and a climate of fear and insecurity. Indigenous women in rural areas were particularly vulnerable.

44. The periodic report gave statistics regarding complaints, investigations and prosecutions of gender-based and sexual violence until 2016, notably in application of the

Act on Femicide and Other Forms of Violence against Women, and also mentioned a very large number of “out-of-court resolutions”. The delegation should explain what such resolutions entailed and whether their use resulted in a reduction of official prosecutions and sanctions. It was invited to provide updated statistics for the period since 2016. It would be helpful if the delegation could comment on the apparent paralysis and lack of funding of the National Coordination Agency for the Prevention of Domestic Violence and Violence against Women. The Committee would also like to hear the delegation’s opinions on the effectiveness of the office of special prosecutor for femicide. It would like to receive information on efforts to extend the remit of the special courts to deal with violence against women throughout the country, to harmonize laws and regulations on gender-based violence and to adopt the use of the Latin American Model Protocol for the investigation of gender-related killings of women.

45. The Government had developed a national anti-trafficking action plan for 2018–2022. It had convicted more traffickers, opened a new regional anti-trafficking unit and published its victim protection protocol in several Mayan dialects. However, the Committee had seen reports that it had decreased efforts to identify and protect victims of trafficking and that support and services for victims, including shelters, remained inadequate. Corruption and complicity in trafficking operations were of serious concern. Victims were given only emergency care, with little being done to restore their rights or help them reintegrate into their families or communities. The Committee would like to know what was being done to improve rehabilitation of victims of trafficking and sexual exploitation, including specific services and support for child victims.

46. The periodic report’s statistics on the investigation of complaints of torture and ill-treatment required some clarification. Some of the information was incomplete or did not mention the time frame of the statistic in question. The Committee would appreciate it if the delegation would set out in detail the status of complaints filed with the Public Prosecution Service following visits by the national preventive mechanism to places of detention, specifying how many had resulted in investigations, prosecutions and sanctions. The statistics indicated that a very low percentage of complaints resulted in criminal investigations or convictions and sentencing. The State party had not answered the Committee’s question in the list of issues about the number of ex officio investigations into allegations of torture or ill-treatment. What measures had been taken to make sure that all such complaints were promptly, impartially and effectively investigated, prosecuted and punished, and that all victims received appropriate redress and compensation? Did the State party have a protocol for investigation, and were the provisions of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) observed?

47. The delegation should describe the regulations for disciplinary investigations within the police and penitentiary systems. Was the Government considering taking steps to strengthen the independence of the Public Prosecution Service or creating a separate mechanism to hold perpetrators of torture accountable before the courts? Did the national preventive mechanism have the power to conduct independent investigations?

48. The Committee had seen reports that human rights defenders and journalists faced continuous threats, stigmatization, intimidation and attack; they were also sometimes subjected to arbitrary detention, unfounded criminal charges and surveillance. Human rights defenders protecting land rights and the environment were targeted in particular, in a context where the President had made speeches against peasant organizations. For example, Sebastián Alonso Juan had been killed in January 2018 during a peaceful protest against a hydroelectric project, and in 2016 the Public Prosecution Service had received complaints about the death of six journalists. Attacks against human rights defenders numbered in the hundreds every year, and the number of cases officially registered where defenders were murdered had recently nearly doubled, to 24 in the first nine months of 2018. That figure did not take into account cases that went unreported. The Committee was aware of initiatives in the Public Prosecution Service and in civil society to establish a comprehensive public policy for the protection of human rights defenders, but such initiatives had evidently stalled. It would be useful to receive an update on them.



49. The Committee was also concerned about proposed legislation that would restrict the right to defend human rights and about the psychological and emotional effects on indigenous and rural communities of the general climate of persecution. The Government was to be commended for taking precautionary measures and extending police protection to some human rights defenders and for adopting a protocol for the Public Prosecution Service's investigation of crimes committed against them. Noting that only one case of torture of a human rights defender had so far been prosecuted, she asked if any further cases were under investigation. In the delegation's opinion, what was the root cause of the violence? Had the Government taken any new steps to protect human rights defenders or to ensure a proper environment for their activities? Would it reactivate the Unit for the Analysis of Attacks against Human Rights Defenders, and could the delegation describe the results of the Unit's work from 2014 to 2018?

50. According to information received by the Committee, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons faced systemic discrimination and violence. In 2017, for instance, 15 transgender women had been killed, and the State had recorded their deaths as killings of men. That classification, which undermined the visibility of their gender identity, was also detrimental to investigations of their cases and the development of preventive measures to protect others. A bill currently under consideration would establish that "no one shall be obligated to accept as normal any conduct or practices that are not heterosexual".

51. LGBTI persons in detention were in a particularly vulnerable situation; according to reports, they were often assaulted by other prisoners and there were insufficient facilities to protect them in custody. Although initial admission procedures had been introduced in 2015, non-governmental organizations (NGOs) claimed that protocols were not being followed and expressed particular concern about admission procedures for transgender individuals. Frequent leadership turnover in the prison system had exacerbated those problems. Of particular concern were the disproportionate use of isolation as punishment, for periods that far exceeded international limits, and the common practice of body searches, in particular invasive and strip searches, which were sometimes conducted in a humiliating or discriminatory manner, especially when the individual was transgender. The Government had taken some progressive action with a view to preventing homophobic and transphobic violence, including the development of a comprehensive public policy.

52. Noting that the Public Prosecution Service had received a total of 11 complaints of violence against LGBTI persons in the period 2010–2015, but that no mention had been made of any outcome to those allegations, she said that she would appreciate further information in that regard, and about other measures that had been taken in security and justice institutions to avoid cruel and inhuman treatment towards LGBTI persons.

53. The Committee was concerned that overcrowding, unsanitary conditions and violence in the State party's four centres for adolescents in conflict with the law had led the Inter-American Commission on Human Rights to request precautionary measures. Those extremely precarious conditions of confinement exposed adolescents to further abuse and violations of their rights and did nothing to help prevent recidivism. They further exacerbated the problem instead of providing opportunities for social reintegration, especially as there were no comprehensive socio-educational or rehabilitation programmes. Adolescents were usually held together with adults in at least two detention centres. Of the nearly 1,100 adolescents deprived of their liberty in the State party, the vast majority would later join gangs. Acts of violence, riots and fires were periodic and endemic in facilities that accommodated minors. She asked for information regarding measures that the Government had taken to improve the situation of minors in correctional facilities and on any developments in the juvenile justice system.

54. The Committee was also concerned at the large number of children living in substandard conditions in care institutions, in particular at the fact that a fire at the Virgen de la Asunción children's home had resulted in the death of 41 girls who had been locked in a classroom. The Committee noted with concern the delay in the legal proceedings relating to that incident, and requested an update on investigations and on preventive measures that had been taken across the country to prevent such atrocities. Had those care institutions and

detention centres been monitored by the national preventive mechanism and other relevant bodies?

55. The Committee had received reports on the situation of children with disabilities in two institutions, the Hogar Virgen del Socorro and the Hogar Hermano Pedro, where more than 250 children faced inhuman and degrading conditions and abuses that could constitute torture. All children with disabilities were strapped into wheelchairs regardless of their disability or degree of mobility, with no educational activities, and those who displayed aggressive behaviour were placed in isolation rooms. She requested an update on the situation of children in those two institutions and asked whether the Ombudsman had access to them, and whether any recommendations had been made public or implemented.

56. Noting that corporal punishment of children was unlawful in the penal system but was not prohibited in the home, in alternative care settings, in day care or in schools, she asked whether there were any plans to explicitly prohibit corporal punishment and to repeal the so-called “right of correction”, still permitted under national legislation, in the home and all other settings. She would also appreciate additional information on awareness campaigns and training aimed at preventing aggressive educational methods in relation to children, which represented one of many examples of failure to prevent violence in the State party.

57. The detailed information provided by the State party report in response to the Committee’s question regarding reports of excessive sedation, detention in solitary confinement, humiliation and ill-treatment, including sexual abuse, of patients in the Federico Mora National Mental Health Hospital showed that between 2015 and 2016 there had been some attempts to improve the situation, mostly through the isolation of some categories of patients and the dismissal of some nurses. However, it remained unclear to the Committee how many investigations had been launched, whether material conditions and medical care had improved and whether adequate facilities had been provided to patients. Had the institution undergone an inspection or assessment by an independent entity? She would welcome an update on any investigations conducted, including in respect of sexual abuse and ill-treatment.

58. She noted that awareness campaigns and human rights workshops had failed to stop lynchings, which were still reported in the media, and the State party had provided no information on investigations and prosecutions. One example was the horrific lynching of a 16-year-old girl who had killed a taxi driver, which had caused an outcry throughout the country. In a country gripped by widespread impunity, violence and rampant gang crime, vigilante justice had become the norm in many communities as a way of dealing with the accused when the police and the judiciary were unable or unwilling to do so. On the other hand, the Committee had received assurances from authoritative sources that the political will did exist to improve the situation and combat that form of violence, especially in rural areas. She therefore reiterated the Committee’s request for information on the number of lynchings reported during the reporting period, on the number of investigations and prosecutions that had been undertaken and on measures that the State party had taken to stop that terrible practice, including progress in its efforts to strengthen the National Civil Police so that it could fully take over public security functions.

59. On the high number of cases of enforced disappearance during the State party’s internal armed conflict, she stressed that the judgments that had been delivered by Guatemalan tribunals after 30 years of impunity offered a ray of hope for the families of the 45,000 victims of enforced disappearance and set important precedents for prosecutors and judges in cases that might be brought before the courts in the future, not only in Guatemala but in all countries in which enforced disappearance had occurred. Much work was still needed to ensure accountability for those crimes, but the experience of the State party showed that, even if it took many years, impunity could eventually be defeated by truth and justice. She encouraged the State party to continue its efforts in that regard.

60. **Mr. Heller Rouassant** asked whether the Government was implementing or planning any measures to deal with the precarious situation of insecurity suffered by the large number of migrants who had been leaving the country in recent weeks.

61. With regard to prison overcrowding, he asked how the Government would ensure that alternative measures to detention that had been introduced, such as remote monitoring devices, could be applied to all members of the population in conflict with the law without discrimination, regardless of their ability to pay for such devices.

62. **Ms. Belmir** said that, although the State party had taken measures to limit army intervention in the maintenance of public order, private security companies, many of which had links with criminal groups and did not respect the rule of law, continued to play a role. She wondered what steps the State party was taking to deal with that problem.

63. **Mr. Hani**, noting reports that up to 95 per cent of persons in private rehabilitation centres for drug addicts had been admitted against their will and were routinely subjected to inhuman and degrading treatment, asked how the State party monitored those centres, whether the national preventive mechanism had visited them and whether the State party intended to close them.

64. Given reports from NGOs on the ill-treatment of persons in psychiatric institutions — including the use of cages for the isolation of minors — he asked why the public budget allocated to the specific needs of persons with disabilities deprived of their liberty had fallen so dramatically (reportedly from 5 million quetzales in 2011 to 70,000 quetzales in 2016) and how the State party would better control those institutions to ensure that all forms of ill-treatment and torture were prevented and that all cases were investigated.

65. Lastly, he recommended that the State party should contribute to the United Nations Voluntary Fund for Victims of Torture.

66. **Ms. Gaer** asked whether the State party could comment on reports that the Committee had received in relation to the terrible fire at the Virgen de la Asunción children's home and the problems associated with the criminal proceedings in its aftermath, including the fact that the Government did not adequately recognize intimidation as a possible purpose of torture and therefore did not extend the legal charges in those criminal proceedings to include torture. Noting that the President had been reported as saying that lynchings occurred because of a lack of police officers, whereas there were some who believed that the real lack was one of trust in the police, she wondered whether a definitive view had been taken by the Government on why lynchings continued.

67. Was consideration being given to reactivating the Unit for the Analysis of Attacks on Human Rights Defenders?

68. **Ms. Zhang**, referring to the alarming reports that thousands of Guatemalans were emigrating to the United States of America through Mexico to escape inequality and violence against marginalized groups, and that most of those apprehended at the border with the United States were unaccompanied children, asked what mechanisms were in place to help those people who had had to escape and to protect their rights. On impunity, and noting comments that measures to combat impunity risked being undermined by certain political actors, she asked what the State party was doing to address that situation.

69. **The Chair** said that he would like to know whether the State party would consider introducing a medical examination for all prisoners upon admission, as provided for under rule 30 of the United Nations Standard Minimum Rules for the Treatment of Prisoners. Noting that the prevalence of HIV/AIDS and tuberculosis among the prison population was reportedly low compared to the general population, he said that such a medical examination was the only way that the State party could be sure that those figures were correct, as it would provide a baseline in order to establish whether prisoners were suffering from a disease and whether they had contracted it before admission or while in prison.

70. **Mr. Rodríguez-Pinzón** (Country Rapporteur) asked what progress had been made with respect to the creation of a central registry for organizations providing humanitarian assistance in Guatemala, what the main aim of that exercise was and what criteria were used to identify the authorities and information to be included in the registry.

*The meeting rose at 12.55 p.m.*