



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

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Committee against Torture

Concluding observations on the third periodic report of the Plurinational State of Bolivia*

1. The Committee against Torture considered the third periodic report of the Plurinational State of Bolivia¹ at its 1867th and 1869th meetings,² held on 25 and 26 November 2021, and adopted the present concluding observations at its 1875th meeting, held on 2 December 2021.

A. Introduction

2. The Committee welcomes the third periodic report of the State party, although it regrets that the report was submitted late and that it conforms only partially to the general reporting guidelines.³ The Committee appreciates the State party's written replies⁴ to the list of issues,⁵ along with the supplementary information provided during the consideration of the periodic report.

3. The Committee appreciates having had the opportunity to engage in a dialogue, in hybrid format, with the State party's delegation, although it regrets that some of its questions remained unanswered.

B. Positive aspects

4. The Committee welcomes the ratification by the State party of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 12 July 2013.

5. The Committee also welcomes the State party's initiatives to review its legislation in areas of relevance to the Convention, including:

(a) The enactment of Act No. 1397 of 29 September 2021, designating the Ombudsman's Office as the national preventive mechanism of the Plurinational State of Bolivia;

(b) The enactment of Act No. 1173 on Summary Criminal Procedure and Strengthening Measures to Combat Violence against Children, Adolescents and Women of 3 May 2019, aimed at limiting the use of preventive detention;

(c) The enactment of Act No. 458 on the Protection of Complainants and Witnesses of 19 December 2013;

* Adopted by the Committee at its seventy-second session (8 November–3 December 2021).

¹ CAT/C/BOL/3.

² See CAT/C/SR.1867 and CAT/C/SR.1869.

³ CAT/C/14/Rev.1.

⁴ CAT/C/BOL/RQ/3.

⁵ CAT/C/BOL/Q/3.



(d) The enactment of Act No. 463 of 19 December 2013 on the Establishment of the Plurinational Public Defender Service;

(e) The enactment of Presidential Decree No. 4571 of 28 October 2021 abrogating Presidential Decree No. 4461 of 18 February 2021, which had made it possible to grant a general amnesty or pardon to persons facing criminal charges for offences related to the 2019–2020 crisis;

(f) The enactment of Supreme Decree No. 4087 of 28 November 2019 abrogating Supreme Decree No. 4078 of 14 November 2019, which granted discretionary powers to the armed forces to restore internal order and exempted them from criminal liability;

(g) The adoption of the Manual on the Organization and Functions of the Directorate of Prisons through Administrative Decision No. 242/15 of 14 July 2015;

(h) The adoption of the Protocol for Preventing and Handling Physical, Psychological and Sexual Violence in Educational Establishments through Ministerial Decision No. 2412/2017 of 20 July 2017;

(i) The issuance of Directive MG-DGRP No. 025/2017 of 20 September 2017 requiring departmental directors of the prison system and prison directors to ensure the absolute prohibition of any and all acts or omissions amounting to torture and/or ill-treatment;

(j) The issuance of Directive MG-DGRP No. 026/2017, under which all departmental directors of the prison system and prison directors were ordered to immediately close all cells known as punishment cells, cages, holes, dungeons and the like;

(k) The issuance of Directive FGE/RJGP No. 176/2017 of 16 October 2017, which governs the implementation of the recommendations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the preparation of a guide to the application of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

6. The Committee welcomes the initiatives undertaken by the State party to amend its policies and procedures in order to afford greater human rights protection and to apply the Convention, in particular:

(a) The authorization of the publication of the report⁶ on the visit to Bolivia made by the Subcommittee on Prevention of Torture in 2017, along with the State party's reply⁷ of 24 July 2018 to the Subcommittee's recommendations;

(b) The establishment of the Truth Commission, pursuant to Act No. 879 of 23 December 2016, to investigate the grave human rights violations, including torture, that occurred between 4 November 1964 and 10 October 1982, and the provision made in the Act for the declassification of military files relating to that period;

(c) The presentation, at the conclusion of the Truth Commission's mandate in December 2019, of a historical report and a final report on the grave human rights violations that were investigated.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations,⁸ the Committee requested the State party to provide it with information on the action it had taken in response to its recommendations regarding: (a) the maintenance of official registers of persons deprived of their liberty (para. 9 (b)); (b) the prosecution of persons suspected of having committed acts of torture or ill-treatment (para. 11 (d)); (c) access to civilian and military files that may contain

⁶ CAT/OP/BOL/3.

⁷ CAT/OP/BOL/3/Add.1.

⁸ CAT/C/BOL/CO/2, para. 27.

documentation relevant to the investigation of grave human rights violations committed when the country was under military rule (1964–1982) (para. 13 (c)); and (d) measures adopted to prevent and deal appropriately with cases of sexual abuse of children in educational institutions (para. 16 (a)). The Committee regrets that although the rapporteur for follow-up to concluding observations sent a reminder to the State party on 7 July 2014, it received no response from the State party under the procedure for follow-up to concluding observations. In the light of the information contained in the State party's third periodic report on the action taken in follow-up to the recommendations above, the Committee is of the view that these recommendations have been only partially implemented (see paras. 5 (h), 6 (b), 12 (c) and 16 (b) of the present document).

Definition and criminalization of torture

8. The Committee regrets that the State party has not yet established a definition of the offence of torture that is in conformity with article 1 of the Convention. In particular, the Committee notes that the definition contained in article 295 (ill-treatment and torture) of the Criminal Code does not describe the acts constituting ill-treatment, abuse or torture or refer to the purpose of the criminal conduct in question. It also fails to cover acts of torture committed by or at the instigation of or with the consent or acquiescence of a person other than a public official who is acting in an official capacity. The Committee is, moreover, concerned about the failure of the Criminal Code to establish penalties commensurate with the seriousness of the offence, providing for a prison sentence of only 6 months to 2 years in respect of officials who harass, permit or order the harassment of a detainee, 2 to 4 years for torture or abuse, up to 6 years for infliction of injury and up to 10 years in the event of death. Furthermore, the Committee regrets that a statute of limitations continues to apply to the offence of torture (arts. 1 and 4).

9. The Committee reiterates its previous recommendations⁹ and urges the State to amend the definition of the offence of torture in article 295 of the Criminal Code to cover all the elements contained in article 1 of the Convention. In that connection, the Committee wishes to draw the State party's attention to its general comment No. 2 (2007) on the implementation of article 2 by States parties, in which it points out that serious discrepancies between the definition in the Convention and the definition in domestic law create actual or potential loopholes for impunity. The State party should also ensure that offences involving acts of torture are punishable by appropriate penalties that take into account their grave nature, in accordance with article 4 (2) of the Convention. Lastly, the Committee recommends that the State ensure that the offence of torture is not subject to a statute of limitations, in order to preclude any risk of impunity in relation to the investigation of acts of torture and the prosecution and punishment of the perpetrators.

Military jurisdiction

10. The Committee is concerned about reports of torture and ill-treatment in the armed forces and the lack of transparency in the investigation of complaints about such conduct. In this regard, the Committee notes with concern that the Organic Act on the National Armed Forces (No. 1405 of 30 December 1992) does not comply with the Constitution of 2009 with regard to human rights. Moreover, the Committee has received information on allegations of reprisals against persons pushing for the amendment of the Organic Act on the Armed Forces (arts. 12 and 13).

11. The Committee urges the State party to bring the content of the Organic Act on the Armed Forces into line with the Constitution and international human rights standards and to protect persons who are pushing for the amendment of the Act from reprisals. The Committee also urges the State party to ensure progress in the investigation of allegations of torture and ill-treatment within the armed forces and the prosecution and punishment of alleged perpetrators.

⁹ Ibid., para. 8.

Fundamental legal safeguards

12. While the Committee notes the provisions of the Constitution, the Code of Criminal Procedure and the Sentence Enforcement and Supervision Act regarding safeguards to prevent torture and ill-treatment, it remains concerned about reports of: (a) obstacles preventing persons deprived of liberty, including minors, from informing a relative or other person that they have been detained; (b) lack of immediate access to an independent medical examination, especially in police stations; (c) the absence of an adequate registration system for persons deprived of liberty, although it notes that the Prison Information System is in the initial phase of implementation; (d) difficulties in gaining access to free legal assistance where necessary, and the insufficient number of public defenders, their low pay, insufficient professional qualifications and limited presence in rural areas. Furthermore, the Committee regrets that insufficient information has been provided on the measures taken by the State party to ensure respect for fundamental legal safeguards and the disciplinary measures imposed on law enforcement officials who have disregarded such safeguards (art. 2).

13. The Committee recommends that the State party take effective steps to ensure that persons who are arrested actually have the benefit of all fundamental legal safeguards from the very outset of their detention, including the right to be informed of the reasons for the arrest and the nature of the charges against them, the right to promptly inform a family member or other person of their arrest and place of detention, the right to request and obtain immediate access to an independent doctor, in addition to any medical examination that may be conducted at the authorities' behest, the right to be assisted promptly by a lawyer and to receive free high-quality legal assistance in case of need. The State party should also:

(a) **Strengthen the Plurinational Public Defender Service, ensuring that there are enough public defenders who are adequately trained and paid, that more defenders are present in rural areas and that there is a specialized, expert defence service for children and adolescents;**

(b) **Establish a uniform prisoner file management system and a computerized alert system to track the time remaining on allowable pretrial detention periods and inmates' sentences, and instruct prisons directors to comply with Act No. 2298 by keeping records up to date. The Committee also recommends carrying out checks and inspections to ensure that all persons deprived of their liberty in police stations and prisons are duly registered;**

(c) **Ensure respect for the fundamental legal safeguards of persons deprived of their liberty, sanctioning law enforcement officers who disregard such safeguards.**

National preventive mechanism

14. The Committee welcomes the designation of the Ombudsman's Office as the national preventive mechanism, with the Office inheriting the mandate of the Service for the Prevention of Torture. However, it believes that the Office's interim leadership, the lack of transparency in the selection and appointment of its directors and members and the loss of the staff of the Service for the Prevention of Torture could weaken its ability to carry out its mandate and undermine its independence (art. 2).

15. The State party should:

(a) **Guarantee the functional and financial independence of the national preventive mechanism and ensure that the processes for the selection of the directors and members of the Ombudsman's Office are independent and transparent, in accordance with the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the guidelines on national preventive mechanisms;¹⁰**

(b) **Strengthen the institutional framework of the Ombudsman's Office and ensure transparency in the selection of its directors and members;**

¹⁰ CAT/OP/12/5, paras. 7, 8, 12 and 16.

(c) **Ensure that the national preventive mechanism has the necessary technical, financial and human resources to carry out its work effectively, taking into account the previous work and experience of the Service for the Prevention of Torture.**

Truth Commission

16. The Committee welcomes the establishment of the Truth Commission and the presentation of its historical report on the conditions that gave rise to the human rights violations and crimes against humanity committed between 1964 and 1982 and its final report on the grave human rights violations that were investigated, including the cases of 5,405 persons who were tortured. However, it remains concerned about:

(a) The inadequate dissemination of the Truth Commission's final report and the absence of a mechanism for monitoring the steps taken in follow-up to its recommendations;

(b) The insufficient information on the criminal responsibility of some of the 1,498 perpetrators of crimes against humanity and grave human rights violations committed during the aforementioned period. The Committee notes the difficulties that may arise in the investigation of cases of torture, such as material constraints, the lack of evidence beyond victims' testimonies in some cases and the fact that victims may be afraid to file complaints;

(c) The shortcomings and delays in the reparations programme, which currently includes 1,714 beneficiaries, although, according to the information received, there are still some victims who have not yet been recognized as beneficiaries. The Committee is also concerned about reports that only 20 per cent of all the reparation awards made to 1,567 victims have been paid (arts. 2, 12, 13 and 14).

17. The State party should:

(a) **Take the necessary measures to disseminate the Truth Commission's report widely and monitor the effective implementation of its recommendations;**

(b) **Ensure progress in the investigation of the grave human rights violations committed between 1964 and 1982, ensure that the armed forces cooperate fully in these investigations and prosecute and punish the alleged perpetrators;**

(c) **Ensure that all victims are duly registered and strengthen the reparations programme with the necessary resources to guarantee full reparations to all victims and the effective allocation of such reparations within as short a time as possible;**

(d) **Complement and expand on, as far as possible, the work of the Truth Commission, as a determining factor in the pursuit of reconciliation and the realization of victims' rights.**

Human rights violations during the 2019–2020 crisis

18. The Committee is seriously concerned about reports that it has received documenting acts of violence and grave human rights violations, including torture, ill-treatment and excessive use of force resulting in death, that occurred in the context of the social and political crisis of September to December 2019. It also remains concerned about the insufficient progress made in the investigation and prosecution of the allegations of torture and ill-treatment made in this context, and about attacks against the staff of the Ombudsman's Office (arts. 2, 12, 13 and 16).

19. The State party should:

(a) **Investigate promptly, independently, effectively and comprehensively the acts of torture, ill-treatment and excessive use of force that occurred during the 2019–2020 crisis, prosecute and, where appropriate, punish the persons responsible and ensure that the victims receive full reparations commensurate with the harm suffered;**

(b) **Establish a mechanism to follow up on the recommendations of the Interdisciplinary Group of Independent Experts, set up pursuant to an agreement with the Inter-American Commission on Human Rights to assist in the investigations of the aforementioned events;**

(c) **Take the necessary measures to regulate the conduct of the police and the armed forces according to strictly professional criteria and ensure that they answer to the civilian authorities. The Committee recommends that the State party establish effective protocols regulating the conduct of law enforcement officials during social protests;**

(d) **Investigate and punish attacks and reprisals against the staff of the Ombudsman's Office;**

(e) **Ensure that the Office of the United Nations High Commissioner for Human Rights (OHCHR) is represented again in the State party, so that OHCHR can assist with the action taken in follow-up to the recommendations made by international human rights mechanisms.**

Racially motivated violence

20. The Committee is concerned about acts of racially motivated violence reportedly committed during the 2019–2020 crisis, including the attacks, threats and ill-treatment, for which organized groups were responsible, faced by indigenous women. The Committee also notes with concern information that it has received concerning police clampdowns on demonstrators, mostly indigenous people and campesinos, in Betanzos, Yapacaní, Montero, Sacaba and Senkata (arts. 2, 12, 13 and 16).

21. The State party should:

(a) **Systematically investigate all forms of hate crime, including racially motivated violence, prosecute perpetrators and, if they are found guilty, punish them with penalties commensurate with the seriousness of the offence;**

(b) **Provide training on hate crimes to law enforcement officers to prevent torture, ill-treatment and excessive use of force;**

(c) **Strengthen the work of the National Committee against Racism and All Forms of Discrimination established pursuant to Act No. 045 of 8 October 2010 on the Elimination of Racism and All Forms of Discrimination.**

Obstacles to justice: Impunity and lack of independence of the justice system

22. The Committee notes with concern the small number of investigations and prosecutions in respect of cases of torture owing to, inter alia, the lack of training of judicial officials in the investigation of this type of offence and the intimidation of victims. In this connection, it notes that the Ombudsman's Office registered 3,017 cases of torture and cruel, inhuman or degrading treatment nationwide between 2013 and August 2021. The Committee is also concerned about:

(a) The provisions of articles 123 and 133 of the Criminal Code, which define the offences of sedition and terrorism, respectively, based on extremely vague concepts;

(b) The lack of independence and autonomy of the judicial authorities and the Public Prosecution Service, as evidenced by judicial proceedings for sedition and terrorism against political opponents. In this regard, the Committee draws the State party's attention to chapter four, section A, of the report of the Interdisciplinary Group of Independent Experts that investigated the grave human rights violations that occurred between September and December 2019;

(c) The institutional weakness of the justice system, in which most judges and prosecutors are appointed on a temporary basis and do not hold career public service positions. The judicial authorities are under-resourced, and judicial services are not available in all parts of the country equally (arts. 2, 12, 13 and 16).

23. The State party should:

(a) **Review its counter-terrorism laws and, in particular, amend the legal definitions of the offences of sedition and terrorism to ensure that they comply with the principle of legality and international human rights standards;**

(b) **Ensure that prompt, thorough, independent and impartial investigation are conducted into all allegations of torture and ill-treatment, particularly those relating to the events that occurred between 1964 and 1982 and during the 2019–2020 post-election crisis, that perpetrators are prosecuted and punished, regardless of their political affiliation, and that victims obtain access to information, are able to participate in the proceedings and receive full reparations;**

(c) **As a matter of urgency, reform the justice system in order to guarantee its independence and respect for due process, including by adopting a law on the judicial service that ensures job stability and revising the processes for the selection, evaluation and removal of judges and prosecutors to ensure that selection, evaluation and removal are informed by publicly available, objective, merit-based criteria. The State party should also grant judicial bodies the resources they need to function effectively;**

(d) **Enhance the training of prosecutors and judges in order to improve the quality of investigations and ensure the accurate classification of the facts, in accordance with the Istanbul Protocol and the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol);**

(e) **Ensure that persons suspected of having committed torture or ill-treatment are suspended immediately and remain so throughout the investigation, particularly if there is any risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim or interfere with the investigation;**

(f) **Establish a system of protection and assistance to protect victims and witnesses of acts of torture carried out on persons deprived of their liberty from all forms of reprisal and take prompt disciplinary and criminal action against State agents responsible for threats or reprisals against victims and witnesses of acts of torture.**

Migrants, refugees and asylum seekers

24. The Committee is concerned about the state of the National Commission for Refugees following frequent changes in its membership and secretariat and about the absence of training on asylum issues for the authorities despite the judgment of the Inter-American Court of Human Rights in the case *Pacheco Tineo Family v. Plurinational State of Bolivia* of 25 November 2013, in which the Court ordered the implementation of permanent training programmes for officials working with migrants or asylum seekers. Moreover, the Committee regrets the absence of procedural protocols for migration and border officials. It is also concerned about:

(a) The lack of updated statistical data, disaggregated by nationality and place of asylum application, on asylum seekers and refugees living in the country, although it notes the existence of information disaggregated by sex and age;

(b) The additional immigration measures adopted to limit access to the territory for Venezuelan nationals, in view of the closure of the border, and complaints of abuse and extortion of asylum seekers arriving at the border by Bolivian border agents, particularly at the border with Peru (Desaguadero). The Committee also notes with concern the difficulties faced by persons who submit their asylum applications for processing at the border and the impossibility of submitting applications to the National Commission for Refugees in Santa Cruz de la Sierra;

(c) The restrictiveness of the State party's immigration legislation, which does not provide for the regularization of residence status, flexible protection or the possibility of temporary stay (art. 3).

25. The State party should:

(a) **Adopt protocols to be followed by migration and border officials to ensure that persons in need of international protection are identified at borders and referred to the asylum system, and improve the training provided to such officials on international refugee law, including the principle of non-refoulement;**

(b) **Maintain complete, updated statistical data, disaggregated by gender, age and country of origin, on asylum seekers, refugees, stateless persons and migrants in the Plurinational State of Bolivia, including information on expulsion and deportation procedures and so-called voluntary departures;**

(c) **Ensure that migration inspections and expulsion and/or deportation proceedings are carried out in accordance with human rights standards, offering procedural safeguards that take into consideration the situation of asylum seekers and persons in need of international protection;**

(d) **Ensure that no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal and foreseeable risk of being subjected to torture.**

Gender-based violence

26. The Committee welcomes the progress made with regard to legislation and public policies aimed at combating gender violence, for example, the establishment of the National Committee on Follow-up to Cases of Femicide, and takes note of the State party's partial compliance with the judgment of the Inter-American Court of Human Rights in the case *I.V. v. Plurinational State of Bolivia* of 30 November 2016. However, it notes with concern:

(a) The increase in gender-based violence in the State party, in particular the high incidence of femicide and sexual violence, as well as the high levels of impunity;

(b) The definition of rape in the Criminal Code, which is based on the use of force, does not explain what is meant by the term "consent" or establish appropriate rules for allowing the courts to assume a fact is true unless there is a preponderance of evidence suggesting otherwise;

(c) The pending measures that must be taken to ensure full compliance with the judgment in the case *I.V. v. Plurinational State of Bolivia*, including the provision of education on informed consent and gender-based violence for health personnel and the introduction of an obligation to provide free sexual and reproductive health and mental health services;

(d) The large caseload of the 27 specialized courts and tribunals for violence against women and corruption. It is also of concern that specialized prosecutors for gender-based crimes and offences related to trafficking in persons and human smuggling are present only in the departmental capitals;

(e) The insufficient number of hostels and shelters for victims of gender-based violence, despite the increase in the number of such facilities;

(f) Reports of the arbitrary arrest and abuse of sex workers by law enforcement officials;

(g) The absence of any evaluation of the effectiveness of awareness-raising and prevention activities regarding violence against women for public servants (arts. 2 and 16).

27. The State party should:

(a) **Ensure that all cases of gender-based violence, especially those involving actions or omissions by State authorities or other entities which engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, are punished appropriately and that the victims receive comprehensive redress, including adequate compensation and rehabilitation;**

(b) **Maintain updated figures on gender-based violence, disaggregated by age and ethnic origin or nationality of the victim, as well as information on the number of complaints, investigations, prosecutions, convictions and sentences relating to gender-based violence;**

(c) **Amend the legal definition of the offence of rape (Criminal Code, art. 308);**

(d) **Provide mandatory training on the prosecution of perpetrators of gender-based violence to judges, prosecutors and health personnel;**

(e) **Strengthen the Comprehensive Act on Guaranteeing a Violence-Free Life for Women (No. 348) of 9 March 2013 and enhance the capacity of support services for women experiencing violence by providing infrastructure, equipment and specialized personnel and drawing up an adequate budget;**

(d) **Establish specialized courts with exclusive competence in gender-based violence and appoint provincial prosecutors and/or set up mobile teams of specialized prosecutors;**

(e) **Ensure that victims of gender-based violence receive the medical treatment, psychological support and legal assistance they require.**

Illegal abortions

28. The Committee notes that the requirement of judicial authorization for access to abortion when a pregnancy is the result of rape, statutory rape, incest, kidnapping or when the pregnancy endangers the life or health of the woman has been lifted, that victims need only present a copy of the criminal complaint relating to the offence in order for such access to be granted (Plurinational Constitutional Court Decision No. 0206/2014) and that a handbook on assisting victims of sexual violence has been produced to ensure the implementation of this decision. However, the Committee regrets that access to safe abortion is still not guaranteed owing to, inter alia, a lack of knowledge of the regulations, obstacles to obtaining a copy of the complaint and a lack of sufficient alternatives in cases of conscientious objection by medical practitioners (arts. 2 and 16).

29. **In the light of Decision No. 0206/2014 of the Plurinational Constitutional Court, the Committee encourages the State party to continue reviewing its criminal laws in order to guarantee legal, safe and effective access to abortion when carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is not viable. The Committee also urges the State party to ensure that women who resort to this practice are not held criminally responsible and that safe and timely abortion health services are available to all women and adolescent girls, especially in poor and rural areas.**

Child abuse and sexual violence against children

30. The Committee is alarmed by the information received suggesting a high incidence of sexual violence against children and adolescents in the State party. Moreover, the Committee regrets that statutory rape is still an offence in its own right, as statutory rape is a violation of an adolescent's whole person and the penalties the perpetrators incur, less harsh than those for rape, contribute to impunity. The Committee is also concerned about the large number of young and adolescent girls who are forced into early marriages or other unions as a result of pregnancy, for example (arts. 2 and 16).

31. **The Committee urges the State party to:**

(a) **Repeal the offence of statutory rape (Criminal Code, art. 309);**

(b) **Take the necessary measures, including a review of the relevant legal frameworks, to prevent and eradicate early marriages and other unions and teenage pregnancies;**

(c) **Strengthen the Plurinational System for the Comprehensive Protection of Children and Adolescents and ensure that sexual violence against children and adolescents is duly investigated and its perpetrators are punished.**

Trafficking in persons

32. The Committee welcomes the legislative and policy progress made with regard to trafficking, including agreements concluded with various countries, and appreciates the information provided by the State party on the 1,687 victims of trafficking registered between 2018 and 2021, as well as the disaggregated data provided on the complaints received in that

regard. However, it regrets the absence of disaggregated information on the number of victims receiving assistance and the insufficient information on the measures that have been taken to ensure that they are provided with free housing and access to adequate medical and psychological support while identification and reporting are under way. In addition, the Committee is concerned about the information regarding corruption among the authorities responsible for combating trafficking (arts. 2 and 16).

33. The State party should:

(a) **Update and effectively apply the Standardized Protocol for the Specialist Care of Victims of Human Trafficking and Smuggling, providing effective protection to victims;**

(b) **Ensure that cases of human trafficking are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and ensure that victims obtain full redress, including adequate compensation and rehabilitation;**

(c) **Ensure the establishment of effective mechanisms to promptly identify victims of torture and trafficking among asylum seekers and migrants.**

Detention conditions in prisons and excessive use of pretrial detention

34. The Committee regrets that overcrowding is still a major problem in the prison system. It therefore welcomes the efforts made by the State party to improve material conditions in places of detention and reduce overcrowding, such as the organization of workshops on easing the burden on the legal system, the holding of virtual hearings, the increases in capacity at the prisons in Cochabamba and Tarija, the construction of new prisons and the extensions to existing facilities in Riberalta, Beni, San Pablo, La Paz and Palmasola, inter alia, and the granting of amnesties and pardons following the measures adopted in response to the coronavirus disease (COVID-19) pandemic. However, it is concerned about:

(a) The increase in the prison population from 10,150 people in 2007 to 18,630 in 2021, as well as the 264 per cent occupancy rate documented by the Subcommittee on Prevention of Torture, although, according to information provided by the State party's delegation, the current occupancy rate is 176 per cent. In this regard, the Committee regrets that the State party has not provided disaggregated information on the quota systems established in the prison system to decrease overcrowding or indicated in which prisons such systems have been set up, although it notes that 10,006 persons deprived of liberty were reportedly granted pardons or amnesties between 2012 and 2021;

(b) The excessive and generalized use of pretrial detention, with persons in pretrial detention representing 64.10 per cent of all persons in detention;

(c) The reduction in the budget allocated to the prison system;

(d) The insufficient information provided on measures and/or protocols adopted to address the specific needs of women, minors, indigenous persons, persons with disabilities, older persons and lesbian, gay, bisexual, transgender and intersex persons deprived of their liberty (arts. 2, 11 and 16).

35. The State party should:

(a) **Step up efforts to reduce overcrowding in detention centres, in particular through recourse to non-custodial measures, and continue to improve existing prison facilities and the general living conditions in prisons. The State must also ensure that the specific needs of the aforementioned vulnerable groups are met and develop protocols to that end. In that regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Ensure that pretrial detention is used only on an exceptional basis and for the shortest possible time, and hold pretrial detainees separately from convicted prisoners in all detention facilities;**

(c) **Ensure that the prison system has the necessary human and material resources to operate effectively.**

Deaths in custody

36. The Committee regrets that it has not received complete statistics, disaggregated by place of detention, gender, age, ethnic origin and cause of death, for the period 2014–2020 or detailed information on the results of investigations into those deaths or the concrete measures taken to prevent deaths in custody. The Committee is particularly concerned about the lack of such information in the context of the COVID-19 pandemic (arts. 2, 11 and 16).

37. **The Committee urges the State party to:**

(a) **Ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, duly taking into account the Minnesota Protocol on the Investigation of Potentially Unlawful Death;**

(b) **Assess the effectiveness of programmes for the prevention, detection and treatment of infectious diseases in prisons.**

Interrogation instructions, methods and practices

38. The Committee notes with concern that the State party has not provided sufficient information on the protocols to be followed by police authorities and other law enforcement officials when conducting interviews and interrogations, how these officials are trained and how often these protocols are reviewed (arts. 2, 11, 15 and 16).

39. **The Committee recommends that the State party ensure that law enforcement officials, judges and public prosecutors receive mandatory training on non-coercive interrogation techniques, the prohibition of torture and ill-treatment and the obligation of the judiciary to disallow confessions and other evidence obtained through torture.**

Disciplinary practices

40. The Committee welcomes the closure of the punishment cells known as cages, holes, dungeons and the like. However, it notes with concern that, under current regulations, inmates who commit a very serious offence may, in punishment, be put in solitary confinement for up to 20 days or denied visits for up to 30 days. The Committee is also concerned about the lack of an assessment of the impact of the project “Alternatives to Violence” up to 2017 and about the violence that affected Palmasola Prison in 2018, which resulted in the death of 6 inmates and left more than 20 injured (arts. 2, 11 and 16).

41. **The State party should:**

(a) **Use solitary confinement only in exceptional cases as a last resort, for as short a time as possible (no more than 15 days) and subject to independent review, and only upon authorization by a competent official, in accordance with rules 43 to 46 of the Nelson Mandela Rules;**

(b) **Strengthen measures to prevent and reduce violence and combat corruption in prisons, particularly through strategies to monitor and document such incidents in order to investigate complaints and punish those responsible.**

Human rights defenders and journalists

42. The Committee notes that Supreme Decree No. 4231 of 7 May 2020 was found unconstitutional for undermining freedom of expression. However, it is concerned about attacks and threats against human rights defenders and journalists and the fruitlessness of most of the investigations into this type of case. In the context of the 2019–2020 crisis, the Committee is particularly concerned about the information reported by the National Press Association, which documents 94 attacks against journalists and media workers and the vandalization of their facilities, as well as attacks against and the obstruction of the work of members of civil society organizations. The Committee is also concerned about the decommissioning of the Plurinational Council for Human Rights, a forum that promotes the

participation of civil society organizations in the development of public policies (arts. 2, 12, 13 and 16).

43. **The Committee encourages the State party to:**

- (a) **Ensure that human rights defenders and journalists can carry out their work without fear of reprisals or assault;**
- (b) **Ensure that the persons responsible are duly investigated, prosecuted and punished and that the victims obtain full redress;**
- (c) **Ensure that the Plurinational Council for Human Rights is operational.**

Training

44. While the State party provides regular human rights training, it is of concern to the Committee that public officials do not receive mandatory training specifically related to the Convention and the absolute prohibition of torture and ill-treatment (art. 10).

45. **The State party should:**

- (a) **Organize mandatory training programmes on the Convention, covering in particular the absolute prohibition of torture and ill-treatment, for all public officials, including law enforcement officials, prosecutors, judges, medical staff and prison and migration officials, and design mechanisms to evaluate the impact of such programmes;**
- (b) **Ensure that the absolute prohibition of torture and ill-treatment is included in the rules and instructions governing the duties and functions of all such officials;**
- (c) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the Istanbul Protocol.**

Full reparations

46. The Committee is concerned about victims' limited access to reparations, which must be awarded by a court. Moreover, the Committee is concerned that there is no mechanism in place to ensure that full redress, including rehabilitation, is effectively provided, and that the State party has not submitted the requested information on redress and compensation measures ordered by the courts and actually awarded to victims of torture or their relatives since the consideration of the previous report. The State party has also neglected to provide information on current reparation programmes and the allocation of the necessary resources to those programmes (art. 14).

47. **The Committee calls on the State party to take the necessary steps to ensure that victims of torture or ill-treatment obtain full reparation, including fair and adequate compensation and comprehensive rehabilitation. The Committee draws the attention of the State party to its general comment No. 3 (2012) on the implementation of article 14 of the Convention.**

Follow-up procedure

48. **The Committee requests the State party to provide, by 3 December 2022, information on follow-up to the Committee's recommendations on promptly, independently, effectively and thoroughly investigating the acts of torture, ill-treatment and excessive use of force that occurred during the 2019–2020 crisis, prosecuting and, where appropriate, punishing those responsible, ensuring that the victims in those cases obtain full redress, and establishing a mechanism to follow up on the recommendations of the Interdisciplinary Group of Independent Experts; urgently reforming the justice system in order to guarantee its independence and respect for due process; repealing the offence of statutory rape; and ensuring that the Plurinational Council for Human Rights is operational (see paras. 19 (a) and (b), 23 (c), 31 (a) and 43 (c)). In that context, the State party is invited to inform the Committee about its plans for implementing,**

within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues

49. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee of its efforts to disseminate them.

50. The Committee requests the State party to submit its next periodic report, which will be its fourth, by 3 December 2025. For that purpose, the Committee invites the State party to accept, by 3 December 2023, the simplified reporting procedure consisting in the Committee's transmittal to the State party of a list of issues prior to the submission of the report. The State party's replies to that list of issues will constitute its fourth periodic report under article 19 of the Convention.
