



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

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## Committee against Torture

### List of issues in relation to the second periodic report of the Plurinational State of Bolivia, adopted by the Committee at its forty-ninth session (29 October–23 November 2012)

#### Articles 1 and 4

1. With reference to paragraphs 13 and 14 of the periodic report of the State party, please provide updated information on the legislative measures adopted to include in the planned amendment of the Criminal Code a definition of torture that includes all of the elements that appear in article 1 of the Convention.<sup>1</sup> Please indicate the measures adopted by the State party to ensure that such crimes are punished with appropriate sentences, which take into account their seriousness, in accordance with the provisions of article 4, paragraph 2, of the Convention.

#### Article 2

2. Please provide information on the measures taken and the procedures in place to ensure that, in law and in practice, all persons deprived of their liberty are guaranteed the right to be informed of the reason for their arrest, to have access to a lawyer of their choice, to contact family members and to promptly receive an independent medical examination.

3. With reference to paragraphs 23 to 25 of the periodic report, please provide up-to-date information on the passage of the draft bill on a national mechanism to prevent torture and other cruel, inhuman or degrading treatment or punishment.<sup>2</sup>

4. With reference to paragraph 35 of the periodic report, regarding the deficiencies in the National Public Defence Service, please evaluate the effectiveness of measures adopted to date to guarantee free legal assistance to all who require it and who would otherwise have no such assistance.<sup>3</sup>

5. Please provide information on the measures taken to ensure that the activities of the Ombudsman's Office are in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights adopted by the General

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<sup>1</sup> See A/56/44, para. 97 (a).

<sup>2</sup> See A/HRC/16/20/Add.2, para. 64; A/HRC/19/21/Add.2, paras. 72 and 112.

<sup>3</sup> See A/56/44, para. 97 (g).

Assembly in its resolution 48/134 (Paris Principles).<sup>4</sup> Please indicate whether the Office is mandated to receive and consider complaints from private individuals. If so, please provide information on the number and type of complaints received during the reporting period and on the action taken on any complaints of torture and ill-treatment received. Please explain whether the Office can make unannounced visits to detention centres and how many such visits have been made during the reporting period. Please provide information on the level of follow-up given to the recommendations made by the Ombudsman's Office in connection with its visits to detention centres. Please also indicate the measures taken to make reports published by the Office available to the general public and public officials.

6. With reference to paragraph 69 of the periodic report, please provide information on the procedures for settling conflicts between State and indigenous laws and jurisdictional disputes between the ordinary justice system and the justice system of indigenous, aboriginal and campesino peoples and nations.

7. Please provide information on the measures adopted to guarantee the full independence and impartiality of judges and prosecutors. Please provide detailed information on the appointments procedure for judges, the regulations that govern their tenure and the procedure by which they can be dismissed.<sup>5</sup> Please also provide information on the measures adopted to prevent and punish corruption in the Bolivian police.

8. Please provide information on the legal framework to prevent and combat gender-based violence in the Plurinational State of Bolivia, including domestic violence, sexual violence and femicide as an extreme form of violence against women, and on the measures adopted to eradicate it.<sup>6</sup> Please provide up-to-date information on the steps taken to bring article 317 of the Criminal Code into line with the State party's human rights obligations, particularly in light of the recommendations made by the Committee on the Elimination of Discrimination against Women in 2008.<sup>7</sup> Please provide detailed information on the special training and awareness-raising programmes provided for law-enforcement personnel and other officials who come into direct contact with victims of gender-based violence. Please provide statistics for the period since the consideration of the initial report on the number of complaints made in relation to the various forms of violence against women, the number of convictions and the corresponding penalties.<sup>8</sup>

9. Please provide updated information, disaggregated by sex, age and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of human trafficking since the consideration of the State party's initial report.<sup>9</sup> Please also provide additional information on: (a) any new legislation or measure that has been adopted and implemented to prevent and combat trafficking in persons, effective measures of protection and, in particular, access to effective remedies and reparation;<sup>10</sup> and (b) the signature of bilateral and subregional agreements with concerned countries to prevent and combat human trafficking.<sup>11</sup>

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<sup>4</sup> See A/HRC/19/21/Add.2, para. 4; A/HRC/16/20/Add.2, para. 7.

<sup>5</sup> See A/HRC/16/20/Add.2, paras. 39–40.

<sup>6</sup> See A/HRC/19/21/Add.2, paras. 97 and 106; A/HRC/16/20/Add.2, para. 74.

<sup>7</sup> See CEDAW/C/BOL/CO/4, paras. 7 and 8.

<sup>8</sup> See A/HRC/19/21/Add.2, p. 2 and paras. 40–41; A/HRC/16/20/Add.2, paras. 75–76.

<sup>9</sup> See A/HRC/16/20/Add.2, paras. 26 and 77.

<sup>10</sup> See CEDAW/C/BOL/CO/4, paras. 26–27.

<sup>11</sup> See A/HRC/19/21/Add.2, para. 106; A/HRC/16/20/Add.2, para. 77.

### Article 3

10. With reference to paragraph 83 of the periodic report, please provide information on the extent to which, in revising its legislation on asylum and refugees, the State party includes provisions that fully meet the obligations set out in article 3 of the Convention against Torture and in the Convention relating to the Status of Refugees.

11. Please indicate the number of persons, disaggregated by country of origin, who have been granted asylum or humanitarian protection of any other kind, and the number of those returned, extradited or expelled since the consideration of the State party's initial report. Please indicate what decisions, if any, have prevented a foreigner from being handed over in application of the principle of non-refoulement. Please provide information in particular on the detention and subsequent expulsion of the Peruvian refugee José Antonio Cantoral Benavides in August 2011. With reference to paragraph 86 of the periodic report, please provide detailed information on the kind of appeal mechanisms that exist, stating whether any appeals have been made and, if so, the outcome.

12. Please indicate the number of cases of refoulement carried out by the State party during the reporting period through the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures with regard to subsequent monitoring have been taken in such cases?

### Articles 5, 6, 7, 8 and 9

13. With reference to paragraphs 87 and 88 of the periodic report, please provide information on any judgements related to the application of article 5, paragraphs 1 (b) and (c), of the Convention against Torture.

14. Please indicate whether, since the examination of the initial report in May 2001, the State party has, for any reason, rejected any request for extradition by another State of an individual suspected of having committed an offence of torture, and has itself started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.<sup>12</sup>

15. Please provide information on cases during the reporting period in which the State party has granted extradition in respect of persons suspected of having committed acts of torture or the related crimes of attempting to commit torture and complicity and participation in torture.<sup>13</sup>

16. With reference to paragraphs 123 to 127 of the periodic report, please inform the Committee against Torture about the extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in those treaties.

17. Please say what mutual judicial assistance treaties or agreements the Plurinational State of Bolivia has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with offences concerning torture or ill-treatment. Please provide examples.

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<sup>12</sup> See CAT/C/BOL/2, paras. 104–111.

<sup>13</sup> *Ibid.*, paras. 112–114.

## Article 10

18. With regard to the information related to article 10 of the Convention contained in the report (paras. 128–137), please clarify whether the training programmes for police officers and other law-enforcement officers include specific training on the provisions of the Convention. Please also indicate whether the State party has developed a methodology to assess the effectiveness and impact of these programmes and, if so, please provide information on the results of the application of this methodology.

19. Please provide information on training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological sequelae of torture. Please say whether such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and, if so, whether any assessments have been made of the impact of such programmes.

## Article 11

20. Please provide information on the content and application of the policies of the Directorate-General of Prisons on infrastructure, equipment, occupancy rates, separation and classification of prisoners, and rehabilitation.<sup>14</sup> Paragraph 46 of the State party's report mentions the "substandard infrastructure and extreme overcrowding" found in the country's prisons.<sup>15</sup> Please say what concrete measures have been taken to correct this situation and to address inmates' complaints about their conditions of detention and treatment, in particular those relating to poor food.<sup>16</sup> Please also provide up-to-date information on the status of the draft Juvenile Justice Bill.

21. With reference to paragraphs 6 and 7 of the periodic report, please provide updated information, including statistics disaggregated by sex, age and ethnic origin on the number of pretrial detainees<sup>17</sup> and convicted prisoners and the occupancy rate of all places of detention.<sup>18</sup>

22. With reference to paragraph 58 of the periodic report, please provide statistics on deaths in detention during the reporting period, disaggregated by sex, age and ethnic origin of the deceased, cause of death and place of detention. Please give detailed information on the outcome of the investigations into the deaths and the measures taken to prevent suicides and other sudden deaths in detention centres. In particular, please include information regarding the investigations into the following cases, and any disciplinary or criminal action taken:

(a) The death of David Olorio Apaza on 7 July 2010 on Crime Squad premises after being detained on suspicion of involvement in a break-in at the offices of Vías Bolivia in May 2010;<sup>19</sup> and the death by shooting of the other suspect in that robbery, a Peruvian

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<sup>14</sup> Ibid., para. 45.

<sup>15</sup> See A/HRC/16/20/Add.2, paras. 67–72.

<sup>16</sup> See A/HRC/19/21/Add.2, para. 5.

<sup>17</sup> See CAT/C/BOL/2, para. 70.

<sup>18</sup> Ibid., para. 46.

<sup>19</sup> See A/HRC/16/20/Add.2, paras. 7 and 60; A/HRC/19/21/Add.2, para. 69.

prisoner named Carlos Alberto Junco, on 24 November 2010, at the San Pedro de Chonchocoro maximum-security prison;<sup>20</sup>

(b) The death on 22 October 2010 of Alfredo Vargas as a result of a beating by police in the course of a breathalyser test in El Torno, Santa Cruz.<sup>21</sup>

23. With reference to paragraph 64 of the periodic report, please provide information about the frequency of violence among prisoners, including any cases involving possible negligence on the part of the law-enforcement personnel, and the number of complaints made in this regard. Please describe any preventive measures taken and the results. In particular, please provide information on any investigations and any subsequent disciplinary or criminal proceedings related to the events in the prisons in Cochabamba between January 2010 and June 2011.<sup>22</sup>

24. Please provide detailed information on the efforts made by the State party to ensure effective and independent supervision of detention facilities. Are representatives of NGOs permitted to conduct regular and unannounced visits to all places of detention?<sup>23</sup>

25. Please provide up-to-date information on progress in implementing the National Human Rights Plan of Action 2009–2013 in respect of deprivation of liberty and the treatment of those subjected to the prison regime.<sup>24</sup> Please also provide information on the findings in that regard of the exercise to assess the execution of the Plan.<sup>25</sup>

### Articles 12 and 13

26. According to paragraph 52 of the periodic report, the State party “has encountered serious difficulties in its efforts to fully implement” the recommendations made by the Committee in its latest concluding observations, regarding the setting up of public registers of persons deprived of liberty and of complaints of torture and ill-treatment (A/56/44, para. 97 (c) and (e)). Please explain what obstacles have been encountered and what measures are envisaged in the National Human Rights Plan of Action to remedy the situation.

27. With reference to paragraphs 59 and 60 of the periodic report,<sup>26</sup> please provide statistical data, disaggregated by sex, age, type of offence and geographical location, on complaints of acts of torture and ill-treatment recorded during the reporting period. Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions applied. How many investigations into torture and ill-treatment gave rise to ex officio proceedings during the reporting period?<sup>27</sup> In particular, please provide information on the outcome of the investigations and any disciplinary and/or criminal proceedings concerning:

(a) Complaints of excessive use of force during the police operations on 18 February 2009 during the investigations into the violence in Pando in September 2008, and on 16 and 28 April 2009 during the raid on the hotel Las Américas in Santa Cruz;<sup>28</sup>

<sup>20</sup> See A/HRC/16/20/Add.2, para. 60.

<sup>21</sup> Ibid., para. 61.

<sup>22</sup> See A/HRC/19/21/Add.2, para. 71.

<sup>23</sup> See CAT/C/BOL/2, para. 73, and the Judiciary Act, art. 80, para. 3.

<sup>24</sup> See CAT/C/BOL/2, para. 19.

<sup>25</sup> Ibid., para. 22.

<sup>26</sup> See also CAT/C/BOL/2, paras. 64, 66, 67, 96–103, 150 and 151 and annex.

<sup>27</sup> See A/56/44, para. 97 (d). See also CAT/C/BOL/2, paras. 115–122.

<sup>28</sup> See A/HRC/13/26/Add.2, paras. 60, 63 and 64.

(b) The alleged cases of torture in 2010 in women's prisons in La Paz, reported by the United Nations High Commissioner for Human Rights in her annual report to the Human Rights Council on the activities of her office in the Plurinational State of Bolivia in 2011;<sup>29</sup>

(c) The broadcasting in September 2010 of a video showing a conscript, bound hand and foot, being repeatedly ducked into a barrel of water during military training at the Challapata, Oruro, barracks; and the broadcasting of another video showing male and female cadets being subjected to ill-treatment and torture at a military camp in Santa Cruz;<sup>30</sup>

(d) The death on 9 February 2011 of sub lieutenant Grover Poma Guanto following a beating he received during military training at the Cóndores Academy in Sanandita, Tarija;<sup>31</sup>

(e) The death by shooting of Marco Antonio Galves Salvatierra in February 2011 in Trinidad, Beni, allegedly at the hands of the police;<sup>32</sup>

(f) The death of Fidel Hernani Jiménez and David Calisaya Mamani and acts of police brutality reported following violent incidents during a demonstration in Caranavi in May 2010;<sup>33</sup>

(g) Reports of police brutality against demonstrators and journalists while breaking up a teachers' demonstration in the La Apacheta area of the town of El Alto, La Paz, on 15 April 2011;<sup>34</sup>

(h) Reports of ill-treatment and excessive use of force by police deployed to an indigenous march on 25 September 2011 in Yucumo, Beni, organized by the Confederation of Indigenous Peoples of Bolivia to protest against plans to build a highway between Villa Tunari and San Ignacio de Moxos that would affect the Isiboro Securé National Park and Indigenous Territory.<sup>35</sup>

28. With reference to paragraphs 144 and 147 of the periodic report, please provide information on the internal complaints procedure available to persons deprived of their liberty, and on the measures taken to ensure that an independent body conducts prompt and impartial investigations into all complaints of torture and ill-treatment.<sup>36</sup>

29. Please provide information on action taken on censure resolution No. CP-1/2012 adopted by the Ombudsman's Office on 19 April 2012, in response to the lack of cooperation — or even of an answer — from the Bolivian Chief of Police, Jorge Renato Santiesteban Claure, following the Office's request for information in the context of its investigation into alleged human rights violations by the police.

30. Please provide information on measures taken in respect of threats allegedly received by citizen-judges, a public prosecutor and one of the private prosecution lawyers in the criminal proceedings against the former prefect of Pando, Leopoldo Fernández, and 25 other individuals, for the killings in El Porvenir in September 2008.<sup>37</sup>

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<sup>29</sup> See A/HRC/16/20/Add.2, para. 61.

<sup>30</sup> Ibid., para. 62.

<sup>31</sup> See A/HRC/19/21/Add.2, para. 68.

<sup>32</sup> Ibid., para. 67.

<sup>33</sup> See A/HRC/16/20/Add.2, paras. 6 and 59; A/HRC/19/21/Add.2, para. 69.

<sup>34</sup> See A/HRC/19/21/Add.2, paras. 5 and 67.

<sup>35</sup> Ibid., p. 2 and paras. 5, 6, 67 and 111.

<sup>36</sup> See A/56/44, para. 97 (h).

<sup>37</sup> See "Informe público de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos

## Article 14

31. With reference to paragraphs 154 to 161 of the State party's periodic report, concerning the implementation of the Act on Exceptional Reparation for Victims of Political Violence during Periods of Unconstitutional Government (Act No. 2640), please provide information on redress and compensation measures, including means of rehabilitation, ordered and actually provided to victims of torture or their families. This information should include up-to-date information on the number of claims lodged, the number granted and the amounts ordered and those actually paid out in each case.<sup>38</sup>

32. Please provide information on redress and compensation measures awarded in relation to the "Black October" proceedings against former President Gonzalo Sánchez de Lozada and 16 of his collaborators, ministers and members of the military high command, for the violent break-up of demonstrations in September and October 2003, in which at least 67 people lost their lives and several hundred were injured.<sup>39</sup>

33. With reference to paragraph 41 of the periodic report, does the State party intend to adopt protocols on care for victims of torture or ill-treatment? Please also provide information on medical and psychological care provided to date to the victims of the incidents of racist violence that took place on 24 May 2008 in Sucre.<sup>40</sup>

34. Please clarify whether the right to receive compensation depends on the existence of a criminal conviction ordering compensation. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice? Can compensation be obtained by a victim of torture or cruel, inhuman or degrading treatment if the perpetrator has received a disciplinary, but not a criminal penalty?

35. Please give information on reparation programmes, including those providing for the treatment of physical and psychological trauma and other forms of rehabilitation, made available to victims of torture and ill-treatment, as well as on the allocation of adequate resources to ensure the effective operation of such programmes.

## Article 15

36. With reference to paragraphs 10 and 139 of the periodic report, please describe the specific measures adopted to ensure actual observance of the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by courts because of the use of evidence or testimony obtained through torture or ill-treatment.

## Article 16

37. Please give an assessment of the effectiveness of measures taken to prevent attacks on human rights defenders, indigenous leaders and journalists, and to protect their life and

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Humanos en Bolivia sobre los hechos de violencia ocurridos en Pando en septiembre de 2008" (available at [http://bolivia.ohchr.org/informe\\_pando.htm](http://bolivia.ohchr.org/informe_pando.htm)). See also A/HRC/16/20/Add.2, paras. 50–53; A/HRC/19/21/Add.2, paras. 57–59.

<sup>38</sup> See A/HRC/16/20, para. 54; A/HRC/19/21/Add.2, paras. 63–65.

<sup>39</sup> See A/HRC/19/21/Add.2, paras. 55, 56 and 96; A/HRC/16/20, paras. 43–45.

<sup>40</sup> See A/HRC/19/21/Add.2, paras. 60–62; A/HRC/16/20/Add.2, paras. 46–49.

physical integrity.<sup>41</sup> In this context, please inform the Committee of the outcomes of the investigations into the following incidents:

- (a) The murder in May 2008 of the journalist Carlos Quispe;<sup>42</sup>
- (b) Attacks on journalists allegedly committed by the Santa Cruz special police unit on 3 September and 26 November 2009;
- (c) The attempted murder of Miguel Gonzáles, regional director of the Centre for Legal Studies and Social Research (CEJIS) in Beni, on 27 February 2009 in the town of Trinidad,<sup>43</sup> and the attack on the CEJIS offices in Santa Cruz de la Sierra and intimidation and harassment of CEJIS staff in Trinidad and Riberalta in September 2008;
- (d) Attacks on members of the Assembly of Guaraní People and others, on 13 April 2008, during the land distribution process in Cordillera province, Santa Cruz.<sup>44</sup>

38. Please provide statistical information on the number of lynchings reported during the reporting period, disaggregated by victims' sex, age and ethnic origin or nationality. Please include an analysis of the reasons and information on proceedings against the alleged perpetrators.<sup>45</sup>

## Other issues

39. Please provide the Committee with information on the compliance of Bolivian Armed Forces deployed abroad as part of peacekeeping missions with their obligations under the Convention.

40. Please provide updated information on measures taken by the State party to respond to any threats of terrorism. Please describe how such antiterrorism measures have affected human rights safeguards in law and in practice and how the State party has ensured that those measures comply with its obligations under international law, especially the Convention.<sup>46</sup> Please describe the relevant training given to law-enforcement officers; the number and types of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to antiterrorist measures in law and in practice; whether there have been complaints of non-observance of international standards; and the outcome of any such complaints.

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<sup>41</sup> See A/56/44, para. 97 (f); A/HRC/19/21/Add.2, paras. 74–76; A/HRC/16/20, paras. 79–81 and 94; A/HRC/13/26/Add.2, paras. 65–66.

<sup>42</sup> See A/HRC/16/20, para. 81.

<sup>43</sup> See A/HRC/13/26/Add.2, para. 65.

<sup>44</sup> See A/HRC/16/20, para. 28.

<sup>45</sup> See A/HRC/16/20, paras. 65–66; A/HRC/19/21/Add.2, p. 2 and para. 70.

<sup>46</sup> See S/2002/27; S/2002/970; S/2003/852; S/2004/872.