



# 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 1692nd meeting\*

Held at the Palais Wilson, Geneva, on Monday, 19 November 2018, at 3 p.m.

Chair: Ms. Gaer (Vice-Chair)  
later: Mr. Modvig (Chair)

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

*Seventh periodic report of Guatemala (continued)*

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\* No summary record was issued for the 1691st meeting.

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*In the absence of Mr. Modvig, Ms. Gaer (Vice-Chair) took the Chair.*

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

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

*Seventh periodic report of Guatemala (continued)* ([CAT/C/GTM/7](#); [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), replying to questions posed during the first part of the interactive dialogue, said that a national sex offenders register had been established in January 2018 and that persons wishing to work with children and/or adolescents had to certify that they had not been convicted of a sexual offence. The National Strategy for the Prevention of Violence and Crime 2017–2027 had likewise been adopted.

3. In 2018, the Public Criminal Defence Institute had created a new department responsible for providing services to female victims, with 15 offices across the country, including a 72-hour shelter. The Public Prosecution Service had set up 10 prosecutor's offices in the main hospitals of the country with the aim of preventing revictimization and expediting the delivery of assistance to victims. It had likewise established 19 prosecutor's offices for women's affairs throughout the national territory to guarantee female victims access to uninterrupted assistance. Between 2015 and November 2018, the courts had handed down a total of 12,050 judgments under the Act on Femicide and Other Forms of Violence against Women, including 9,089 convictions and 2,961 acquittals.

4. The out-of-court resolutions mentioned in paragraph 63 of the report ([CAT/C/GTM/7](#)) were the outcome of a process whereby a conflict could be resolved prior to the intermediate stage of the criminal proceedings. Once the complaint in question had been analysed, the prosecution or the defence could apply to have the case shelved, dismissed, provisionally closed or suspended in keeping with the applicable legal criteria.

5. Turning to the question of legal safeguards, he explained that Title VI of the Constitution set out a number of remedies and guarantees, including the right to habeas corpus and the right to *amparo*. It likewise stipulated that, in any proceedings before a court or jurisdiction of whatever instance and in review proceedings, the parties could, at any time before judgment was given, raise an objection on the grounds of total or partial unconstitutionality of a law.

6. The Human Rights Advocate and the Presidential Commission for the Coordination of Executive Policy on Human Rights (the Presidential Human Rights Commission) were mandated to protect constitutional rights and freedoms. The Presidential Human Rights Commission was made up of one deputy from each political party represented in the National Congress and was responsible for appointing the Human Rights Advocate, who acted in accordance with the Paris Principles. All constitutional safeguards were governed by the Amparo, Habeas Corpus and Constitutionality Act.

7. He recalled that the President of Guatemala had announced before the General Assembly of the United Nations that the mandate of the International Commission against Impunity in Guatemala, which would expire on 3 September 2019, would not be renewed. The Commission's powers would be gradually transferred to the Public Prosecution Service. Despite having operated for more than 12 years, the Commission had failed to yield the desired results.

8. The Presidential Human Rights Commission conducted human rights training on an ongoing basis and had covered the subject of torture specifically in two courses and three workshops held between 2017 and 2018, which had been attended by 193 public servants working in the justice system, including the prison service.

9. As to the reparation measures for human rights violations committed during the internal armed conflict, 329 exhumations had been carried out and 2,256 persons had received psychological support under the National Compensation Programme between

2015 and March 2018. The financial compensation owed to victims under the 25 friendly settlement agreements and the 27 judgments of the Inter-American Court of Human Rights had been duly disbursed, either in part or in full, in keeping with the State's capacity to pay. The beneficiaries of that compensation had requested to remain anonymous.

10. Regarding the Molina Theissen case, the State was continuing to take steps to comply with the aspects of the judgment of the Inter-American Court of Human Rights relating to the identification and return of the remains to the victim's family members, having already given effect to the remainder of the judgment. Civil society organizations were limited to acting as the legal representative of victims and, in accordance with the judgments of the Inter-American Court of Human Rights and the friendly settlement agreements, could claim reimbursement of costs and expenses.

11. The Public Prosecution Service had reported that, between 2015 and February 2018, it had received 417 complaints of violence against human rights defenders and 421 complaints of violence against journalists. Of the 838 complaints received, 397 were under investigation and 225 had been dismissed. As at October 2018, the Presidential Human Rights Commission had implemented 46 protective measures ordered by the Inter-American Commission on Human Rights in respect of, *inter alia*, members of the judiciary, journalists and human rights defenders. The Public Prosecution Service had likewise adopted General Instruction No. 05-2018 which established a protocol with specific criteria and tools for the investigation of crimes committed against human rights defenders. Ministerial Agreement No. 23-2018 of 17 January 2018 had served to strengthen the Unit for the Analysis of Attacks against Human Rights Defenders and complaints could still be filed via the corresponding hotline.

12. With regard to the protection of persons with psychiatric illnesses in private care centres, the Counsel General's Office, in response to a complaint of ill-treatment lodged by a civil society organization concerning the Hogar Hermano Pedro and the Hogar Virgen del Socorro, had ordered an investigation into the alleged incident and protective measures for the patients residing in those institutions.

13. The Guatemalan authorities had taken swift action to address the issue of the migrant caravan. The Presidential Human Rights Commission had called an inter-institutional conference to discuss preparations for a potential large-scale humanitarian crisis, which had paved the way for a meeting between the President of Guatemala and the President of Honduras, the purpose of which had been to coordinate a strategy for dealing with the migration problem in the region, in consultation with their counterparts in Mexico and El Salvador and the Vice-President of the United States of America. Mandate holders in Guatemala and Honduras had adopted a plan to ensure the safe return of Honduran nationals who were part of the migrant caravan and who wished to return home voluntarily. As at 20 October 2018, some 2,000 persons had returned home safely. Migration and social welfare authorities, security services and humanitarian actors had worked in partnership and had guaranteed respect for the human rights of those persons who were part of the migrant caravan at all times as it made its way through Guatemalan territory, paying special attention to vulnerable persons, including children, older persons and persons with disabilities. Fortunately, the migrant caravan had passed through Guatemalan territory without incident on its way to Mexico.

14. The delegation would endeavour to provide additional information on the issues raised by the Committee within 48 hours.

15. **Mr. Pozuelos López** (Guatemala), replying to questions posed on the Guatemalan prison system, said that, in the absence of a unified complaints register, the information analysis unit of the national prison system kept a register of complaints of ill-treatment against persons deprived of their liberty. The complaints received via the confidential hotline 1533 concerned violence suffered and caused by those persons. The national prison system had a monitoring and video surveillance centre, which was equipped with 186 video surveillance cameras. A total of 20 video surveillance cameras were located in the Women's Orientation Centre. The new unit for mothers within the Women's Orientation Centre was now complete and housed 30 mothers deprived of their liberty and 31 children under 4 years of age.

16. Although the National Prison Reform Policy 2014–2024 did not include a specific budget projection, it did make provision for the construction of three new places of deprivation of liberty in 2019. Persons deprived of their liberty were separated according to their legal situation in both pretrial detention centres and prisons. The minimum standards for the provision of basic services were adhered to in places of deprivation of liberty that came under the authority of the national prison system. Inmates' food was supplied by external contractors. The unit responsible for controlling food quality had verified that the food in question met the applicable nutritional requirements.

17. Social reintegration programmes were conducted by the subdirectorate for social rehabilitation of the national prison system. Solitary confinement was not provided for in the Prisons Act and was not used to punish persons deprived of their liberty, including those belonging to the lesbian, gay, bisexual, transgender and intersex (LGBTI) community. A total of 17 places of deprivation of liberty had an infirmary. In 2019, the General Directorate of the Prison System would sign a memorandum of understanding with the Executive Secretariat of the Committee against Drug Addiction and Drug Trafficking to facilitate the training of the former's multidisciplinary teams on the prevention and treatment of drug use by persons deprived of their liberty.

18. In order to prevent unlawful entry into places of deprivation of liberty, persons from the outside wishing to enter, along with any objects in their possession, were subject to security screening and/or search.

19. The psychological care unit of the subdirectorate for social rehabilitation conducted psychological assistance programmes in different places of deprivation of liberty in order to forestall psychological problems caused by imprisonment and to prevent suicide among inmates. Since 2012, 562 inmates had died in the national prison system.

20. Persons deprived of their liberty could avoid disciplinary action by appealing against or requesting the revocation of the decision to impose such action, in accordance with article 92 of the Prisons Act. The information analysis unit was the body competent to receive complaints from persons deprived of their liberty. However, its database showed that no complaints of torture, ill-treatment or excessive use of force by prison staff had been registered in 2018. Similarly, the information analysis unit had received no complaints of violence or discrimination from the LGBTI community. There was no protocol or special procedure for the admission of transgender persons deprived of their liberty to the national prison system. According to the register kept by the subdirectorate for social rehabilitation, there were currently 178 persons belonging to the LGBTI community who were deprived of their liberty in Guatemala.

21. The Constitution provided that civil servants, public employees or other persons who issued or carried out orders that would involve persons deprived of their liberty being subjected to torture or other cruel or degrading treatment would face immediate dismissal and would be liable to criminal prosecution.

22. The transfer of persons deprived of their liberty to hospitals was facilitated by an inter-institutional agreement. When a person was first admitted to a place of deprivation of liberty, the medical services unit of the national prison system conducted only superficial medical examinations and interviews to determine the type or types of illness from which that person might be suffering for the purpose of preparing his or her medical record and providing him or her with the necessary medical services. The unit had reported three cases of hepatitis among persons deprived of their liberty, two of which involved hepatitis B and one of which involved hepatitis C. The persons affected were following the appropriate course of medication. Congressional Decree No. 27-2000, which set out the General Act on Combating HIV and AIDS and the Promotion, Protection and Defence of Human Rights in the Context of HIV/AIDS, prohibited compulsory HIV testing.

23. **Ms. Contreras Mejía** (Guatemala) said that 723 adolescents were currently deprived of their liberty in Guatemala, considerably fewer than the number recorded in previous years. Consequently, the rate of overcrowding in places of deprivation of liberty was 76 per cent lower than in 2017. Adolescents in pretrial detention were held separately from convicts in the three centres reserved for adolescent boys and in the only centre reserved for adolescent girls, where young adult females were also held separately from

female minors. The Specialized Reintegration Centre was being redesigned to facilitate the separation of adolescents deprived of their liberty by age group and legal situation and to put an end to overcrowding. The new Centre would be completed in 2019.

24. A series of measures had been taken to improve the situation of adolescents who were taking part in reintegration programmes in the four detention centres reserved for them. Those measures included recruiting more staff to care for adolescents; introducing multidisciplinary teams; facilitating communication between juvenile judges and sentence enforcement judges to promote the application of non-custodial measures; strengthening and decentralizing the social and educational measures programme; improving education and psychosocial care for adolescents in conflict with the law; introducing recreational activities in juvenile detention centres; improving the training on human rights and the rational use of force dispensed to the supervisors of such centres; using polygraphs to screen staff responsible for the care of adolescents; promoting a culture of dialogue and respect in juvenile detention centres; and updating the inter-institutional protocols for the care of adolescents.

25. Turning to the issue of corporal punishment, she explained that, in October 2016, the Social Welfare Secretariat of the Office of the President had concluded a cooperation agreement with Save the Children Guatemala for the conduct of activities to promote positive child-rearing and a campaign against the use of corporal and degrading punishment. In State-run institutions, the protocols on the use of restraints in emergency situations had been updated and monthly compliance checks were carried out.

26. In order to prevent a recurrence of the tragic events that had taken place at the Virgen de la Asunción children's home, the macro-institution model of shelters for children and adolescents had been decentralized to provide more direct and personalized care, and the new residential units screened adolescents upon admission to determine their level of autonomy, whether they had suffered ill-treatment, consumed illicit substances, were liable to engage in risky behaviour or had a disability, so as to provide them with tailored services. The number of such residential units had doubled from 8 to 16 in response to the need to prevent overcrowding, and they currently housed 256 children and adolescents.

27. As at 5 November 2018, 305 of the 600 children and adolescents who had been present in the Virgen de la Asunción children's home at the time of the tragedy had returned to live with their immediate or extended families. Of those 305 children and adolescents, 260 were receiving psychosocial support under the reparation plan of the Counsel General's Office. In order to prevent a repetition of the tragedy, multidisciplinary teams monitored those children and adolescents and their families and provided them with psychosocial and educational support with the aim of strengthening family ties and promoting positive child-rearing practices. The Social Welfare Secretariat of the Office of the President would provide those children and adolescents with a special family allowance to help them remain with their families and to avoid institutionalization and/or revictimization in the future. Of the 15 girls who had survived the tragedy, 10 were receiving psychosocial support. The interests and skills of the 15 survivors had been assessed with a view to devising a life plan to assist them in their transition to independent living. The survivors of the tragedy were also guaranteed a lifelong pension under Congressional Decree No. 16-2018.

28. The Social Welfare Secretariat of the Office of the President, through the Department for Unaccompanied Migrant Children and Adolescents, had set up humanitarian assistance points and a network for the protection and identification of unaccompanied migrant children and adolescents who were part of the migrant caravans making their way to the United States. An inter-institutional coordination meeting had been called by the Office of the President for the purpose of determining how best to assist those children. A set of support services for unaccompanied migrant children and adolescents in Guatemala had subsequently been established. The Ministry of the Interior had likewise been requested to deploy staff to ensure proper monitoring of the situation. Municipal governments had been informed of what action they should take and psychosocial support teams and child protection officers maintained a constant presence in the Departments of San Marcos and Chiquimula. Between 18 October and 16 November 2018, 30 unaccompanied migrant children and adolescents from Honduras had been identified and

provided with assistance. After having been provided with food, shelter, medical care and psychosocial assistance, the 30 children and adolescents had been brought before juvenile judges who, having reviewed the information provided to them by the Social Welfare Secretariat of the Office of the President, had ordered that 23 of them be returned to their country of origin.

29. **Mr. Figueroa Álvarez** (Guatemala) said that prisoners requiring specialized or emergency medical care were transferred to national hospitals, when authorized by a judge. In 2017, 695 prisoners had been transferred to hospitals (441 men and 254 women), and in 2018 there had been 542 transfers (390 men and 152 women). The number of prisoners transferred to hospital had decreased since stricter transfer protocols had been introduced, from roughly 500 a month to between 25 and 40. While there was no mandatory testing on arrival in prison for HIV, tuberculosis or hepatitis, screening of inmates had resulted in the detection and treatment, in 2018, of 148 cases of HIV infection (129 men, 19 women).

30. Measures taken to improve conditions in Federico Mora mental health hospital under the precautionary measures of the Inter-American Commission on Human Rights included: decentralizing care; de-institutionalizing patients; making treatment with psychiatric drugs subject to specific standards and protocols; making internment subject to legal authorization; and training of general staff in diagnosis and follow-up of cases. Patients who were undergoing trial, or had committed an offence, were housed separately from regular patients. A National Plan for Mental Health had been introduced and draft legislation on mental health drawn up. There was a system of informed consent to hospitalization and use of psychiatric drugs. Protocols had been introduced on the provision of care for emergency patients. Children and adolescents had also received mental health treatment. The patients who had been transferred to Zacapa continued to receive follow-up care under the responsibility of the Federico Mora hospital. The reason for their transfer had been to improve their quality of life, since they did not require psychiatric hospitalization; they had either been abandoned by their family or had none.

31. Since 2016, prison guards and police officers had not been allowed to enter the Federico Mora wings housing regular patients, which were walled off. In 2017, facilities at Federico Mora had undergone a major overhaul and staffing levels had been increased. Mental health care had been further decentralized in 2018, with an increase in the number of psychiatric staff, and the provision of psychiatric care in virtually all of the country's 44 hospitals. The Federico Mora hospital budget had remained stable, and had seen a considerable increase in 2018. All cases of sexual abuse and ill-treatment at the hospital were reported to the Public Prosecution Service so that it could conduct an external investigation, while internal public health protocols were applied at the hospital to punish the perpetrators. Medical care had been provided to 3,664 persons in the so-called "caravan" of Central American migrants, for example, to treat dehydration and respiratory problems.

32. **Mr. García Morales** (Guatemala) said that the National Institute of Forensic Sciences was an independent body charged with carrying out scientific investigations to assist the judicial system, including into the probable causes of torture and cruel or degrading treatment. As part of its work it conducted a large number of health checks on adults and adolescents held in detention, and informed the courts if hospital treatment was required. In 2016 and 2017, for example, it had carried out close to 5,000 assessments a year, and as at 15 November 2018 it had carried out close to 7,000. To improve detainees' access to health care the Institute had signed protocols for inter-institutional action to assess the health of adult and adolescent detainees.

33. A number of instruments had recently been adopted to support the Institute's work, namely: a guide for the medical assessment of persons exhibiting signs of possible torture, including detainees; a guide for the psychological examination of victims of violence; and a guide for the assessment of persons who had died, possibly from torture. The first two guides incorporated the mechanisms and methods provided for in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the third incorporated those provided in the Minnesota Protocol on the Investigation of Potentially Unlawful Death. The Forensics Management Unit had been established in order to improve the quality and

timeliness of care provided to victims of torture, and eliminate backlogs in the investigation of cases. A strategic plan was also being implemented to extend care for victims to the most remote areas of the country.

34. **Mr. Tzubán Gómez** (Guatemala) said that since 2012 the National Civil Police had received only three complaints of ill-treatment and torture — two in 2015 and one in 2018. The men involved had been acquitted by the courts. Investigations into domestic violence and femicide by police officers had been carried out; in proven cases administrative sanctions had been applied and victims had been advised to take their respective complaints to court.

35. Persons arrested had to be brought before the competent judicial authority within six hours; they had to be informed immediately of the reasons for their arrest, and of their rights, including the right to a lawyer. Officials infringing the relevant provisions were punished. Interrogations of detainees or prisoners, within 24 hours, were carried out by the judicial authorities, but had no probative value. Police officers were required to immediately report officially prosecutable offences to the Public Prosecution Service, carry out a preliminary investigation, and prevent the suspect from fleeing. In places with no prosecution or police officials, that function was carried out by justices of the peace. Police officers were required to record all actions taken in a single document, in accordance with pretrial procedural rules.

36. Punishment of minors who committed an offence was based on an educational approach. It was unlawful to place minors in the same detention facilities as adults. Minors up to the age of 13 were defined as “children”, while those aged 13 to 18 were defined as “adolescents”. Offenders under the age of 13 were not liable to civil action, were dealt with by juvenile courts, and were given necessary medical, psychological and pedagogical care under the supervision of their parents or guardians.

37. National Civil Police officers were required to identify themselves when making an arrest, protect the lives and safety of those they were arresting or who were under their custody, and comply with the relevant procedures, time limits and legal provisions. Resolution No. 015-2018 laid down the procedures to be followed by the police, including an example of a notification of arrest document, while Resolution No. 04-2017 established protocols for police procedures involving young offenders. The National Civil Police coordinated with the Ministry of Public Health and Social Welfare, so that persons who had resisted arrest were immediately sent to the nearest care centres to receive any medical attention they needed. When a detainee required medical attention, he or she submitted a request to the head of the detention centre, who sent a report to the court handling the case and awaited a reply; in the case of an emergency the detainee was transferred immediately for a medical examination, and the relevant court was immediately notified.

38. In line with the provisions covering the withdrawal of the assistance provided by the armed forces to the National Civil Police, established in the agreement on the strengthening of civilian power and the role of the army in a democratic society, the demobilization process had started in June 2017, with the second phase having taken place in December 2017 and the final phase on 31 June 2018. As a result, the National Civil Police had increased its numbers to close to 40,000 officers, with a further increase of 3,000 expected in December 2018.

39. No complaints had been received of private security officers taking over the role of the police in matters of public security. The National Civil Police had approved, and was implementing the protocol issued under its Resolution No. 07-2018 for dealing with accompanied or unaccompanied migrant children and adolescents. Police training included a number of aspects of human rights, in line with the various human rights treaties signed and ratified by the State party; the number of hours of training varied according to the rank and function of the official. Some 350 National Civil Police officers worked to support inmates in the prison system, which included 1,500 persons in pretrial detention, of whom approximately 50 were women.

40. The National Civil Police, through Resolution 20-2017, had adopted protocols on how to deal with collective violence, including lynching.

41. **Mr. Arango** (Guatemala) said that, with regard to the question on the criminalization and punishment of torture in the Criminal Code in line with the Convention, a technical panel had been established — consisting of the National Congress human rights committee and the National Office for the Prevention of Torture — which was preparing draft legislation to that effect, to be presented to Congress in December 2018. In order to promote the bill governing the implementation of the Rome Statute of the International Criminal Court in Guatemala, a letter was to be sent to all deputies stressing the need for the bill to be scheduled for a third reading and finalized.

42. A number of exclusions to appointments to the National Office for the Prevention of Torture, on grounds of incompatibility or conflict of interest, had been established in Decree No. 40-2010. For example, candidates could not: hold public office, be a relative of another public servant, be a leader of a political party or be a member of the armed forces. In order to ensure that the national preventive mechanism had the necessary resources to implement its mandate independently and effectively, it had been assigned 10 million quetzales for its first two years of operation, 2015 and 2016. However, Congress had reduced the preventive mechanism's budget for 2017 by 50 per cent, which had affected implementation of its mandate. For the institution's 2019 budget, the Congress finance committee had agreed to assign 8 million quetzales.

43. The national preventive mechanism had submitted complaints to the Public Prosecution Service against officials and institutions responsible for the custody of detainees, with the aim of punishing the perpetrators and preventing future human rights violations. While Decree No. 40-2010 provided that the plenary body of the national preventive mechanism could hire professional experts in various disciplines, the institution had been incomplete for 18 months, during which it had had no plenary body, making it impossible to hire multidisciplinary teams. Article 19 of the Decree established the eligibility requirements to be met by potential rapporteurs of the national preventive mechanism, including professional experience in relevant fields of activity, such as human or social sciences, human rights, administration of justice, prevention of torture or ill-treatment, and criminal investigation.

44. Article 21 of the Decree contained provisions on the corresponding appointment process; on the basis of a shortlist of three candidates per post drawn up by the human rights committee, Congress appointed one rapporteur and one alternate for each post. The call for candidates was widely published. Article 23 covered the reasons for the termination of a rapporteur's mandate, which included resignation by the rapporteur, his or her criminal conviction, and failure to fulfil his or her functions or mandate or comply with the human rights principles of the preventive mechanism. For the most recent selection process, conducted in line with article 21 of the Decree, the views of the Public Prosecution Service and the Supreme Electoral Court, *inter alia*, had been sought regarding each applicant that had responded to the call for candidates. A grading system had been devised, on the basis of which a shortlist had been drawn up comprising the top three candidates, which had been sent to the executive committee of the Congress. The final appointment of the relevant members had consequently been made in plenary.

45. The national preventive mechanism had received 82 complaints in 2016, 63 in 2017 and 99 in 2018. It had carried out 74 visits to places of deprivation of liberty in 2016, 69 in 2017 and 202 in 2018, and had issued 917 recommendations to institutions in 2016, 327 in 2017 and 574 in 2018.

46. Under article 29 of Decree No. 40-2010, the national preventive mechanism's advisory board would be composed of persons put forward by civil society organizations working on the prevention of torture and other cruel, inhuman or degrading treatment or punishment, or on victim rehabilitation. A call for candidates had been published and nominations would be accepted until 30 November 2018.

47. With respect to the Bitkov case, it should be borne in mind that article 12 of the Act on the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment gave the national preventive mechanism a mandate to make recommendations and requests to competent authorities with a view to preventing torture and improving the treatment and conditions of detention of persons deprived of their



liberty. Upon receiving a complaint, the mechanism had decided to intervene in favour of Mr. Igor Bitkov with a view to verifying that his human rights, especially his right to health, were not being violated.

48. The bill on the establishment of a national commission on the search for victims of enforced disappearance had not received a third reading and would most likely be shelved. However, in recognition of the importance of creating a national search commission, the congressional human rights committee had drafted a new bill, which had been presented to more than a dozen State institutions and would soon be presented to civil society before being officially submitted to Congress.

49. The bill on the protection of life and the family had been submitted to Congress on 27 April 2017 and had received its second reading on 22 August 2017.

50. The bill to amend the National Reconciliation Act had received one favourable opinion from the Committee on Constitutional Matters and one unfavourable opinion from the congressional human rights committee. The 158 deputies of the National Congress would soon vote on the two opinions. If the favourable opinion received the majority of votes, the process for the adoption of the bill would be initiated.

51. **Mr. Borrayo Reyes** (Guatemala) said that his Government intended, subject to approval from Congress and other relevant national bodies, to begin making contributions to the United Nations Voluntary Fund for Victims of Torture.

52. *Mr. Modvig took the Chair.*

53. **Mr. Rodríguez-Pinzón**, thanking the delegation for its detailed replies, said that it would be useful for the State party to establish an assessment and follow-up procedure, complete with statistical analysis, to evaluate the application in practice of fundamental legal safeguards.

54. As the Committee had received information that victims of the internal armed conflict had experienced problems gaining access to the National Reparations Programme, the Government should consider taking action to speed up and improve the process for obtaining reparations.

55. Although the delegation had spoken in general terms about cases heard by the Inter-American Court of Human Rights, it had not commented on the amount of compensation paid to individuals. As it appeared that some people had been compensated fully while others had not, he would appreciate an update on the status of each case.

56. With respect to the minor who had died while attempting to leave Central America in one of the migrant caravans seeking to enter the United States of America, he wished to know how the death had occurred and what support had been provided to the child's family. More generally, he would welcome written statistics on the number of migrant children to whom the Government had provided assistance in such situations.

57. The Government should take steps to guarantee that civil society organizations could gain admittance to juvenile detention centres.

58. While he appreciated the detailed responses given by the delegation in relation to the tragedy at the Virgen de la Asunción children's home, he was concerned that the lifelong allowances granted to children who had survived that tragedy were insufficient, and he had received reports that they might be discontinued. He would appreciate reassurance from the delegation that the allowances would be maintained at an acceptable level.

59. Although it was encouraging that the legal framework governing the operation of the National Civil Police force was being strengthened, it was striking that only three complaints of crimes of torture had been recorded between 2012 and 2018. The Committee would be interested to know whether the low number of complaints was due to how torture was criminalized and therefore recognized by the courts, or rather to how the monitoring mechanism recorded such complaints.

60. He wished to express his concern at the large number of private security services that were registered to use firearms. He wondered how the State party was monitoring the use of such weapons on private premises.

61. The Committee regretted the lack of information provided on the training received by non-police officials, such as doctors, forensic experts and other professionals working in penitentiary establishments. It would be useful to receive more detailed information on the content of the training curriculum offered to police officers.

62. The planned increase in the budget of the national preventive mechanism from 5 to 8 million quetzales in 2019 still fell short of the initial figure of 10 million quetzales that had been calculated as an appropriate level of funding. The National Congress should consider taking measures to increase the budget of the mechanism to 10 million quetzales in order to ensure that it could function optimally.

63. He wondered why the second process for creating a bill to establish a national commission on the search for victims of enforced disappearance was expected to be successful when the first bill had been shelved owing to serious shortcomings.

64. The Committee had received reports that the armed forces remained very active in the south of Guatemala, conducting operations with high-performance artillery vehicles designed for military use. A recently established national intelligence centre fulfilled both civil and military functions, in violation of national legislation designed to separate the two. He would welcome information on the justification for combining civil and military intelligence-gathering operations in such a way.

65. It was unclear why an elite national police force had been created for the purpose of carrying out evictions, and why it was being trained by the army. With whole communities having been forcibly removed or displaced, human rights organizations had documented an unacceptable pattern of crimes, including acts of cruel, inhuman and degrading treatment perpetrated by security agents of the State. Some evictions took place with very little notice and were carried out by private security guards as well as State actors. Did the State party have any protocols on the use of force, especially the use of lethal weapons, when such evictions took place? If so, how did it implement them?

66. In the light of the acquittal of Mr. José Mauricio Rodríguez Sánchez and the overturning of the conviction of Mr. José Efraín Ríos Montt, he wished to know what the State party was doing to prevent impunity with regard to the genocide committed against Maya civilians in the 1980s.

67. **Ms. Racu** said that the Committee remained concerned that prisoners had no opportunities to appeal decisions made by the prison administration.

68. She would appreciate statistics on current staffing levels in prisons. In relation to prison regimes, it would be useful to receive information on the rehabilitation and social programmes offered to prisoners, and on the measures taken to prepare prisoners for release.

69. She was concerned at reports that the newly constructed facility for the detention of imprisoned mothers and their children did not provide for appropriate nutrition for children under four years of age or specialized medical care for pregnant women.

70. The fact that prisoners were not screened on admittance to prison for HIV or tuberculosis posed a threat to the entire prison population.

71. She was yet to hear about concrete measures taken in detention centres to prevent violence, self-harm and deaths in custody. It would be interesting to know whether the State party had any specific protocols for the investigation of deaths in custody.

72. The Committee was still anxious to receive statistics on the number of human rights defenders and journalists killed in the State party during the reporting period. It was essential that the State party should investigate the root causes of the high number of murders so that it could take measures to combat and prevent such incidents.

73. Many civil society organizations had noted with concern the bill on the protection of life and the family, which proposed to double the penalties for any form of abortion and to complicate the process for obtaining therapeutic abortions. According to several sources, a high number of clandestine abortions took place in Guatemala, including among girls subject to sexual violence, and such incidents represented a major cause of maternal deaths.

She would like to know whether there had been any engagement with civil society on the content of the bill.

74. She would appreciate an update on the measures taken to prevent gender-based violence, including improvements made to shelters for the protection of victims of sexual and domestic violence.

75. The State party's rigid system of penalties for illegal drug offences triggered the automatic imposition of pretrial detention in many cases, which precluded offenders from benefiting from non-custodial measures. She would welcome the delegation's views on the use of electronic monitoring and other non-custodial measures to remedy the excessive use of pretrial detention in Guatemala.

76. With respect to conditions of detention at the Federico Mora National Mental Health Hospital, the Committee had received reports that patients were not always held separately from individuals convicted of criminal offences, which compromised their safety. Had the State party received any complaints from patients of sexual or physical abuse? If so, had those complaints been investigated?

77. **Ms. Belmir** said that the Committee had been given to understand that the independence of judges in Guatemala was compromised by their being employees of the State, and that their requests for judicial reform had gone unheeded. She therefore wondered what steps the State party was taking to ensure the effective rule of law.

78. **Mr. Hani** said that he welcomed the intention of the State party to support the United Nations Voluntary Fund for Victims of Torture and hoped that it would also support non-governmental and civil society organizations involved in the rehabilitation of torture victims.

79. He had yet to receive a satisfactory reply to his question on the obligatory treatment of drug addicts in special centres. The Committee had received reports that some 95 per cent of persons in those centres had been admitted against their will. He wished to know how many such centres there were and how many individuals had been admitted to them. In addition, he wondered whether the Government was taking measures to close centres if they could not be properly monitored, and to prevent mistreatment and provide alternatives to deprivation of liberty in such cases.

80. He had received no response to his question on the alleged detention in cages of adolescents with disabilities in psychiatric institutions. He also wished to know whether there were any ongoing public or criminal inquiries into cases of unjustified internment in such institutions, and how government policy would be affected by the reduction in the budget for persons with disabilities in detention centres.

81. Lastly, he would be interested to know how the Government planned to prevent impunity after it had shut down the International Commission against Impunity in Guatemala.

82. **The Chair** said that he wished to know whether the State party would take steps to ensure that signs of torture and ill-treatment were identified during initial medical examinations of new prisoners. If he correctly understood the ratio of new prisoners per year to doctors, those examinations could be conducted at a rate of one per day, which was perfectly achievable.

83. He asked whether the National Institute of Forensic Sciences investigated all cases of death in custody, and if not, who investigated the others. Did the Institute apply the Minnesota Protocol on the Investigation of Potentially Unlawful Death in all such cases?

*The meeting was suspended at 5.15 p.m. and resumed at 5.30 p.m.*

84. **Mr. Borrayo Reyes** (Guatemala) said that much of the information generated by NGOs and other sources did not reflect the facts. In response to requests from the international community, the army no longer participated in police activities and had been reassigned to border enforcement to help curb transnational organized crime. In 2018, Guatemala had organized the Specialized Conference on Human Rights in Military Support to Civil Authorities in Border Control and Migrant Operations. The aim of the conference

— the first of its kind — had been to raise armed forces' awareness of the need to apply human rights in cases of child trafficking and other transnational crimes. The Presidential Commission for the Coordination of Executive Policy on Human Rights was responsible for training public officials and, in collaboration with the human rights directorate of the Guatemalan army, had run workshops on human rights for military personnel.

85. Communities were evicted if they had settled on World Heritage Sites, but only after investigations had been conducted and the necessary judicial decision handed down. The civil security forces carried out the evictions in an orderly fashion and the Presidential Human Rights Commission ensured that the human rights of evictees were protected under the precautionary measures mechanism of the Inter-American Commission on Human Rights. The Government was seeking to secure land and farms to resettle the persons concerned.

86. The President of the Republic had declared to the General Assembly of the United Nations that the mandate of the International Commission against Impunity in Guatemala would not be extended after parallel military groups had stormed the Presidential Palace and attempted to occupy government buildings, since the primary function of that Commission had been to prevent the existence of such clandestine security forces. Only incidentally had impunity been included in its remit. The Commission had also exerted pressure on judges to prevent the release of detainees through the abusive use of pretrial detention. Guatemala would not recommend that any other State request the establishment of such a body. It did not belong to the United Nations system: its commissioner was merely appointed by the Secretary-General but had been declared *persona non grata* by the President of Guatemala. Shutting down the Commission was thus a matter of foreign affairs, not of human rights.

87. The Government was exploring ways to improve its justice system. A comprehensive project had been tabled before Congress to that end.

88. **Ms. Contreras Mejía** (Guatemala) said that Congress had met on several occasions with the institutions responsible for paying lifelong allowances to the survivors of the tragedy at the Virgen de la Asunción children's home. It was anticipated that the funds would be released by December 2018, with retroactive effect. The Social Welfare Secretariat had established a unit to issue monthly reports on the allowance and monitor its disbursement.

89. The Social Welfare Secretariat was duty bound to protect the best interests and respect the privacy of children in detention facilities. However, that had not prevented civil society organizations from actively participating in the Secretariat's work. In fact, an agreement recently concluded by the Secretariat with prison management had been supported by a number of NGOs. The national preventive mechanism and the Office of the Human Rights Advocate were authorized to access and monitor the conditions of prisons in which minors were detained.

90. The Social Welfare Secretariat had designated a specific shelter for child victims of sexual violence that provided psychosocial support, early learning resources for the children of young mothers and other special services.

91. **Mr. Garcia Morales** (Guatemala) said that the National Institute of Forensic Sciences had conducted 158 autopsies between 2012 and 2018 on persons who had died within the prison system. The Minnesota Protocol had relatively recently been incorporated into the autopsy procedure for deaths in prison and as such was not systematically applied.

92. **Mr. Figueroa Álvarez** (Guatemala), referring to the question that had been raised about the death of a young person in a migrant caravan, said that the death had occurred in Mexico, so unfortunately the Government did not have any specific details on that case.

93. Some patients without family had been transferred from the Federico Mora National Mental Health Hospital to temporary places of residence because that hospital only received patients with psychiatric needs.

94. As part of efforts to decentralize psychiatric care, the Government had extended community health-care plans to cover second-level health-care centres with psychiatrists and psychologists.

95. Regarding the care of pregnant women in prisons, where necessary the Ministry of Health sent obstetricians to assess patients; otherwise, the prisons themselves were responsible for carrying out prenatal exams. All deliveries were performed in hospitals.

96. Psychiatric patients who were deprived of their liberty and those who were not had been segregated since 2016. There had been no record of any abuse by guards. Three cases of sexual abuse by other patients at the Federico Mora hospital had been recorded in 2018 and had already been reported to the Public Prosecution Service.

97. **Mr. Arango** (Guatemala) said that as head of the congressional human rights committee he had supported a second reading of the initial bill for the establishment of a commission on the search for disappeared persons but that it had not been possible because the kinds of disappearance referred to in the bill were very specific. The new bill was more general in that it covered voluntary and involuntary disappearance, accidental separation and other such situations.

98. Regarding the efforts made to legalize abortion, a well-publicized bill providing for the protection, access to justice, reparation and dignity of girls and adolescents had been the subject of over 100 consultations with civil society organizations but had ultimately not been passed.

99. **Mr. Borrayo Reyes** (Guatemala) said that his Government was determined to meet its obligations under the Convention and was taking genuine steps to improve the human rights situation in Guatemala. He called on the international community to help foster the development of his country so that it could definitively move on from its war-torn past.

100. **The Chair** said that he looked forward to receiving the delegation's written replies. Among its recommendations, the Committee would select three for urgent follow-up. It would also invite the State party to submit an implementation plan for the remaining recommendations.

*The meeting rose at 6 p.m.*