



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

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COMMITTEE AGAINST TORTURE

Forty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)\* OF THE 880th MEETING

Held at the Palais Wilson, Geneva,  
on Wednesday, 6 May 2009, at 10 a.m.

Chairperson: Mr. GROSSMAN

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\* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.880/Add.1.

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Honduras (CAT/C/HND/1)

1. At the invitation of the Chairperson, the members of the delegation of Honduras took places at the Committee table.
2. The CHAIRPERSON invited the delegation to introduce the initial report of Honduras (CAT/C/HND/1).
3. Mr. SUAZO ORTIZ (Honduras), introducing his country's initial report on measures adopted to comply with the provisions of the Convention against Torture, said that it had been prepared by an inter-agency committee comprising all the State authorities together with a number of decentralized agencies.
4. Honduras had ratified the Optional Protocol to the Convention in May 2006 and subsequently adopted a law establishing an independent national mechanism for the prevention of torture with a mandate to formulate and implement policies to prevent torture. Furthermore, the new Code of Criminal Procedure had created the office of enforcement judge with responsibility for supervising execution of sentences and security measures, and remedying any infringement of the Code's provisions. Activities had been organized to publicize both the Optional Protocol and the national mechanism.
5. The new National Police Force Act had strengthened the police internal monitoring body. In addition, information on the human rights of detainees had progressively been included in the training curricula for police and armed forces personnel. The State had also organized training sessions, forums and workshops on the rights of detainees for prosecutors and public advocates, a publicity campaign on the issue had been carried out, and posters and leaflets had been distributed. Furthermore, since 1999, the Public Prosecutor's Office had periodically inspected detention centres without prior notice in order to detect cases of torture.
6. Lastly, the courts had handed down important decisions imposing heavy sanctions on police officers found guilty of torture.
7. The CHAIRPERSON, speaking as Country Rapporteur, said that the ratification of the Optional Protocol to the Convention and the establishment of the independent national mechanism for the prevention of torture were significant achievements. It was to be hoped the State had allocated adequate funding to implement the relevant activities.
8. He welcomed the adoption of the new Code of Criminal Procedure and the appointment of enforcement judges, and would be interested to learn what type of training they received, whether the training included information on the Convention and its Optional Protocol, and whether training activities had been evaluated. In addition, it would be useful to know how civil society and academic establishments were involved in the training because positive feedback and lessons learned should be shared.

9. In relation to the unannounced prison visits, the delegation should provide further information on the frequency with which they were made, the results obtained, any action that had been recommended and the extent to which the recommendations had been complied with.
10. Turning to the articles of the Convention, he asked the delegation to clarify the relationship between article 1 and the definition of the crime of torture in Honduran law. The Honduran Criminal Code defined torture only in relation to two situations: when severe pain or suffering was inflicted to obtain information or a confession, or else to punish a suspect. The Convention, however, established other circumstances, such as torture inflicted for any reason based on discrimination of any kind, including gender. Since criminal law was interpreted restrictively in favour of the accused, the fact that discrimination was not specifically mentioned could be problematic. Even though, in Honduras, other legal provisions sanctioned discrimination, torture had a very specific connotation and the Committee consistently reminded States parties of the need for strict implementation of article 1.
11. In relation to article 2, any person held under pretrial detention should have the right to presumption of innocence. The delegation should provide further information on the reasons why around two thirds of the prison population were being held in pretrial detention, since that was an extremely high proportion, most of whom were from the poorest and most vulnerable sectors of the population.
12. Under Honduran law, no one could be held incommunicado for more than 24 hours; it would be interesting to know if that stipulation was complied with in practice. In addition, the law established that judicial detention pending inquiries could not exceed six days. However, could someone being held in judicial detention be kept incommunicado? Could he have access to a lawyer without delay? Would legal aid be available to those who needed it immediately, or only after the six days? Additionally, it would be useful to know how many complaints of human rights violations were filed by prisoners and in what percentage of cases those rights were restored.
13. In its report, the State had acknowledged the problem posed by impunity (para. 62). What specific short, medium and long-term measures was it taking to combat the problem? For example, was it considering introducing legislation to protect persons denouncing impunity? Independent investigators should be appointed because investigations into police wrongdoing conducted by the police, or expecting the national lawyers' professional association to investigate lawyers, led to impunity. The Committee welcomed recent decisions in cases of impunity, some of which were being appealed. Further information should be provided on the results of the appeal.
14. Under international law the remedy of habeas corpus could not be restricted in the event of a state of siege or emergency. Was that true in Honduras? Moreover, the excuse of due obedience to orders could mitigate punishment under certain circumstances but could never exclude it. The Committee would be interested to learn whether due obedience mitigated or excluded punishment in Honduras.

15. With reference to article 3, which authority was responsible for deciding on expulsions? By law, any foreigner convicted of an offence could be expelled immediately. But did that also apply to permanent residents? What was the procedure followed in cases of expulsion and could the person concerned have recourse to the courts.

16. Regarding article 4, he recalled that torture was a crime against humanity and, as such, could not be subject to statutory limitations. Was Honduras considering establishing the imprescriptibility of such crimes?

17. There had been 180 cases of enforced disappearance in Honduras, but not one investigation to establish responsibility and no reparations had been granted. Impunity therefore reigned. Enforced disappearance was a continuing crime and imprescriptible.

18. In relation to article 6, he asked whether free legal aid was available to anyone who needed it and whether the delegation could provide relevant statistical information.

19. The situation regarding the Mara youth gangs was extremely complex and, in the Committee's view, could not be resolved by judicial means alone or through repressive measures.

20. The Committee was very concerned about conditions in Honduran prisons. Reports of inter-prisoner violence and large numbers of prisoner deaths were particularly worrying. What was the Government doing to address those problems? The Committee had received reports that female prisoners were being subjected to vaginal examinations by personnel without proper medical training. Such treatment was clearly cruel, inhuman and degrading.

21. Ms. SVEAASS, Alternate Country Rapporteur, said that the Committee would be interested in hearing what measures were being taken to reduce prison overcrowding, which contributed to inter-prisoner violence. She enquired whether any reports were available on the prison visits made by the National Commissioner for Human Rights and, if so, how those reports were disseminated and used. She also invited the delegation to comment on the application of the Standard Minimum Rules for the Treatment of Prisoners in Honduras.

22. The Committee had received reports of severe food shortages in some detention facilities. She asked what was being done to remedy that problem and, in general, improve conditions in prisons and other detention facilities. Paragraph 214 of the State party's report indicated that recommendations for the improvement of several facilities had not been fully implemented. She enquired what further action had been taken on those recommendations since the publication of the report. She also wondered what action had been taken to address reported human rights violations at the police holding cell in Villa Vieja.

23. She enquired how the needs of detainees with mental health problems were being met. Were there, for example, special facilities for such detainees? She would also like to know what safeguards were in place to protect the rights of persons with mental illness who were hospitalized involuntarily.

24. Commending the State party for its ratification of the Optional Protocol to the Convention, she requested an update on the work of the inter-agency commission appointed to set up the national preventive mechanism.
25. The Committee had received reports of numerous threats against and killings of human rights defenders. The Government should take steps to strengthen protection for NGO staff and other human rights defenders. Noting that most of the allegations of human rights abuses by Honduran law enforcement personnel involved the Preventive Police Force, she asked the delegation to provide additional information about the role of that agency.
26. Emphasizing the importance of human rights training as a means of preventing human rights violations, she enquired whether there had been any evaluation of the impact of the training courses and programmes mentioned in the State party's report and whether training in professional ethics was being provided. She also wished to know to what extent the training focused specifically on torture and the content of the Convention.
27. Information provided to the Committee indicated that 7 out of every 10 detainees were subjected to violence in some form. She would like to know what the Government was doing to stop such abuses. She would also like to know whether allegations of torture or ill-treatment in prisons were investigated by forensic personnel applying the Istanbul Protocol. Referring to the complaints mentioned in paragraph 188 of the State party's report, she enquired what action had been taken in respect of any public officials found guilty of acts of torture or other cruel, inhuman or degrading treatment and in respect of the victims. In general, what compensation was provided to victims of human rights violations and did it include rehabilitation services?
28. She was alarmed at the serious human rights violations cited in the reports of the Working Group on Enforced or Involuntary Disappearances, the Working Group on Arbitrary Detention and other human rights bodies. What action had the State party taken to implement the recommendations contained in those reports? Could the delegation provide any information on the disappearances of Jorge Ruiz Rosales, Elvis Barrientos, José Alfredo Guevara, Carlos Lazo and Héctor Herrera?
29. NGO reports pointed to a large number of extrajudicial killings in Honduras, as did the report of the Special Rapporteur on the issue (E/CN.4/2003/3/Add.2). Many of the victims appeared to be children and young people. Land rights activists and election workers had reportedly also been killed. What measures were being taken to stop such killings and hold those responsible to account?
30. Lastly, she requested information about what approaches the State party was taking to reduce the excessive use of force by police during public demonstrations and to address the problem of trafficking of young girls.
31. Mr. MARÍÑO MENÉNDEZ encouraged the State party to take steps to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as recommended by the Committee on the Elimination of Discrimination against Women in 2007 (CEDAW/C/HON/CO/6, para. 21). It could thus bring the weight of international law and international cooperation to bear in tackling the problem.

32. He joined Ms. Sveaass in commending the State party for its ratification of the Optional Protocol and enquired how the members of the national preventive mechanism would be selected and when that mechanism would be operational.

33. He would like to have additional information about the nature of the “migratory amnesty” mentioned in paragraph 78 of the State party’s report. In particular, he wished to know what criteria were applied in determining whether a foreign national was eligible for amnesty. Referring to paragraph 180 of the report, he enquired whether any statistics were available on the calls received through the 24-hour hotline operated by the National Commissioner for Human Rights and whether that initiative was considered to have been effective. With respect to paragraph 173, he asked what government agency the Forensic Medicine Department was affiliated with and whether the forensic physicians who investigated torture complaints were independent or were employees of that Department or another public institution. He pointed out that the Istanbul Protocol recommended that such investigations should be conducted by independent physicians.

34. He would be interested in knowing what measures the State party had taken to control trafficking in firearms and to strengthen the ability of public prosecutors to address that problem and, in general, to ensure the enforcement of criminal law in Honduras.

35. Mr. GAYE, while noting the delay between the Government’s ratification of the Convention and its submission of the report under consideration, said that the Committee nonetheless welcomed the opportunity to receive information on the measures taken by Honduras to give effect to its obligations under the Convention.

36. He was struck by the fact that the Supreme Court of Justice and the Supreme Electoral Court had been granted both judicial and legislative powers, so he asked the delegation to explain the role of those two bodies in the formulation of legislation. He was also puzzled to learn that, although international instruments ratified by the State party were automatically incorporated into domestic law, the Criminal Code contained a definition of torture that was not fully in line with the provisions of the Convention. He stressed that tolerance of torture and ill-treatment by public authorities should be criminalized within the meaning of the Convention. In that connection, he invited the delegation to provide specific information on penalties imposed for torture and ill-treatment.

37. He was encouraged by the existing safeguards for the protection of the rights of persons in pretrial detention. In practice, however, a climate of impunity prevailed. The indefinite extension of periods of detention and secret investigations, among other practices, had created an ambience which nullified the safeguards and encouraged the practice of torture and ill-treatment, a fact which had been confirmed in the initial report and by independent sources.

38. A bill aimed at establishing a system of independent investigators under the Chief Public Prosecutor was being considered by the National Congress, and he reminded the delegation that a lack of enforcement of current regulations undermined the prospects for the effectiveness of future legislation. He asked for clarification of the powers and prerogatives of public prosecutors with regard to the conduct of investigations under current legislation.

39. Likewise, he failed to understand the Government's attitude to the expulsion or return of asylum-seekers for reasons of national security or public order, and asked for clarification in that regard. He wondered whether there had been specific cases which could serve as examples.

40. Mr. GALLEGO CHIRIBOGA said that he was concerned at press and NGO reports on the incidence of violence, which constituted a "reign of terror", to use the words of the head of delegation. The victims were often women, children, immigrants, disabled persons and members of other vulnerable groups, and Honduras seemed to have the highest rate of violence in the region. In considering the root causes of violence, he wondered to what extent the Government's efforts to tackle violence were undermined by the fact that the prison system was overstretched and by the legal regime which governed the treatment of detainees.

41. Femicide was recognized as an aberration that transcended domestic violence, which in itself was unacceptable. The State had a responsibility to protect vulnerable groups.

42. Mr. KOVALEV said the harassment and murder of journalists and human rights defenders constituted an attack on the freedom of expression. He asked the delegation to cite examples of prosecution and punishment of perpetrators of such crimes, if indeed they had been identified. The concluding observations of the Human Rights Committee in 2006 had highlighted the increasing number of children whose births had not been registered, especially in indigenous communities, and as a result those children did not have access to education or health care. What legislative and practical means had been deployed to correct that omission, and which agency was responsible for monitoring the situation of unregistered children?

43. Ms. BELMIR said that paragraph 46 of the initial report referred to the independence of the judiciary, which, she recalled, had previously been questioned by the Human Rights Committee. She believed the overlapping of the functions of various bodies within the Public Prosecution Service further compounded the situation, and she asked for an explanation of the specific functions of the bodies concerned.

44. Turning to compliance with the Convention, she listed a number of flaws in the implementation of the Convention, including the inadequacy of the definition of torture in national legislation, the continued practice of torture, enforced disappearances and the prevalence of dubious judicial practices. With reference to paragraphs 53 and 54 of the initial report concerning pretrial detention, she believed that the term "pretrial" was misleading and had noticed that the duration of such detention was unpredictable, a fact which ran counter to the very concept of pretrial detention. She therefore wished to know what interpretation of the concept applied in Honduras. As other human rights treaty bodies had done, she wished to stress the need for the State party to give priority to proper procedures for detainees. Still on the topic of detention, she asked for further comments on the system for granting habeas corpus and appeal.

45. The extrajudicial execution of street children was appalling, and the use of firearms in detention facilities, especially young offenders' institutions, was simply unacceptable.

46. Ms. KLEOPAS drew attention to the allegations of widespread violations of the Convention, including extrajudicial killings and disappearances. She was particularly alarmed by accounts that children were arbitrarily arrested on the basis of their appearance.

47. Eradicating impunity was a major goal in international efforts to stop the practice of torture, and in that regard she asked whether the Government had envisaged the establishment of an independent investigative mechanism to deal with allegations of torture and ill-treatment.

48. She also asked whether the Government intended to implement the recommendation of the Working Group on Arbitrary Detention, which in paragraph 101 of its report (A/HRC/4/40/Add.4) had addressed the need to establish the penitentiary system as a separate institution run by professional penitentiary management and staff unconnected to the police. The aim should be to prevent arbitrary detention and ensure that detention focused on rehabilitation and prepared detainees for a working life outside prison.

49. With regard to domestic legislation on torture, which she believed did not adequately govern acts prompted by discrimination, she urged the State party to explicitly prohibit such acts. In that connection, she endorsed other members' views concerning violence against women, and referred to the concluding observations (CEDAW/C/HON/CO/6) made by the Committee on the Elimination of Discrimination against Women in 2007. Paragraph 18 of the concluding observations had expressed concern about the prevalence of violence against women and girls, including sexual abuse, incest, rape, domestic violence and femicide, despite the measures taken by the State party. The observations also referred to the negative attitudes of the police and judges to the application of protective mechanisms for the benefit of victims. Those attitudes had perpetuated impunity. Concern that Honduran women might be compelled to migrate because of violence had also been expressed. She drew attention to the fact that only a small proportion of complaints filed by women had been resolved by the police in 2006, and she was curious to know the total number of such complaints that had been investigated and prosecuted and the corresponding number of persons punished in 2007 and 2008. It was therefore encouraging to note, in paragraph 132 of the initial report, the current discussion of a bill to amend the National Police Force Organization Act, which included criteria based on the gender approach; she asked for additional information on the bill. She was also interested in knowing how many women were members of the police force and the judiciary.

50. She invited the representatives of the State party to comment on the absence of rehabilitation programmes and centres, shelters or special measures for victims of torture, and on the fact that corporal punishment of children was permitted.

51. Ms. GAER commended the delegation for its outstanding initial report.

52. Following up on earlier comments on the rate of femicide, she said she had learned that in 2008 the Government had appointed 27 prosecutors to deal with the problem. She asked whether that number was still current, how many of them were female, whether they had prior experience in forensic investigation and what results they had achieved to date.



53. According to the core document provided by the State party, homicide was the third most common cause of death. She asked whether statistics on homicides and femicides were available and had been disaggregated by ethnic group and region.

54. The CHAIRPERSON, referring to the killing of two environmental activists, Heraldo Zúñiga and Roger Iván Cartagena, reportedly by the police in 2006, said he was interested in knowing how much effort had been invested in identifying the mastermind of that incident, which seemed to be linked to the victims' campaign against illegal logging. There appeared to have been connivance between the police and logging interests during the original investigations, and, in his view, the fact that three of the four persons convicted had escaped from prison amounted to impunity. He therefore asked the delegation to indicate how thorough and open the investigations had been, and the level of resources allocated to resolving the issue and ensuring that the perpetrators were convicted.

The public part of the meeting rose at 12.05 p.m.