



Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Visit to Uruguay undertaken from 4 to 15 March 2018: observations and recommendations addressed to the State party

Report of the Subcommittee*

Addendum

Replies of Uruguay**

[Date received: 7 January 2019]

* In accordance with article 16 (1) of the Optional Protocol, the report of the Subcommittee was transmitted confidentially to the State party on 14 September 2018. On 4 January 2019, the State party requested the Subcommittee to publish the report and its replies, pursuant to article 16 (2) of the Optional Protocol.

** The present document is being issued without formal editing.



1. The note sent by the Ministry of Foreign Affairs to this State Secretariat describes the following situation in prisons:

- Inhuman and degrading conditions in places of detention. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Subcommittee) notes, in particular, the conditions in Canelones and Libertad prisons and Unit 5 (women's wing) and Unit 4 of the Santiago Vázquez Prison Complex. The report gives an account of excessively small cells (some of them only 1.60 m by 1.50 m), a lack of water and showers, badly maintained and blocked toilets, a lack of beds and mattresses, excessive amounts of rubbish, the presence of rats, cockroaches and worms, and leaks and flooding. The Subcommittee goes so far as to recommend the closure of cell block 2 in Canelones and the Unit 3 complex in Libertad.
- Overcrowding.
- Insufficient, unpleasant and poor quality food with adverse effects on inmates' health.
- Prison health-care system. The Subcommittee highlights the lack of coordination with specialized medical services, the very poor working conditions, the sub-standard infrastructure and the insufficient resources (lack of water, fungal growth, leaks, floods of sewage and rats). The Subcommittee goes so far as to recommend the immediate closure of the polyclinic in Unit 7 in Canelones.
- Excessive, inhuman lengths of time spent confined to cells, without access to recreational or rehabilitative activities, work or study.
- Widespread practice of self-harm among persons deprived of their liberty and a gradual increase in the number of deaths.

General considerations

2. The Minister of the Interior has submitted to parliament a bill on the organization of the prison system in Uruguay that sets a February 2021 deadline for transforming the National Rehabilitation Institute into a decentralized body and placing it under the purview of the Ministry of Education and Culture.

3. With this transition in mind, a civilian director was recently appointed for the Institute and a deputy director of administration, also a civilian and with management expertise, will be appointed as a means of accelerating the Institute's independence.

Conditions in detention centres

4. Starting with the National Rehabilitation Institute, the Ministry is pressing ahead with the decentralization process and, as part of this process, is working to achieve ongoing improvements in the prison system and create adequate living conditions for persons deprived of their liberty.

5. This implies a paradigm shift both in security arrangements and in the treatment of persons deprived of their liberty, offering them greater opportunities for education, work, sports and recreational activities.

6. In 2018, efforts were made to strengthen the different component parts of the system – namely, infrastructure and services, integrated management (administration, technical operations and security), and vocational training.

7. Efforts to improve the units mentioned in the report included, in Unit 3, a refurbishment of the sanitary facilities, plans to waterproof certain areas and the creation of assembly rooms in unused spaces. Regarding the recommendation to close Unit 3, although we were the first to confirm that the unit would be closed, now is not the right time, in our view. Closure at the present time would be premature, since as part of the planned prison reforms this Unit will be assigned a different function as changes to the manner in which

prisoners are treated are introduced, and the buildings will be remodelled and refurbished for this purpose.

8. In Unit 4 in Santiago Vázquez, perimeter security was enhanced, LED lighting was introduced (as it was in Unit 3 the previous year) and funds were earmarked for investment in a recycling plant to minimize the impact of pollution, given the volume of rubbish generated at the facility. Work to improve cell block 2, which will create around 350 new prison places, is under way in association with the National Union of Workers in the Building and Allied Trades, affording an opportunity for training in various trades to be provided to approximately 150 persons deprived of their liberty by 40 specialist builders belonging to the Union. A general overhaul of outdoor spaces near the visitor's entrance, roof extensions, landscaping and play areas, new sanitary facilities for visitors, the refurbishment of the facility's main kitchen, a partial refurbishment of cell block 6 and general repairs in cell block 14 are planned.

9. A bakery has been opened in Unit 5, and is now fully operational, and a laundry will be opened once the cleaning and maintenance work on the nearby sewer mains has been completed. This cleaning work, which entailed unblocking points that were generating surface contamination within and outside the perimeter fence, was carried out in cooperation with the Municipality of Montevideo. New internal security fences have also been installed and roof waterproofing work is under way. At the same time, an invitation to tender for the installation of kitchen grease traps has been issued to private companies.

10. A survey of infrastructures and services (capacity, sanitation, water, waste disposal and electricity network) at Unit 7 in Canelones was conducted in October 2018 and measures were taken to improve communal living arrangements. As part of these measures, and with a view to reorganization, interviews were conducted to ascertain the demographic profile of the occupants of the Unit's cell block 2, as a result of which 150 of the block's occupants were transferred to other wings or units. Plans to renovate and reroof barracks are also in place, while the renovation of the facility for inmates with tuberculosis is nearing completion. An access ramp and platform for rubbish trucks has also been built.

11. With a view to improved management and increased professionalism, the National Rehabilitation Institute has integrated the prison management system, the human resources management system, the electronic filing system and the national information and communication system into a single national platform and has extended the range of administrative services available online to prisoners and members of their families.

12. To improve management capacities, specialist staff have been recruited by competition.

13. Assessment and reporting procedures were brought into line with the provisions of the new Code of Criminal Procedure through the creation of a national assessment and reporting system.

14. The technical subdivision of the National Rehabilitation Institute has developed technical guidelines for correctional activities, which have been grouped into two areas: development and assistance programmes, on the one hand, and treatment programmes, on the other.

15. Development and assistance programmes:

- Education and culture programme (formal and non-formal education, and sociocultural activities).
- Productive and work enterprises programme (inter-institutional agreements, the units' own initiatives and productive projects designed by the inmates themselves).
- Physical activity, sports and recreational programmes (programme activities led by physical education teachers, sports managers and employees of the National Rehabilitation Institute). Other activities are conducted by civil society organizations and under the Ministry of the Interior's "Pelota al Medio a la Esperanza" recreational activity programme.

16. Other specific programmes in this area include:

- Assistance programme for foreign nationals and migrants. This programme coordinates intra- and inter-institutional efforts to meet the specific needs of the 302 foreign inmates (268 men and 34 women) of 20 different nationalities.
- Assistance programme for persons with disabilities. This programme was set up under the National Plan on Access to Justice and Legal Protection for Persons with Disabilities in order to coordinate action and follow-up to address the specific situation of persons with disabilities deprived of their liberty. In 2018, the programme provided assistance in 73 cases.
- Assistance programme for women with children. The technical subdivision, together with the gender and diversity department, develops action plans for care and follow-up in respect of the 38 women prisoners living with their children and the nine pregnant women, in cooperation with key institutions such as the Ministry of Social Development's "Uruguay Grows with You" (Uruguay Crece Contigo) programme, the Uruguayan Institute for Children and Adolescents, the State Health Services Administration and the National Public Education Administration.

17. Treatment programmes:

Two new programmes were launched in 2018: the sexual assault prevention programme, which was delivered to a group of 11 men in Unit 4, and the gender-based violence prevention programme, in which 10 women in Unit 5 participated.

18. The programme for emotional regulation and reassignment of meaning to life stories using mask theatre (13 participants in Unit 1), the pro-social thinking programme (131 participants in Units 1, 6, 10, 12, 13, 17, 21 and 23) and the drug abuse treatment programme were relaunched, the latter being managed jointly by the National Drugs Council and the State Health Services Administration's Integrated Care System for Persons Deprived of their Liberty (51 participants in Units 3, 4, 5 and 6). The new and relaunched programmes were attended by inmates from a total of 11 prison units.

19. Methods for assessing and classifying the prison population were standardized with the introduction of a risk assessment protocol (OASys 2.0) and the creation of a multidisciplinary task force to support the different prison units in these processes.

20. The operations division of the National Rehabilitation Institute updated inspection protocols and protocols for the transportation and supervision of inmates outside prison and in care facilities.

21. As part of its efforts to combat corruption, the Prison Investigations and Analysis Department took action in 325 cases being investigated by different prosecution services across the country and six State officials were prosecuted as a result.

22. Several investigations were resolved, a number of persons who had escaped from the National Rehabilitation Institute were captured, and the management of the operations division was improved.

23. Measures were taken to enhance working conditions for prison staff by improving office facilities and common areas.

24. The Prison Training Centre provides ongoing vocational training for all officials. Coordination between the different national administrative divisions has been enhanced in order to foster greater professionalism among public servants.

Overcrowding

25. Since the introduction of the private-public partnership initiative in January 2018 and the refurbishment of cells in various prison units, overcrowding is generally no longer a problem. Only in parts of Unit 4 in Santiago Vázquez and Unit 7 in Canelones is overcrowding still an issue, and this is due to the reclassification and relocation of persons deprived of their liberty in application of the new Code of Criminal Procedure, which requires that pretrial detainees are segregated from convicted prisoners.

26. In the course of 2018, 200 and 300 places were freed up in Units 3 and 4 respectively. There is no overcrowding in Unit 5 and only 1,000 of the 1,960 places in the new Unit 1 at Punta de Rieles are currently occupied. Accordingly, as the reclassification process continues, it will be possible to eliminate overcrowding in all units.

Food

27. In Units 3, 4, 5 and 7, between January and November 2018 the average cost per prisoner per month was approximately 3,000 pesos. The meal plan, which was drawn up by a professional nutritionist, includes foods of diverse nutritional value. In some of the units and wings, including in cell block 2 of Unit 7 in Canelones, portions have been increased and the food distribution system has been reorganized.

The prison health system

28. In 2010, the State Health Services Administration created the Integrated Care System for Persons Deprived of their Liberty. This is the operational unit of the State Health Services Administration responsible for organizing adult health-care services within the prison system.

29. By 2017, the following centres had been transferred to the Integrated Care System's management: Unit 1 (new prison at Punta de Rieles, Montevideo), Unit 3 (Libertad Prison, San José), Unit 4 (Santiago Vázquez), Unit 5 (Metropolitan Women's Prison, Montevideo), Unit 6 (Punta de Rieles, Montevideo), Unit 9 (Metropolitan Prison for Women with Children, Montevideo), Unit 12 (Cerro Carancho, Rivera).

30. The ongoing transfer of services is not yet complete and health services in several prisons still fall under the responsibility of the National Police Health Directorate.

31. The national mechanism for the prevention of torture, which forms part the National Human Rights Institution and Ombudsman's Office, considers the establishment of the Integrated Care System for Persons Deprived of their Liberty to be an important advance, as it guarantees a marked improvement in the quality of care and the technical and administrative independence of services. However, the national preventive mechanism's assessment does not consider all the areas in which the National Rehabilitation Institute and the Integrated Care System for Persons Deprived of their Liberty work together. Other areas of joint action include:

- The handling of isolated health incidents in prison facilities. Each prison has a permanent consultation office that liaises between the administration and the coordinator of the corresponding health centre. Enquiries from the Parliamentary Commissioner, the National Human Rights Institution and Ombudsman's Office, and the consultation mechanisms for family members of persons deprived of their liberty are also handled by this unit.
- The coordination of prisoner transfers to secondary level, specialized or emergency care centres and the transportation of prisoners to scheduled check-ups, in application of a protocol signed in 2018 that specifies the responsibilities of each institution and encompasses all centres, including those in which the Integrated Care System for Persons Deprived of their Liberty is not yet operational. The signature of a protocol for action between the State Health Services Administration (governing board, department of mental health and southern region), the Ministry of the Interior, the National Rehabilitation Institute and the Medical Association of Uruguay is seen as an important advance towards resolving the problems associated with transfers identified in previous years.
- The joint approach to situations linked to the early detection, treatment and follow-up of Koch's bacillus, under the oversight of the Honorary Commission for Fighting Tuberculosis and in accordance with national standards, and the recommendations of the Hygiene Institution in relation to other transmissible diseases, have also improved care.

- The monthly joint meeting between directors of the National Rehabilitation Institute and the Integrated Care System for Persons Deprived of their Liberty allows them to gain a general overview of all centres that serve as a basis for formulating recommendations and coordinating actions, all on the understanding that the Government's aim is to have all persons deprived of their liberty in prison units under the responsibility of the State Health Services Administration in the near future. The only reason why this goal has yet not been achieved across the country is lack of funds.

32. Actions implemented by the Integrated Care System for Persons Deprived of their Liberty in conjunction with other bodies include:

- An analysis of drinking water at the State Sanitary Works, with a view to the installation of 5 km of new pipes in Unit 3 in Libertad, where the most recent analyses revealed a problem of incipient pollution.
- Installation of sewer systems and rat extermination in cooperation with the Departmental Government of Montevideo, primarily in women's units 5 and 9.
- Although Unit 7 has not been transferred to the management of the Integrated Care System for Persons Deprived of their Liberty, action to address potential cases of Koch's bacillus in 2017 was coordinated with the Integrated Care System, helping to mitigate a situation that could have spiralled out of control.

Rehabilitation activities

33. As at September 2018, 42 per cent of the prison population were working and 47 per cent were engaged in formal or informal educational activities.

34. These activities were coordinated with other institutions, including departmental governments, the National Institute of Employment and Vocational Training, the State Health Services Administration, the National Union of Workers in the Building and Allied Trades, the National Public Education Administration and the National Telecommunications Administration.

Widespread practice of self-harm among persons deprived of their liberty

35. No acts of this kind have been recorded as such in our system. However, last November an atypical incident involving two inmates occurred which resulted in the death of one and the aggressor subsequently mutilating the corpse.

36. As at 24 December, 37 deaths had been recorded in 2018, 10 less than in 2017. Of this total, 18 deaths were attributed to murder, 8 to suicide and 11 to other causes.

Allegations of torture in police custody

37. Allegations of torture and other cruel, inhuman or degrading treatment. The Subcommittee reports having received "numerous" complaints from persons deprived of their liberty who stated that they had been victims of torture and ill-treatment in various settings, but in particular at the time of their deprivation of liberty and/or while they were being held in police custody. The examples mentioned in the report are particularly alarming, as reference is made to specific police units.

38. During its visit, the Subcommittee interviewed persons deprived of their liberty who stated that they had been victims of torture and ill-treatment in various settings. However, it should be noted that the report also states that the majority of persons interviewed said that they had not been subjected to torture while they were in prison.

39. It should also be pointed out that persons deprived of their liberty often complain of ill-treatment to the authorities in order to have their sentences reduced.

40. With regard to the claims made, it should be noted that whenever the National Police become aware that one or more of its officers have been involved in human rights violations, the institution itself brings the matter to the attention of the competent authorities and mechanisms, as required under the relevant institutional regulations, which provide legal safeguards for all citizens.

41. Act No. 18362 of 6 October 2008 established the Internal Affairs Department. Pursuant to article 117 (b) of this Act, the Department has a duty to: "Verify that police service is delivered efficiently and in accordance with legislation in force in all matters submitted for its consideration, paying particular attention to ensuring that human rights are protected and respected."

42. Similarly, article 4 (1) of Police Procedure Act No. 18315 of 22 July 2008, concerning the principles of policing, states that: "In the performance of their duties and as custodians of law enforcement, police personnel shall respect and protect the human rights of all persons."

43. Article 4 (j) of Organic Act on Policing No. 19315 of 24 February 2015 establishes that the duties of the administrative police include: "Combatting terrorism and crimes against humanity, promoting respect for human rights".

44. Article 5 of the Uruguayan Code of Police Ethics states that the duties of members of the police force include: "Respecting and upholding the rule of law, human rights and human dignity. The police shall act in strict compliance with national legislation and international human rights law. In the exercise of their functions, members of the police force shall respect, promote, uphold and protect human dignity and safeguard the human rights of all persons."

45. Article 2 of the Code of Conduct for Law Enforcement Officials adopted by General Assembly resolution 34/169 of 17 December 1979 states that: "In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons."

46. It should also be noted that the National Police, as a public service entity, rectifies any irregularities in which its members may become involved and that, in accordance with the provisions of the new Code of Criminal Procedure adopted by virtue of Act No. 19293 of 19 December 2014, concordant legislation and amendments thereto, citizens may report any act of the kind referred to in the report to the competent authority (judiciary, Ministry of the Interior and the Public Prosecution Service).

47. Records of complaints of ill-treatment perpetrated by the police are held in the Internal Affairs Department.

48. Since 2015, the Department's police operations division has investigated – or has been investigating – five alleged offences of torture and 38 complaints of ill-treatment. Only two of these cases have resulted in police officers being prosecuted.

49. It is also important to note that the Public Prosecution Service and the Ministry of the Interior have developed joint protocols for action in this area. Internal service orders have also been issued in this connection.

50. The National Police provides ongoing training to both general and high-level staff in the form of courses overseen by the National Directorate of Police Education.

51. Through all of the foregoing, the National Police affords full guarantees that the human rights of all parties are respected and protected.