

# New Developments in International Norms and Governance

edited by Anais Mayo

1. Convention on The Rights of Persons with Disabilities
2. General comment No. 37 (2020) on the right of peaceful assembly (article 21)
3. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
4. Report of the Committee on the Rights of Persons with Disabilities on its twenty-third session (17 August to 4 September 2020)
- 5.-6. International Convention for the Protection of All Persons from Enforced Disappearance
7. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
8. International Convention for the Protection of All Persons from Enforced Disappearance
- 9.-12. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
13. International Covenant on Civil and Political Rights
14. General Assembly: Opinions adopted by the Working Group on Arbitrary Detention at its eighty-first session, 17–26 April 2018
15. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
16. International Covenant on Civil and Political Rights: List of issues prior to submission of the third report of Guyana
17. Report on follow-up to the concluding observations of the Human Rights Committee
18. Summary record of the first part (public) of the 3736th meeting
19. List of issues in relation to the fourth periodic report of Panama
20. Report on follow-up to the concluding observations of the Human Rights Committee
- 21.+22. International Convention of the Elimination of All Forms of Racial Discrimination
23. Situation of human rights in Yemen, including violations and abuses since September 2014
24. Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”
25. Report of the Independent Investigative Mechanism for Myanmar
26. Annual report of the Expert Mechanism on the Rights of Indigenous Peoples

## 1. Convention on The Rights of Persons with Disabilities

Published: 8 September 2020

Document Number: CRPD/C/SR.523

Author: Committee on the Rights of Persons with Disabilities

### *Adoption of the report on the twenty-third session*

1. **Ms. Gamio Ríos** (Rapporteur), summarizing the draft report on the twenty-third session, subsequently to be issued as document [CRPD/C/23/2](#), said that the Committee had taken decisions on seven individual communications submitted under the Optional Protocol to the Convention and had adopted a follow-up report on communications...

2. The Committee had taken note of information provided by organizations of persons with disabilities and human rights bodies regarding violations of the rights of persons with disabilities, particularly older persons and persons with intellectual and psychosocial disabilities in institutions, in the context of the coronavirus disease (COVID-19) pandemic. It had decided to bring to the attention of the Secretary-General, the President of the General Assembly and all relevant entities the challenges its members had faced with regard to accessibility, universal design and reasonable accommodation while performing their work remotely as a result of the pandemic. Two members had been designated to represent the Committee on the Inter-Committee Working Group on COVID-19...

4. During the session, the Committee had also set up a working group on deinstitutionalization and had continued its work on the draft general comment on article 27 of the Convention, on the right to work and employment. It had decided to organize a day of general discussion on the subject at the twenty-fourth session...

### *Future meetings*

**Ms. Gamio Ríos** (Rapporteur) said that the twenty-fourth session of the Committee would be held between 8 and 26 March 2021 in Geneva, subject to confirmation of the viability of an in-person session. The Committee intended to consider the initial reports of Bangladesh, the Bolivarian Republic of Venezuela, Djibouti, Estonia, France and Jamaica. If the session could not take place in Geneva, the Chair and the secretariat would decide on an alternative course of action...

11. **Ms. Lange** (United Nations Children's Fund (UNICEF)) said that her organization wished to commend the Committee's remarkable work to promote the rights of persons with disabilities, particularly persons with disabilities subject to multiple and intersectional forms of discrimination. In the light of the COVID-19 pandemic, the Committee's mandate to protect the rights of persons with disabilities to health services, information, hygiene and support services was more critical than ever...

13. "The transformation and closure of residential care institutions continued to be a priority for UNICEF. In Armenia, for example, its advocacy and support efforts had led to a reduction of more than 40 per cent in the number of children in State-run residential care and educational institutions between 2018 and 2019..."

15. In 2019, UNICEF had reached more than 1.7 children with disabilities in 142 countries. More than one third of UNICEF humanitarian responses were systematically inclusive of persons with disabilities...

21. **Mr. Pérez Bello** (International Disability Alliance) said that his organization wished to congratulate the Committee on concluding the twenty-third session in spite of the challenges

caused by the COVID-19 pandemic. Despite having to rely on an inaccessible platform for online meetings, the Committee members had shown resilience and flexibility in working remotely...

22. In a challenging year for the treaty bodies, marked by both the pandemic and the liquidity crisis in the United Nations, his organization encouraged the Committee to continue to engage with the treaty body strengthening process and to be vigilant and vocal in order to protect the proper functioning, resourcing and independence of the treaty bodies...

### *Closure of the session*

**24. The Chair** said that he wished to dedicate his closing remarks to persons with disabilities, who were among those who were suffering most amid COVID-19 and the pandemic response...

25. The pandemic had exacerbated the pre-existing exclusion and discrimination experienced by persons with disabilities, whether they lived in their communities or in institutions. Measures taken to contain the pandemic had curtailed access to basic services for persons with disabilities. Support mechanisms had been disrupted, and in many instances persons with disabilities were not benefiting from COVID-19 relief measures, financial aid or cash transfers. Their right to work in the open labour market and to obtain assistance from social protection systems had also been affected. Accessibility issues with remote learning and teleworking technologies had led to the exclusion of children and adults with disabilities from education and work. Persons with disabilities had also reported being subjected to violence, including gender-based violence and violence perpetrated by law enforcement officers...

26. "The Committee was seriously concerned about the situation of persons with disabilities, including older persons with disabilities, still living in institutions, psychiatric hospitals, care facilities, nursing homes and special schools. It was appalled by accounts indicating the lack or ineffectiveness of measures to safeguard the right to life of persons with disabilities during the pandemic..."

## 2. General comment No. 37 (2020) on the right of peaceful assembly (article 21)

Published: 17 September 2020

Document Number: CRPD/C/SR.523

Author: Human Rights Committee

1. Peaceful assemblies can play a critical role in allowing participants to advance ideas and aspirational goals in the public domain and to establish the extent of support for or opposition to those ideas and goals. Where they are used to air grievances, peaceful assemblies may create opportunities for the inclusive, participatory and peaceful resolution of differences...

4. The right of peaceful assembly protects the non-violent gathering by persons for specific purposes, principally expressive ones<sup>5</sup>. It constitutes an individual right that is exercised collectively. Inherent to the right is thus an associative element...

15. A "peaceful" assembly stands in contradistinction to one characterized by widespread and serious violence. The terms "peaceful" and "non-violent" are thus used interchangeably in this context. The right of peaceful assembly may, by definition, not be exercised using violence...

23. The obligation to respect and ensure peaceful assemblies imposes negative and positive duties on States before, during and after assemblies. The negative duty entails that there be no unwarranted interference with peaceful assemblies. States are obliged, for example, not to

prohibit, restrict, block, disperse or disrupt peaceful assemblies without compelling justification, nor to sanction participants or organizers without legitimate cause...

24. States must thus promote an enabling environment for the exercise of the right of peaceful assembly without discrimination, and put in place a legal and institutional framework within which the right can be exercised effectively...

The right of peaceful assembly does not exempt participants from challenges by other members of society. States must respect and ensure counterdemonstrations as assemblies in their own right, while preventing undue disruption of the assemblies to which they are opposed...

28. Domestic law must recognize the right of peaceful assembly, clearly set out the duties and responsibilities of all public officials involved, be aligned with the relevant international standards and be publicly accessible...

29. States parties must ensure independent and transparent oversight of all bodies involved with peaceful assemblies, including through timely access to effective remedies, including judicial remedies, or to national human rights institutions, with a view to upholding the right before, during and after an assembly...

43. For the protection of “public safety” to be invoked as a ground for restrictions on the right of peaceful assembly, it must be established that the assembly creates a real and significant risk to the safety of persons (to life or security of person) or a similar risk of serious damage to property...

assemblies are a legitimate use of public and other spaces, and since they may entail by their very nature a certain level of disruption to ordinary life, such disruptions must be accommodated, unless they impose a disproportionate burden, in which case the authorities must be able to provide detailed justification for any restrictions...

50. In accordance with article 20 of the Covenant, peaceful assemblies may not be used for propaganda for war (art. 20 (1)), or for advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (art. 20 (2))...

52. The fact that an assembly provokes or may provoke a hostile reaction from members of the public against participants, as a general rule, does not justify restriction; the assembly must be allowed to go ahead, and its participants must be protected (see para. 18 above). However, in the exceptional case where the State is manifestly unable to protect the participants from a severe threat to their safety, restrictions on participation in the assembly may be imposed. Any such restrictions must be able to withstand strict scrutiny. An unspecified risk of violence, or the mere possibility that the authorities will not have the capacity to prevent or neutralize the violence emanating from those opposed to the assembly, is not enough...

57. While gatherings in private spaces fall within the scope of the right of peaceful assembly,<sup>74</sup> the interests of others with rights in the property must be given due weight. The extent to which restrictions may be imposed on such a gathering depends on considerations such as whether the space is routinely publicly accessible, the nature and extent of the potential interference caused by the gathering with the interests of others with rights in the property, whether those holding rights in the property approve of such use, whether the ownership of the space is contested through the gathering and whether participants have other reasonable means to achieve the purpose of the assembly, in accordance with the sight and sound principle. Access to private property may not be denied on a discriminatory basis...

59. In general, States parties should not limit the number of participants in assemblies. Any such restriction can be accepted only if there is a clear connection with a legitimate ground for

restrictions as set out in article 21, for example where public safety considerations dictate a maximum crowd capacity for a stadium or a bridge, or where public health considerations dictate physical distancing...

62. The mere fact that a particular assembly takes place in public does not mean that participants’ privacy cannot be violated. The right to privacy may be infringed, for example, by facial recognition and other technologies that can identify individual participants in a crowd...

71. A failure to notify the authorities of an upcoming assembly, where required, does not render the act of participation in the assembly unlawful, and must not in itself be used as a basis for dispersing the assembly or arresting the participants or organizers, or for imposing undue sanctions, such as charging the participants or organizers with criminal offences...

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

Published: 23 November 2020

Document Number: CAT/OP/42/SR.6/Add.1

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

#### *Closure of the session*

1. **The Chair** said that much of the session, which had been held entirely online, had been devoted to discussions with other interested bodies of experiences of working during the coronavirus disease (COVID-19) pandemic. While the pandemic presented challenges for all bodies working to prevent torture, it created even greater difficulties for persons deprived of their liberty and at risk of torture. In considering such persons and the risks that they faced, the Subcommittee was mindful of the fact that both financial constraints and pandemic-related restrictions had prevented it from conducting visits to places of deprivation of liberty in 2020. However, the Subcommittee hoped to be able to resume such visits in the near future and it had spent a great deal of time discussing the practicalities of doing so under the current circumstances...

3. The Subcommittee had learned that many States parties had taken steps to mitigate the effect of the pandemic by reducing overcrowding in places of detention. Moreover, in many places of detention, greater use had been made of technology to enable detainees to communicate with friends and family members. It was interesting to note that the Subcommittee, along with many other bodies, had been calling for such measures for many years but had always been told that they were not possible. The difference now appeared to be a greater willingness on the part of the authorities to implement them. It was to be hoped that such changes would remain in place after the pandemic had ended in order to bring about long-term improvements in the lives of persons deprived of their liberty...

5. **Mr. Kvaratskhelia**, speaking on behalf of Ms. Lopez, head of the regional team on Asia and the Pacific, said that, despite the challenges associated with working online, the team had made progress in its work. Three countries from the region were currently on the Subcommittee’s public list of States parties whose compliance with their obligation under article 17 of the Optional Protocol to designate or establish a national preventive mechanism was at least three years overdue. The Subcommittee had, however, received credible information that those States parties were taking steps to implement that obligation. It was

hoped that they could soon be removed from the article 17 list.

8. **Ms. Comas-Mata Mira**, speaking on behalf of Mr. Fehér Pérez, head of the regional team on the Americas, said that the team was concerned about the adverse effects of the pandemic, and some of the protection measures taken in response to it, on detainees in many countries in the region. It had likewise received reports of attacks against members of national preventive mechanisms as they sought to carry out their mandates and of a further deterioration in detention conditions in certain places of deprivation of liberty. The detention of migrants, especially those travelling through Central America, was also a cause for concern. She hoped that the Subcommittee would be able to examine that issue in greater detail at a future session...

11. **Mr. Ounnir**, speaking as head of the regional team on Africa, said it was regrettable that the Subcommittee had not been able to conduct any visits since the beginning of 2020 owing to the travel restrictions related to the pandemic. He hoped that those visits could be rescheduled as soon as circumstances allowed. In the interim, the team had continued to guide States parties and national preventive mechanisms in the region following the publication of the advice of the Subcommittee to States parties and national preventive mechanisms relating to the COVID-19 pandemic (*CAT/OP/10*) in April 2020...

12. the Niger had recently established a national preventive mechanism and that the team had started to foster a constructive working relationship with its members. Not long after having ratified the Optional Protocol, South Africa was making rapid progress towards setting up and operationalizing a national preventive mechanism. The team was working closely with the South African Human Rights Commission to support that process...

14. **Mr. Fink**, speaking as head of the regional team on Europe, said that, during the pandemic, the team had devoted much of its time to providing support and advice to States parties and national preventive mechanisms in the region. However, the sheer number of States parties and the diversity of their mechanisms made it difficult to closely monitor the situation in each country. The team had therefore decided to hold a webinar with national preventive mechanisms at the Subcommittee's next session to review States parties' responses to the pandemic. It also planned to contact States parties to request information on the good practices that they had adopted in that connection...

17. **The Chair** said that eight members, including himself, would be leaving the Subcommittee when their terms of office expired on 31 December 2020. The other members were: Mr. Abdel Malick, Ms. Gómez, Ms. Lopez, Mr. Michaelides, Mr. Mitrovic, Ms. Vidali and Mr. Zaharia. He wished to thank them for their service and the many ways in which they had contributed to the Subcommittee. While it was hoped that the Subcommittee would be able to hold its February 2021 session in person so as to allow the new members to meet their colleagues, the possibility of the session having to be held online could not be ruled out at the current stage...

18. **Ms. Jabbour**, Vice-Chair, said that those members who would be leaving the Subcommittee had each brought a great deal of expertise to bear on its work. She wished to extend a special thanks to Sir Malcolm Evans for his professionalism, determination, diplomacy, leadership and wisdom during his tenure as Chair of the Subcommittee and for his significant contribution to the field of torture prevention. She trusted that the Subcommittee would continue to build on the solid foundations that he had laid since joining its ranks...

21. **The Chair** said that he was grateful to members and to the secretariat for the countless ways in which they had supported the work of the Subcommittee over the years. It was a huge

privilege to have worked alongside colleagues with such a wide range of expertise in the field of torture prevention and to have witnessed their devotion to a common cause. The life-changing experiences that members had shared while visiting places of deprivation of liberty had fostered a unique camaraderie that would last far beyond the term of their membership of the Subcommittee...

#### 4. Report of the Committee on the Rights of Persons with Disabilities on its twenty-third session (17 August to 4 September 2020)

Published: 12 October 2020

Document Number: CRPD/C/23/2

Author: Committee on the Rights of Persons with Disabilities

1. As at 4 September 2020, the date on which the twenty-third session closed, there were 182 States parties to the Convention on the Rights of Persons with Disabilities and 97 States parties to the Optional Protocol thereto. The lists of States parties to these instruments are available on the website of the Office of Legal Affairs of the Secretariat...

7. The Committee examined seven communications. It found violations of the Convention in four of them: *J.M. v. Spain* (CRPD/C/23/D/37/2016), concerning the right to non-discrimination in the maintenance or continuance of employment in the public sector; *Calleja Loma and Calleja Lucas v. Spain* (CRPD/C/23/D/41/2017), regarding the right of a minor to inclusive education; *Sahlin v. Sweden* (CRPD/C/23/D/45/2018), regarding the provision of reasonable accommodation in the context of a recruitment process at a public university; and *N.L. v. Sweden* (CRPD/C/23/D/60/2019), regarding deportation of the author to Iraq where she would be at risk from ill-treatment. The Committee declared two communications inadmissible, for non-exhaustion of domestic remedies and lack of substantiation in *F.O.F. v. Brazil* (CRPD/C/23/D/40/2017) and for non-exhaustion of domestic remedies in *A.N.P. v. South Africa* (CRPD/C/23/D/73/2019). The Committee decided to discontinue the consideration of *N.N. and N.L. v. Germany* (CRPD/C/23/D/29/2015), as the subject matter of the communication had become moot...

17. On 19 August 2020, the Committee met in private with representatives of more than 20 organizations of persons with disabilities and other civil society organizations, national human rights institutions with A and B status, which were members of the Global Alliance of National Human Rights Institutions, independent monitoring frameworks under article 33 (2) of the Convention and equality bodies to discuss the impact of the coronavirus disease (COVID-19) pandemic on persons with disabilities...

#### ANNEXI Decisions adopted by the Committee at its twenty-third session

1. The Committee considered seven individual communications submitted for its consideration under the Optional Protocol to the Convention. It found violations of the Convention in four of them, declared two inadmissible and decided to discontinue the consideration of the other. The Views and decisions would be transmitted to the parties as soon as possible and would subsequently be made public...

12. The Committee decided that its twenty-fourth session would be held in Geneva from 8 to 26 March 2021, subject to confirmation by the Secretariat of the feasibility of an in-person session. At that session, the Committee would consider the initial reports of Bangladesh, Djibouti, Estonia, France, Jamaica and Venezuela (Bolivarian Republic of). In the event that

an in-person session was not possible, the Chair of the Committee, with the support of the Secretary, would decide on the appropriate course of action...

14. The Committee decided that the fifteenth session of the pre-sessional working group would be held from 29 March to 1 April 2021. The Chair of the Committee, with the support of the Secretary, would identify the lists of issues and lists of issues prior to reporting to be adopted by the pre-sessional working group at that session...

*Annex II Summary of the Views and decisions adopted by the Committee regarding communications submitted under the Optional Protocol*

1. The Committee examined the communication in the case of *Sahlin v. Sweden* (CRPD/C/23/D/45/2018). The author, who was deaf, claimed violations of his rights under articles 27 (1) (b), (g) and (i), 5 (2) and (3), 3 and 4 (2) of the Convention in the context of a recruitment process for a position as lecturer (associate professor) in public law at a public university. The author had been considered to be the most qualified candidate for the position by the recruiters, and had been given the opportunity to give a trial lecture as a step in the recruitment process. Despite his qualifications, the university had cancelled the recruitment process, claiming that it would be too expensive to finance sign language interpretation as a means of guaranteeing the author's right to employment on an equal basis with others...

3. The Committee further recalled that, under article 5 of the Convention, States parties were required to prohibit all forms of discrimination against persons with disabilities, an obligation that included the denial of reasonable accommodation and that was not subject to progressive realization. It noted that the duty bearer must enter into a dialogue with individuals with disabilities, for the purposes of including them in the process of finding solutions to better realize their rights and building their capacities...

5. The Committee examined the communication in the case of *J.M. v. Spain* (CRPD/C/23/D/37/2016). In 2008, the author had suffered a traffic accident that had left him with a permanent disability. Subsequently, the Ministry of Labour and Immigration had declared the author's status was one of permanent total disability for the performance of his occupation, and he had been granted a pension equivalent to 55 per cent of his salary. In 2009, the author had submitted an application to Figueras Municipal Council requesting it to assign him to "modified duty", which had been rejected, and he had been required to take mandatory retirement. The author had submitted an application for a review of the Council's decision. The application had been rejected on the basis that a declaration of "permanent total disability" was a ground for mandatory retirement, and that modified duty was not an option as it had enacted no regulations to that effect. The author had filed appeals before all the judicial bodies available at the national level and all his requests had been denied. The author claimed a violation of his rights under article 27 (a), (b), (e), (g), (i) and (k), read alone and in conjunction with articles 3 (a), (b), (c), (d) and (e); 4 (1) (a), (b) and (d) and (5); 5 (1), (2) and (3); and 13 (2) of the Convention. He claimed that the State party, in the absence of regulations at the local level, had discriminated against him by depriving him of the possibility of continuing to work under modified duty, on the grounds of his "permanent total disability for usual occupation..."

6. In its Views, the Committee noted that the rules under which the author had been prevented from undertaking a modified-duty assignment or entering into a dialogue aimed at enabling him to carry out activities complementary to the usual tasks of police work contravened the rights enshrined in articles 5 and 27 of the Convention. The Committee noted that the State

party must comply with its general obligations, under article 4 of the Convention, to modify and harmonize all local, autonomous-community and national provisions that barred individuals from being assigned to modified duty without providing for an assessment of the challenges and opportunities that persons with disabilities might have, and that thereby violated the right to work. The Committee found that the author's mandatory retirement as a result of a traffic accident that had left him with a permanent disability had constituted a violation of article 27 (a), (b), (e), (g), (i) and (k), read alone and in conjunction with articles 3 (a), (b), (c), (d) and (e); 4 (1) (a), (b) and (d) and (5); and 5 (1), (2) and (3) of the Convention...

9. The Committee examined the communication in the case of *N.L. v. Sweden* (CRPD/C/23/D/60/2019). The author of the communication was a national of Iraq whose application for asylum had been rejected by the State party. She claimed that, by deporting her to Iraq, the State party would violate her rights under articles 6, 10, 12 and 15 of the Convention...

12. The Committee therefore considered that the failure by the domestic authorities to assess the risk facing the author in the light of the information available to them concerning the author's state of health amounted to a violation of her rights under article 15 of the Convention. In the light of those findings, the Committee considered it unnecessary to separately consider the author's claims under article 10 of the Convention...

15. The Committee examined the communication in the case of *A.N.P. v. South Africa* (CRPD/C/23/D/73/2019). The author claimed to be the victim of a violation, by the State party, of his rights under articles 1, 3 (e), 4 (1) (d), 5 (1), 8 (1) (b), 12 (3) and (5), 13 (1), 15 (2), 17 and 28 (1) and (2) of the Convention. The author had multiple medical disabilities and chronic conditions, in connection with which he had received monthly payments from a permanent disability insurance claim...

16. The Committee considered that the author had not shown that bringing a complaint to the courts would objectively have no prospect of success. The author's comment that legal aid fees were steep was of a general nature, and he had not explained whether he had tried to obtain access to low-cost or free legal aid. Further, he had provided no substantiation demonstrating that his health situation inhibited him from submitting a court claim. Lastly, the contention that judicial proceedings would cost taxpayers' money was immaterial to the requirement of exhaustion of domestic remedies. The Committee therefore found that it was precluded from considering the communication under article 2 (d) of the Optional Protocol...

17. Regarding the communication in the case of *N.N. and N.L. v. Germany* (CRPD/C/23/D/29/2015), the State party had informed the Committee that the author had left its territory. That information had not been contested by the author, who had confirmed that she was no longer residing in the State party. In view of that information, the Committee concluded that the subject matter of the communication had become moot, and decided to discontinue the consideration of the communication...

## **5. International Convention for the Protection of All Persons from Enforced Disappearance**

Published: 15 November 2018

Document Number: CED/C/SR.264

Author: Committee on Enforced Disappearances

2. **The Chair**, in opening the meeting to begin the Committee's consideration of the information received from Mexico on follow-up to the concluding observations under article 29 (4) of the Convention, recalled that the Committee had requested the State party to submit, by February 2018, updated information on the implementation of the Committee's recommendations and any further information regarding the fulfilment of its obligations under the Convention. The State party's cooperation in its timely submission of that information and its previous reports represented positive practice to be followed by other States parties. The dialogue, which was a new practice for the Committee, would be divided into two parts: the first would focus on the general implementation of the law on enforced disappearance and the State party's duty to search and investigate, and the second would cover the rights of victims, the right to reparation, the urgent action procedure and measures for the protection of victims, human rights defenders and journalists. Three cross-cutting issues would be considered throughout: data collection and disaggregation, effective participation by the victims and civil society, and the gender dimension of disappearances...

3. **Mr. Ruíz Cabañas** (Mexico) said that his delegation was pleased to represent the first State party to be invited by the Committee to hold a follow-up dialogue...

4. The disappearance of persons, whether through enforced disappearance or committed by individuals, had become the most serious challenge that the State party faced in terms of human rights...

5. There were three main aspects to the complex challenge of enforced disappearance in Mexico. First, the federal nature of the country — comprising 32 states, each with its own constitution and powers, and 2,459 municipalities — so that the distribution of competencies meant that coordination was indispensable to protect the rights of all 129 million inhabitants across the territory of 2 million square kilometres. Second, approximately 95 per cent of human rights violations came under local competency, and in the case of disappearance of persons, they were mainly concentrated in three states of the federation. To address the consequent problems of coordination and implementation, legislation had been harmonized and introduced at the federal and state levels, and institutional coordination mechanisms had been created and consolidated in which the federal and state governments worked together. Third, the location of Mexico between producers and consumers of drugs, including sharing a 3,000-kilometre border with the world's largest consumer market, along with an increase in demand for illegal drugs in the region, had led to an exponential increase in the flow of illicit resources, mainly as a result of organized crime...

8. **Ms. Herrerías Guerra** (Mexico) said that the priority in the work of all public officials was to help victims of both enforced disappearance of persons and disappearance perpetrated by individuals...

14. **Ms. Galvis Patiño** (Country Rapporteur) said that she would like to know whether the State party would consider granting the Committee the competence to receive individual and inter-State communications, in line with its recommendation, once the legal framework for such communications had been put in place...

19. According to data from the Mexican authorities, a total of 37,435 persons had been disappeared in the country...

20. In 2016, the National Human Rights Commission had reported that the judicial authorities had discovered 855 unmarked graves. According to information from the public prosecutor, over 1,600 unmarked graves had been discovered as of 2018, in which more than 3,000 bodies had been recovered...

27. **Mr. Teraya**, noting that each of the 32 states had its own constitution and powers, asked what rules at the state level posed a hindrance to the implementation of the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Search System. What procedure could the Government impose to ensure the implementation of the Act at the state level...

31. Mexico was open to other international mechanisms in the matter of enforced disappearance, namely the Inter-American Commission of Human Rights and Inter-American Court of Human Rights. The Government had accepted the jurisdiction of the Court since 1998 and was therefore bound by its judgments; some emblematic decisions had already been handed down. It also recognized the competence of the United Nations Human Rights Committee...

35. **Mr. Cabrera Alfaro** (Mexico) said that the National Search Commission had a budget of 169 million pesos in 2018 and a separate budget of 282 million pesos was available for local commissions to improve their technological infrastructure. The Commission had requested a budget of 609 million pesos for 2019. The Commission had disseminated a decree with a minimum organizational structure for local commissions, although only nine had been set up so far. A meeting had been held with federal ministers, calling for each federal ministry to draw up a road map for establishing the local state level commission...

46. **Mr. Ruíz Cabañas** (Mexico) said that the Government had decided to prioritize the development of national capacity, in the form of legislation and institutions, to deal with the problem of enforced disappearance, although the recognition of the Committee's competence remained under consideration...

54. **Mr. Cabrera Alfaro** (Mexico) said that on the basis of the information in the national register, it was not possible to distinguish between enforced disappearance and disappearances perpetrated by individuals...

55. **Ms. Herrerías Guerra** (Mexico) said that the General Office for the Coordination of Expert Witness Services had processed clandestine graves in a number of federal states. The prosecution service specialized in investigating cases of enforced disappearance by individuals had worked on 186 investigations. A protocol was being drafted with the help of families of disappeared persons in order to improve the manner in which prosecution services broke the news to families when a discovery was made...

## 6. International Convention for the Protection of All Persons from Enforced Disappearance

Published: 15 November 2018

Document Number: CED/C/SR.265

Author: **Committee on Enforced Disappearances**

1. *At the invitation of the Chair, the delegation of Mexico took places at the Committee table.*

2. **The Chair** said that she would be grateful if the delegation, upon resuming its dialogue with the Committee, would address all unanswered questions from the previous meeting and provide additional relevant information in respect of the issues raised...

3. **Mr. Cabrera Alfaro** (Mexico), referring to the possible feminization of enforced disappearance, said that according to the National Registry of Missing and Disappeared Persons, women currently accounted for about a quarter of missing persons. He noted that by creating digital records on missing persons, the National Search Commission would be able

to better identify the circumstances surrounding disappearances and thus be in a position to detect any worsening or changes in the nature of the problem...

4. **Mr. Rochín del Rincón** (Mexico) said that, according to the national records maintained by the Executive Commission for Victim Support, about 40 per cent of persons subjected to enforced disappearance in Mexico were women...

8. Given that the human rights situation in Mexico was a serious problem and that Mexicans in all 32 federative entities regarded security as their most pressing concern, all governmental authorities and institutions, including the Senate, recognized their obligation to do their utmost to address the problem. One priority was the prompt appointment of a new prosecutor general, meeting the demands of civil society for an independent prosecutor who would not be beholden to or intimidated by any other authority...

9. Mexico had made good progress towards gender parity in its elected legislative bodies — women now accounted for approximately 48 per cent of the representatives sitting in the Senate and the Chamber of Deputies...

13. Human rights had also been incorporated into the military education system and the evaluation process of personnel seeking promotion from intermediate to senior rank. In recent years, almost 2 million army, navy and air force personnel had attended a human rights promotion and training programme, while almost 200,000 had received specific training on the prevention of enforced disappearance. A human rights and gender training centre for military personnel had recently been inaugurated at a cost of approximately US\$ 1.2 million...

14. the number of complaints of human rights violations by the military, recorded by the National Human Rights Commission, had fallen by over 78 per cent since 2012. Of the 3,166 complaints received by the Commission during the recent reporting period, only 82 had referred to enforced disappearance and the military had been found not responsible for 73 of those; the other 9 cases were still pending. Similarly, the number of recommendations issued by the Commission to the armed forces as a result of human rights violations had fallen sharply from 113 in the period 2006–2012 to 18 in 2013–2018, none of which referred to enforced disappearance. The military had heeded past recommendations and it remained committed to human rights training and instilling a culture of respect for human rights...

24. **Ms. Herrerías Guerra** (Mexico) said that, under the country's Constitution, the conduct of criminal investigations and prosecutions was the responsibility of the Office of the Attorney General. The Office had therefore challenged the unconstitutional court decision that would see responsibility for leading the probe in the Ayotzinapa case borne by a truth commission independent of the Attorney General. The Supreme Court was expected to rule on the Government's challenge shortly...

30. In 2016 the Mechanism had received 18 reports of missing persons from Honduras and 4 from El Salvador; in 2017 it had received 27 reports from El Salvador and 6 from Guatemala; and in 2018 it had received 22 from Honduras, 14 from El Salvador and 12 from Guatemala...

32. The Executive Commission was currently dealing with 80 files based on complaints concerning 59 men, 18 women and 3 children from El Salvador, Guatemala, Honduras and Mexico. The Commission had issued 20 resolutions concerning migrants who were indirect victims of enforced disappearance. The resolutions provided support for housing, food, funerals, child development and medical costs. Reparations totalling US\$ 2.2 million had been provided to victims in the case of San Fernando, Tamaulipas.

36. The Executive Commission provided support for the implementation of local legislation. A model law had been adopted to support the enactment of 30 local laws, and 20 local

commissions had been established, 15 of which had received funds totalling US\$ 9.1 million. It was hoped that states would eventually allocate about 0.4 per cent of their budgets to a victims fund...

45. **Ms. Bonifaz Alfonso** (Mexico) said that article 15 of the new *Amparo* Act contained a specific provision applicable to enforced disappearances. The 43 cases considered to date had led to 8 convictions and 17 acquittals. Decisions on 18 cases were still pending. *Amparo*, which was equivalent to habeas corpus, was being used to compel the authorities to fulfil their duties during search procedures. The judiciary should take action to raise public awareness of its existence...

46. **Mr. Sánchez Pérez del Pozo** (Mexico) said that 145 people had received financial compensation for human rights violations through the Trust Fund run by the Ministry of the Interior. The National Human Rights Commission had issued a recommendation concerning reparations for “dirty war” victims. A total of 74 million Mexican pesos had been paid to the 145 indirect victims of enforced disappearances, an amount that was in line with inter-American financial compensation norms. The Ministry had run a number of campaigns aimed at locating relatives of persons who had disappeared many years ago and at collecting documents to prove their kinship...

56. **Mr. Cabrera Alfaro** (Mexico) said that, as was the case with the register of disappeared persons, the data reflected in the register of unidentified deceased persons was often unreliable on account of the diverse sources from which it originated. The figure of 35,000 unidentified bodies was therefore impossible to verify. In contrast, the fingerprints of unidentified deceased persons delivered to forensic medical services were easily verifiable and were stored in a national database currently comprising 36,000 entries...

60. **Mr. Ravenna**, recalling the solidarity shown by Mexico in the 1970s when it had taken in refugees fleeing various Latin American dictatorships, said that present-day Mexico was a far cry from the Mexico of the past...

65. **The Chair** said that the Committee was grateful to the State party for having accepted the Committee's invitation to participate in the follow-up dialogue and for having sent a high-level, multidisciplinary delegation. Going forward, the Federal Government should ensure that the various legislative measures taken to prevent and combat enforced disappearance were effectively enforced and that they translated into tangible results for the victims of that phenomenon. While the State party had made progress in a number of areas, much remained to be done to eradicate the practice of enforced disappearance in its national territory...

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

Published: 31 January 2019

Document Number: CAT/C/65/D/778/2016

Author: Committee Against Torture

*Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 778/2016*

1.1. The complainants are Ms. Estela Deolinda Yrusta and Ms. Alejandra del Valle Yrusta, sisters of Mr. Roberto Agustín Yrusta, an Argentine national born on 29 August 1980. The complainants claim to be victims of violations by the State party of articles 2, 6, 11, 12, 13 and 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment. The complainants are represented by the Provincial Public Defender of Santa Fe, Gabriel Ganon...

1.2 Argentina declared that it recognized the competence of the Committee to receive and consider individual communications under article 22 of the Convention on 24 September 1986...

*The facts as submitted by the complainants*

2.1 In December 2005, Mr. Yrusta was sentenced to 8 years' imprisonment. He was deprived of his liberty in Bouwer Prison, in the Province of Córdoba, where he was subjected to torture and inhuman and degrading treatment by members of the Córdoba Prison Service. The ill-treatment included long periods in *buzones* (isolation or punishment cells), the use of the "dry submarine" treatment, involving suffocation using a plastic bag, beatings, threats, transfers and being shackled to a bed. The complainants assert that, after Mr. Yrusta complained publicly about these acts while being interviewed for a television programme, the ill-treatment and torture inflicted on him intensified...

*The complaint*

3.1 The complainants claim to be victims of violations by the State party of their rights under articles 2, 6, 11, 12, 13 and 14 of the Convention...

3.2 The complainants contend that the State party has breached its obligations under article 2 of the Convention by failing to adopt prompt measures to prevent the acts of torture committed against Mr. Yrusta. They submit that there is no record of the State party engaging in prevention activities or taking steps to protect their rights or those of Mr. Yrusta, and that their requests were ignored by the Argentine Prison Service. In addition, the lack of judicial oversight of transfers of persons deprived of their liberty between different prison facilities ended up being detrimental to Mr. Yrusta, who died as a result of a transfer carried out in retaliation for his public complaints...

3.3 The complainants consider that the State party has violated article 6 (2) of the Convention by failing to launch a formal and timely investigation into the allegations of torture made by Mr. Yrusta and by them...

*State party's observations on admissibility and on the merits*

4.2 The State party recalls that, under the Convention, domestic remedies must have been exhausted in order for a complaint to be declared admissible. It considers that, in the present case, the Committee's intervention would clearly be premature, since the judicial investigation initiated following the death of Mr. Yrusta is still ongoing, and it cannot be argued that the proceedings have exceeded a reasonable period of time. In this connection, the State party points out that judicial proceedings have been opened in the case entitled *Yrusta, Roberto Agustín re/his death* before the Sixth Bench of the Santa Fe Criminal Investigation Court. The Court is actively pursuing the case and has ordered a number of measures aimed at gathering evidence to establish the circumstances of Mr. Yrusta's death and any criminal responsibility arising therefrom. Consequently, until the judiciary issues a ruling, it is impossible for either the State party or the Committee to determine whether Mr. Yrusta was indeed subjected to torture, so it would be premature for the Committee to adopt any kind of decision on the matter...

4.4 On 3 December 2014, Mr. Ganon submitted a constitutional complaint to the Court of Appeal, alleging that the rights of Mr. Yrusta's sisters to access to justice and to be considered as victims had been violated through the denial of their request to be represented by the Provincial Public Criminal Defence Service, which was constitutionally empowered to provide legal representation to the victims of human rights violations committed by public officials, particularly bearing in mind the institutional inability of other legal aid services to offer assistance in that regard and the complete lack of progress in the investigation carried out by the Public Legal Service into the causes of Mr. Yrusta's death. On 24 June 2015, the Court of Appeal rejected the constitutional complaint on the grounds that it merely reiterated arguments put forward before lower-instance courts, that the decision being appealed was not constitutionally flawed and that the complaint was not an appropriate third-instance remedy for reviewing facts and questions of evidence analysed by lower-instance courts...

*Complainants' comments on the State party's observations*

5.4 The complainants note that, in accordance with the Brasilia Regulations Regarding Access to Justice for Vulnerable People and article 25 of the American Convention on Human Rights, everyone must have the right to simple and prompt recourse and that any law or measure that obstructs or prevents persons from availing themselves of such recourse is a violation of the right of access to the courts. They believe that the remedies that are available to them are not effective and that the corresponding proceedings have exceeded all reasonable time limits. They contend that they have been subjected to ongoing revictimization by those who should ensure that they have access to their rights. The complainants therefore request that the Committee find the present communication admissible...

*Issues and proceedings before the Committee*

6.7 The Committee therefore considers that reasonably available domestic remedies have been exhausted with respect to the complainants' allegations concerning the lack of a prompt and impartial investigation, given that the case has been closed by the provincial courts, and with respect to their claims concerning the right to redress, including access to the truth, the opportunity to participate in the investigation and any claim for fair and adequate compensation...

6.8 With regard to the complainants' allegations of a violation of article 6 of the Convention, the Committee notes that the complaint does not contain sufficient argumentation or information in this regard. However, the Committee considers that the complaint is sufficiently substantiated for the purposes of admissibility with respect to a violation of the complainants' rights guaranteed by articles 2, 11, 12, 13 and 14 of the Convention. Accordingly, the Committee finds the complaint admissible and proceeds to its consideration on the merits...

7.11 The Committee takes note of the provisions of article 93 of the Code of Criminal Procedure of the Province of Santa Fe, under which only persons alleging to be the victims of a publicly prosecutable offence or their compulsory heirs may participate in the proceedings as plaintiffs. The Committee also takes note of the State party's arguments that, in order to request investigative measures, there is no requirement for the complainants to be plaintiffs, since as victims they may participate in the investigation, in accordance with article 80 of the Code. However, in the information provided to the Committee, the State party does not explain how the complainants, as victims, have played a meaningful part in the investigations



carried out by the provincial courts. In the absence of a satisfactory explanation from the State party, the Committee considers that the facts before it disclose a violation of articles 12, 13 and 14 (1) of the Convention.

7.12 The Committee notes from the information provided to the Committee that the complainants' right to redress has not been guaranteed by the State party, in view of the amount of time that has passed and the difficulties encountered by the complainants in participating meaningfully as victims or complainants in the investigation into the allegations of torture...

#### Footnotes

3 Sixth Bench of the Criminal Investigation Court, Province of Santa Fe, case file No. 173-2013, pp. 62–64.

4 The State party refers to the decision of the Human Rights Committee in *T.K. v. France* (CCPR/C/37/D/220/1987), para. 8.3.

5 Committee on Enforced Disappearances, *Yrusta v. Argentina* (CED/C/10/D/1/2013).

6 Sixth Bench of the Criminal Investigation Court, Province of Santa Fe, case file No. 173-2013, pp. 569–571.

7 Committee on Enforced Disappearances, *Yrusta v. Argentina* (CED/C/10/D/1/2013), para. 8.4.

8 Committee against Torture, *N.B. v. Russian Federation* (CAT/C/56/D/577/2013), para. 8.2.

9 Committee against Torture, *Guerrero Larez v. Bolivarian Republic of Venezuela* (CAT/C/54/D/456/2011), para. 6.4.

10 Committee on Enforced Disappearances, *Yrusta v. Argentina* (CED/C/10/D/1/2013), para. 10.4.

11 General comment No. 3, para. 16.

12 *Ibid.*, para. 17.

13 *Ibid.*, para. 17.

14 *Ibid.*, para. 17.

15 *Ibid.*, para.

16 *Ibid.*, para.

### 8. International Convention for the Protection of All Persons from Enforced Disappearance

Published: 27 April 2021

Document Number: CED/C/SR.346

Author: Committee on Enforced Disappearances

#### *Consideration of additional information submitted by States parties*

1. *At the invitation of the Chair, the delegation of Colombia joined the meeting.*

2. **Ms. Mejía Hernández** (Colombia) said that Colombia had strengthened its institutional capacity in order to promote and protect human rights and to implement a wide range of public policies in the area of enforced disappearance. Nevertheless, the State continued to face huge challenges in combating and dismantling organized armed groups and criminal groups while fully upholding international humanitarian law. In Colombia, the problem of illicit drugs and drug trafficking was a threat to the rule of law and to the exercise of the rights and freedoms of all Colombians. Against that background, the State had made considerable efforts to bring

perpetrators of the crime of enforced disappearance to justice...

3. Colombia recognized the right of all persons not to be subjected to enforced disappearance, which had been a source of tragedy for fathers, mothers, families and society as a whole. Her Government would continue to work to guarantee victims' rights, including their rights to full reparation and non-repetition. Since signing the peace agreement with the former Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia – People's Army) (FARC-EP), the Government had worked to create a comprehensive system of truth, justice, reparation and non-repetition, composed of the Commission on Truth, Coexistence and Non-Repetition, the unit for the search of persons presumed disappeared in the context and by reason of the armed conflict and the Special Jurisdiction for Peace. The institutional framework established under the peace agreement had been granted the resources and independence necessary to fulfil its mandate. The unit had an extrajudicial and humanitarian mandate that had enabled it to reduce suffering and help fulfil the rights to truth and reparation. It was supported by the Special Jurisdiction for Peace, which served as a transitional justice mechanism and was competent to deal with offences allegedly committed before 1 December 2016...

7. Article 44 of the Constitution stated that the rights of children were fundamental rights and that children were therefore the object of special protection. Article 20 of the Children and Adolescents Code provided specific protection against enforced disappearance. Article 166 of the Criminal Code established aggravating circumstances for the crime of enforced disappearance when it was committed against children, adolescents, older persons, persons with disabilities or pregnant women...

9. As at 28 February 2021, of the more than 170,000 persons deprived of their liberty, some 61,000 had been placed under house arrest and some 5,000 had been electronically tagged. Colombia had thus responded to the challenges posed by the coronavirus disease (COVID-19) pandemic in ensuring the rights of prisoners. Increased use had been made of virtual visits and hearings as a means of helping persons deprived of their liberty to keep in contact with their families and of upholding due process of law, respectively. More than 40,000 virtual hearings and visits had taken place...

12. **Mr. López Ortega** (Country Rapporteur), referring to the Committee's concluding observations on the report submitted by Colombia under article 29 (1) of the Convention ([CED/C/COL/CO/1](#)), said that he wished to know whether the State party had taken any steps towards recognizing the competence of the Committee to receive and consider individual and inter-State communications under articles 31 and 32 of the Convention, respectively. The recognition of the Committee's competence was a way of ensuring that the Convention was fully implemented in Colombia...

16. **Ms. Villa Quintana** (Country Rapporteur) said it bore repeating that search and investigation mechanisms played a key role in preventing enforced disappearance. Statistical information on enforced disappearance not only allowed victims to seek truth, justice and reparation but also allowed guarantees of non-repetition to be obtained. Unfortunately, despite the signing of the peace agreement, enforced disappearance was continuing to occur in Colombia, including during the COVID-19 pandemic, with several human rights defenders having been disappeared over the previous year. She would therefore be grateful to know whether the State party planned to adopt a comprehensive policy to prevent enforced disappearance and, if so, to receive details on that policy and to know whether it reflected the key guidelines on COVID-19 and enforced disappearance issued jointly by the Committee and

the Working Group on Enforced or Involuntary Disappearances...

17. It was her understanding that, in addition to the National Register of Disappeared Persons, there were other, separately maintained, databases containing information on disappeared persons in the State party. It would be helpful to receive additional information on any databases that contained information on persons allegedly subjected to enforced disappearance during the armed conflict or in other contexts. She wondered how the State party went about cross-checking the information contained in those databases against that contained in the main register. It would be useful to receive clear and accurate statistical data on the total number of persons who had disappeared in the State party, disaggregated by name, sex, age, ethnicity and date and place of disappearance, during the armed conflict and since the signing of the peace agreement in 2016, including disappearances associated with migration and trafficking in persons, even if they involved former combatants...

18. She would also like to receive data, disaggregated by sex, age, ethnic origin and date of disappearance, on the number of disappeared persons presumed to have been subjected to enforced disappearance within the meaning of the definition contained in article 2 of the Convention. It would be useful to know what progress had been made by the technical committee tasked with updating, cleansing and consolidating the data contained in the National Register of Disappeared Persons, and how such data were compared and contrasted with statistics contained in other databases...

24. **Ms. Cruz Zuluaga** (Colombia) said that the definition of enforced disappearance contained in article 165 of the Criminal Code went beyond that contained in article 2 of the Convention by including acts committed with the authorization or acquiescence of public servants or private individuals. Indeed, the Constitutional Court had concluded, in its constitutional ruling C-620 of 2011, that the implementing act for the Convention was in line with international standards and covered all the elements contained in article 2 of the Convention. The criminal liability of superiors was already covered by articles 28 and 29 of the Criminal Code, on perpetrators and participants, respectively. It was not therefore considered necessary to establish a specific provision on that subject...

25. **Mr. Arango Alzate** (Colombia), turning to the case involving the rape of a young girl by members of the armed forces mentioned by Mr. López Ortega, said that the soldiers concerned had been handed over to the Attorney General's Office, who had subsequently charged a number of them with violent carnal penetration of a child under 14 years of age. Various sets of proceedings were under way before the ordinary courts and disciplinary measures and penalties were being pursued by the Counsel General's Office. The soldiers' superior officers had also been charged with, and ultimately found guilty of, breaching international humanitarian law...

32. **Mr. Jiménez** (Colombia) said that the National Institute of Forensic Medicine and Science was in the process of cross-checking the information contained in the National Register of Disappeared Persons with that held by the Colombian Information System on Accidents and Violence and the Attorney General's Office, and carrying out the necessary updates.

43. **Ms. Rodríguez** (Colombia) said that 44,790 child victims of enforced disappearance had been entered in the National Register of Disappeared Persons. Under the National Plan on the Search for Disappeared Persons, the Attorney General's Office had determined that 56 per cent of those children were still registered as disappeared, 42 per cent had been found alive and 1.8 per cent had been found deceased. The National Institute of Forensic Medicine and Science had undertaken an analysis of the remains of deceased victims, which had subsequently been

handed over to families in accordance with the Protocol on Dignified Handover. The Ombudsman's Office and the Disappeared Persons Investigative Commission had been responsible for providing support to the victims' families...

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

Published: 21 November 2018

Document Number: CAT/C/SR.1683

Author: Committee against Torture

*Seventh periodic report of Peru* ([CAT/C/PER/7](#) and [CAT/C/PER/QPR/7](#))

1. *At the invitation of the Chair, the delegation of Peru took places at the Committee table.*

2. **Mr. Sánchez Velásquez** (Peru) said that the Committee's preceding concluding observations had served to guide the Government in the design and implementation of concrete policies, including the National Human Rights Plan 2018–2021. The Plan contained a number of objectives, including the development of a strategic pathway for dealing with cases of torture, the establishment of a multisector platform for coordination in tackling such cases, and the implementation, planned for 2019, of a single registry for cases of torture and a protocol for preventing and addressing the torture of adolescents in youth assessment and rehabilitation centres...

6. Nine Youth Assessment and Rehabilitation Centres and 25 adolescent guidance services had been transferred from the Judiciary to the Ministry of Justice and Human Rights. The authorities intended to provide education to more than 3,800 adolescents in conflict with the law, enabling them to reintegrate into society...

7. In April 2018, by means of Ministerial Decision No. 487-2018-IN, the human rights handbook for police staff had entered into force. The handbook had been developed with the aim of providing human rights training for police officers, with a particular focus on the reasonable use of force. Every police officer had an obligation to treat persons deprived of their liberty with humanity and dignity...

8. In the area of violence against women, the President of Peru had used his 2018 annual address to the nation to urge the three branches of power and the general public to work to eradicate macho culture and all forms of violence against women. An emergency commission had been established to make proposals aimed at preventing violence against women and handling cases. The commission's work centred around 11 urgent areas of action, including the adoption of a protocol for dealing with cases of femicide, the establishment of a Safe Schools programme, and the development of a mapping tool to record cases of gender-based violence by region...

21. **Mr. Heller Rouassant** (Country Rapporteur) said that the inclusion of the element of discrimination of any kind in the domestic definition of torture was of fundamental importance given the ethnic make-up of the State party, the social inequalities found there and the problems of discrimination against women and the lesbian, gay, bisexual, transgender and intersex (LGBTI) communities. The current definition referred to the use of methods that obliterated the personality of the victim; the wording of the Inter-American Convention to Prevent and Punish Torture was broader in that it referred to "methods intended to obliterate..."

22. He would appreciate the delegation's comments regarding the absence of provisions for the disbarring of civil servants or public officials involved in torture and for the prosecution of

judicial personnel implicated in such offences. The Committee was concerned that less serious offences, such as aggravated robbery, carried harsher penalties than offences relating to acts of torture...

36. According to Human Rights Watch, in 2016, the Ministry of Interior had announced an investigation into a group of 28 police officers, including a general, who had allegedly carried out at least 20 extrajudicial killings between 2009 and 2015, and had falsely reported the victims as criminals killed in combat. At the time, at least 11 of those officers had been awaiting trial...

42. On 24 December 2017, the President of Peru had pardoned one of his predecessors in office, Alberto Fujimori, who had been convicted of crimes against humanity. However, on 3 October 2018, Mr. Fujimori's pardon had been revoked by the Supreme Court and he had been ordered to return to prison, on the grounds that the pardon was incompatible with the country's international obligations. His understanding was that the matter remained pending, and that the possibility of house arrest was being explored. He would welcome updated information and comments from the delegation in that regard...

48. **Mr. Rodríguez-Pinzón** (Country Rapporteur) said that the assertion by the State party in its periodic report (*CAT/C/PER/7*) that the Ministry of Justice and Human Rights had provided legal aid to defendants and victims in numerous criminal proceedings for torture in a total of 113 cases between 2014 and 2016, of which 12 had concerned victims of torture and the rest had concerned defendants, seemed to suggest a marked imbalance between the services provided by the State to victims of torture and those provided to defendants. He asked whether the State party had analysed those figures to ascertain the cause of the discrepancy, and requested statistics from 2012 to the present year in order to provide a more complete picture...

50. **Mr. Rodríguez-Pinzón** welcomed the information provided by the State party in its report on cases of gender-based violence, including domestic violence and femicide, and on the adoption of relevant legislation. It was important to conduct detailed statistical monitoring on the administrative and legal response in individual cases in order to accurately evaluate the extent to which the State party was fulfilling its obligation to take measures against gender-based violence...

57. **Mr. Rodríguez-Pinzón** therefore requested the State party to provide information on specific measures taken to improve the conditions of prolonged pretrial detention, to explain the lack of specialized staff in prisons and to submit disaggregated information on vulnerable detainees in order to guarantee and monitor the special treatment that they required...

58. Noting the measures described in the report on electronic tagging, house arrest and productive prisons as alternatives to the deprivation of liberty, on gender mainstreaming in prison policy, on guidelines for supporting women deprived of liberty, and on the provision of appropriate care to minor children of incarcerated mothers to ensure their healthy, all-round development, he asked the State party to indicate what mechanisms were in place to monitor the practical implementation of those policies and measures and what results had been achieved since their introduction...

69. **Ms. Racu**, noting that first-time offenders were not separated from repeat offenders in prisons and that a climate of insecurity was created by the transfer of prisoners between facilities to curb extortion by prison-based gangs, asked what specific steps were being taken to reduce overcrowding, lower the incarceration rate and adopt non-custodial measures, including for juvenile offenders...

70. **Mr. Hani** said that he welcomed the State party's decision to make public the report of the Subcommittee on Prevention of Torture on its 2013 visit and, referring to paragraph 75 of that report, wished to know what steps had been taken to implement the Subcommittee's recommendations regarding due process and disciplinary sanctions. He would appreciate information on whether applications for refugee status and asylum were assessed individually and whether applicants were screened for signs of torture. Lastly, did the Government intend to increase its contribution to the Voluntary Fund...

71. **Ms. Zhang** said that, while various measures had been adopted to improve prison conditions, several issues remained of concern, such as inadequate sleeping and sanitation facilities, overcrowding, poor food quality, inmate violence, limited access to medical services, weapons smuggling and corruption among prison staff. Accordingly, she wished to know how the State party planned to address those issues, especially at Challapalca prison. Referring to annex 9 of the report, she would appreciate further details on the aspects of the Convention covered in training courses. It was regrettable that training programmes were not assessed...

72. **Mr. Landa Burgos** (Peru) said that the proceedings relating to the forced sterilization of indigent persons, which had been initiated in 2002, had been closed and reopened a number of times. Charges had very recently been laid again and the case now involved not only the doctors who had performed the procedures but also the health-care authorities...

*The meeting rose at 12.50 p.m.*

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

Published: 26 November 2018

Document Number: CAT/C/SR.1689

Author: Committee against Torture

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

*Seventh periodic report of Guatemala (CAT/C/GTM/7 and 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) said that a bill to be introduced in December 2018 would amend the definition of torture set forth in the Criminal Code to include the element of discrimination, thereby bringing it into line with the provisions of the Convention...

3. As at the end of September 2018, the prison population had totalled 24,320 individuals, some 50 per cent of whom were awaiting trial. Persons with disabilities accounted for around 1.5 per cent of those incarcerated, while less than 1 per cent belonged to the lesbian, gay, bisexual, transgender and intersex (LGBTI) community. Approximately 20 per cent of the prison population self-identified as indigenous or had not declared their ethnicity...

5. The rate of prison overcrowding stood at 270 per cent. In 2019, construction was due to begin on three new detention facilities, namely a pretrial detention centre, a regular prison and a maximum-security facility. More than 1,500 requests for alternatives to detention had been granted as part of efforts to reduce overcrowding...

7. In 2017, as part of plans to strengthen the National Civil Police, particularly with a view to replacing the army in functions involving the maintenance of public order, almost 3,000 new

officers had been trained and a further 3,100 were due to graduate in December 2018. There had been a slight increase in the number of private security firms that had met the requirements established in law...

8. **Mr. Rodríguez-Pinzón** (Country Rapporteur) said that the Committee would welcome details of the steps taken by the State party to move forward with the adoption of the draft legislation on the implementation of the Rome Statute of the International Criminal Court...

19. **Mr. Rodríguez-Pinzón** would be grateful for clarification regarding how many of the 59 disciplinary cases for human rights violations opened by the National Civil Police between 2012 and 2015 had related to torture or ill-treatment, and how many of the 308 complaints of torture registered by the Public Prosecution Service during the same period had implicated police officers. He wished to learn about any steps that had been taken to establish a central register of complaints of torture and ill-treatment. It was unclear whether the prison information analysis units would be responsible for maintaining the register...

30. The Committee was concerned about reports of migrants from Central America who set out for Mexico and the United States of America, often in so-called caravans of thousands of persons, and who returned home after suffering trauma during their attempted migration. Those who returned to Guatemala often found themselves lodged in shelters with deplorable living conditions. What measures was the Government adopting to provide them with minimum subsistence, lodging and health services?

34. The State party had unfortunately not provided the Committee with any information about reparation or compensation ordered by domestic courts. It was the national authorities that had the primary responsibility to protect human rights, which required a qualitative and statistical monitoring of the implementation of such rights by the domestic authorities and courts. A bill relating to missing persons had been proposed in the mid-2000s, but had evidently never been adopted. The Committee would like to learn more about the status of the bill...

37. **Ms. Racu** (Country Rapporteur) said that she had noted positive trends in the State party's implementation of the Convention, including the adoption of the National Prison Reform Policy 2014–2024, which had been applauded by various bodies. She requested more detailed information about the specifics of the policy, especially in respect of the budget, how many new prisons had been planned or built and whether the policy included changes to the criminal legislation and penalties...

41. The quality of medical care in places of deprivation of liberty was often poor, as there was a lack of qualified staff and access to medication was limited. There had been reports of delays in the transfer of inmates to hospitals, owing to inaction on the part of judges and the lack of an administrative protocol for hospital treatment, and the Committee had also heard of a disconcerting situation of prisoners living with HIV/AIDS. She asked the delegation about the current ratio of doctors to inmates at places of detention. The number of violent deaths and suicides registered in prisons, which had already been high, had recently increased still more; a number of particularly appalling incidents in 2015 had resulted in numerous deaths. The Office of the Human Rights Advocate had pointed out that there was no protocol or procedure for dealing with prison deaths...

60. **Mr. Heller Rouessant** asked whether the Government was implementing or planning any measures to deal with the precarious situation of insecurity suffered by the large number of migrants who had been leaving the country in recent weeks...

61. With regard to prison overcrowding, he asked how the Government would ensure that alternative measures to detention that had been introduced, such as remote monitoring

devices, could be applied to all members of the population in conflict with the law without discrimination, regardless of their ability to pay for such devices...

62. **Ms. Belmir** said that, although the State party had taken measures to limit army intervention in the maintenance of public order, private security companies, many of which had links with criminal groups and did not respect the rule of law, continued to play a role. She wondered what steps the State party was taking to deal with that problem...

63. **Mr. Hani**, noting reports that up to 95 per cent of persons in private rehabilitation centres for drug addicts had been admitted against their will and were routinely subjected to inhuman and degrading treatment, asked how the State party monitored those centres, whether the national preventive mechanism had visited them and whether the State party intended to close them...

66. **Ms. Gaer** asked whether the State party could comment on reports that the Committee had received in relation to the terrible fire at the Virgen de la Asunción children's home and the problems associated with the criminal proceedings in its aftermath, including the fact that the Government did not adequately recognize intimidation as a possible purpose of torture and therefore did not extend the legal charges in those criminal proceedings to include torture. Noting that the President had been reported as saying that lynchings occurred because of a lack of police officers, whereas there were some who believed that the real lack was one of trust in the police, she wondered whether a definitive view had been taken by the Government on why lynchings continued...

67. Was consideration being given to reactivating the Unit for the Analysis of Attacks on Human Rights Defenders

68. **Ms. Zhang**, referring to the alarming reports that thousands of Guatemalans were emigrating to the United States of America through Mexico to escape inequality and violence against marginalized groups, and that most of those apprehended at the border with the United States were unaccompanied children, asked what mechanisms were in place to help those people who had had to escape and to protect their rights. On impunity, and noting comments that measures to combat impunity risked being undermined by certain political actors, she asked what the State party was doing to address that situation...

70. **Mr. Rodríguez-Pinzón** (Country Rapporteur) asked what progress had been made with respect to the creation of a central registry for organizations providing humanitarian assistance in Guatemala, what the main aim of that exercise was and what criteria were used to identify the authorities and information to be included in the registry...

*The meeting rose at 12.55 p.m.*

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

Published: 28 November 2018

Document Number: CAT/C/SR.1692

Author: Committee against Torture

*Seventh periodic report of Guatemala (continued)*

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...

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...

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...

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...

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)...

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...

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...

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...

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...

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

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...

**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...

91. **Mr. García 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...

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...

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

Published: 5 December 2018

Document Number: CAT/C/64/2

Author: Committee against Torture

### Introduction

1. The present report is a compilation of information received from States parties and complainants that has been processed since the sixty-third session of the Committee against Torture (23 April–18 May 2018), and is presented in the framework of the Committee's follow-up procedure on decisions relating to communications submitted under article 22 of the Convention...

### *Communication No. 327/2007*

#### *Boily v. Canada*

2. On 18 July 2018, the complainant's counsel again requested the Committee to intervene in order to ensure that Canada abided by the decision rendered by the Committee in the complainant's favour. He reiterated that the decision had been ignored by both the previous and the current governments of the State party, notwithstanding several reminders. He claimed that the absence of remedies for the complainant, and of the necessary revision of the system of diplomatic assurances, undermined the reputation and credibility of the Committee...

### *Communication No. 477/2011*

#### *Aarrass v. Morocco*

Remedy: The Committee urged the State party to inform it, within 90 days of the date of transmittal of the decision, of the measures that it had taken in accordance with the observations, including the initiation of an impartial and in-depth investigation into the complainant's allegations of torture. Such an investigation must include the conduct of medical examinations in line with the Manual on the Effective Investigation and

Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)...

### *Communication No. 500/2012*

#### *Ramírez Martínez et al. v. Mexico*

Remedy: The Committee urged the State party to: (a) launch a thorough and effective investigation into the acts of torture; (b) prosecute, sentence and punish appropriately the persons found guilty of the violations; (c) order the immediate release of the complainants; and (d) award fair and adequate compensation to the complainants and their families and provide rehabilitation. The Committee also reiterated the need to repeal the provision concerning preventive custody in domestic legislation, and to ensure that military forces were not responsible for law and order...

### *Communication No. 531/2012*

#### *L.A. v. Algeria*

Remedy: The Committee concluded that the State party had failed to fulfil its responsibility under article 13 of the Convention to guarantee the complainant's right to lodge a complaint about the alleged intimidation and threats against him as a judge carrying out his functions, and urged the State party to: (a) conduct an independent, transparent and effective investigation into the events in question; (b) take all necessary measures to prevent any threats or acts of violence to which the complainant and his family might be exposed, in particular as a result of having lodged the present complaint; and (c) inform the Committee, within 90 days of the date of transmittal of the decision, of the steps it had taken in response to the views expressed in the Committee's decision...

*Communication No. 606/2014* Remedy: The Committee was of the view that the State party had an obligation to: (a) provide the complainant with a remedy, including fair and adequate compensation and the means for as full rehabilitation as possible; (b) initiate an impartial and thorough investigation of the alleged events, in full conformity with the requirements of the Istanbul Protocol, in order to establish accountability and bring those responsible for the complainant's treatment to justice; and (c) refrain from any pressure, intimidation or reprisals against the physical or moral integrity of the complainant or his family, which would otherwise violate the State party's obligations under the Convention to cooperate with the Committee in good faith, to facilitate the implementation of the provisions of the Convention and to allow family visits to the complainant in prison...

### *Communication No. 681/2015*

#### *M.K.M. v. Australia*

Remedy: The Committee was of the view that the State party had an obligation, in accordance with article 3 of the Convention, to refrain from forcibly returning the complainant to Afghanistan or to any other country where he ran a real risk of being expelled or returned to Afghanistan...

### *Communication No. 682/2015*

Remedy: The Committee concluded that the complainant had sufficiently demonstrated that he faced a foreseeable, real and personal risk of torture if extradited to Saudi Arabia, in

violation of article 3 of the Convention. Since the complainant had been in pretrial detention for almost two years, the Committee urged the State party to release him or to try him if charges were brought against him in Morocco...

### 13. International Covenant on Civil and Political Rights

Published: 15 March 2018

Document Number: CCPR/C/SR.3454

Author: Human Rights Committee

*Fourth periodic report of Guatemala (CCPR/C/GTM/4; CCPR/C/GTM/QPR/4)*

1. *At the invitation of the Chair, the delegation of Guatemala took places at the Committee table.*

2. **Mr. Borrayo Reyes** (Guatemala), introducing the fourth periodic report of Guatemala (CCPR/C/GTM/4), said that, since submission of the report, the State party had adopted the Act on the Genetic Databank for Forensic Purposes, the Act on School Meals and the Migration Code, and it had amended the Civil Code to prohibit persons under the age of 18 from marrying...

5. In the area of labour, judicial proceedings were under way in 223 of the 417 complaints of discrimination brought between 2015 and 2018, while the Inspectorate General for Labour had recovered over 1.5 billion quetzales on workers' behalf in the wake of over 70,000 inspections. There were currently 790,000 children and adolescents engaged in child labour, a drop from the previous figure of 850,000...

7. Nearly 120,000 complaints of violence against women had been received since 2016 and 3,621 convictions had been obtained in the 4,707 cases opened. Psychological treatment and financial compensation were provided to survivors in the event of a conviction. The National Coordination Agency for the Prevention of Domestic Violence and Violence against Women had been reactivated. An allocation of 20.5 million quetzales had been made to strengthen the Comprehensive Support Centres for Women Survivors of Violence, which had attended over 14,000 women and children in 2017. A special prosecutor's office for femicide had been created in accordance with the Act on Femicide and Other Forms of Violence against Women and in compliance with the Inter-American Court of Human Rights judgment in the *Veliz Franco* case. The special prosecutor had obtained 32 convictions...

9. Measures to combat impunity included the 2016–2018 National Plan for Open Government, which had facilitated access to public information. The Public Prosecution Service had received nearly 18,000 complaints of corruption between 2015 and 2018 and obtained 375 convictions. The Ríos Montt proceedings and other amnesty cases were still ongoing in the courts...

22. **Mr. Santos Pais** asked which body would be responsible for implementing the Committee's recommendations. He said that he would like to know whether civil society had been involved in the preparation of the report and whether it would be asked to help in following up on the Committee's recommendations. To date no Guatemalan citizen had brought a complaint before the Committee, or indeed before any other United Nations human rights treaty body...

25. Women faced labour inequality in a number of sectors in Guatemala. That inequality took various forms, such as wage discrimination, unpaid work and a lower employment rate...

27. **Ms. Cleveland** said that her first set of questions pertained to issue 4 of the list of issues

prior to reporting (CCPR/C/GTM/QPR/4). She wished to know whether the State party planned to adopt legislation explicitly prohibiting discrimination on the basis of sexual orientation and gender identity, including in the areas of employment, health care, education, housing and access to public services, and legislation criminalizing hate crimes perpetrated on grounds of sexual orientation and gender identity. Furthermore, she was interested to know whether the State party planned to adopt legislation to protect the right to legal recognition of gender identity for transgender persons by allowing them to change their gender designation on official identity documents. The Committee had received reports of a pending bill, that explicitly proposed to prohibit same-sex marriage and civil partnership, certain versions of which implicitly condoned incitement to hatred on the basis of sexual orientation and gender identity. She would appreciate information on the bill's current status and an explanation as to how it was consistent with the principle of non-discrimination on grounds of sexual orientation and gender identity...

34. **Ms. Brands Kehris**, speaking in relation to issue 11 of the list of issues prior to reporting, said that the amount of money spent by the State party on its National Reparations Programme between 2012 and 2015 was significantly lower than the Programme's allocated budget for that same period. She was therefore interested to hear about any barriers to the implementation of the budget and wished to know why there had been such a large discrepancy...

35. **Mr. de Frouville** said that, as mentioned in the delegation's opening remarks, in 2012 the State party's Constitutional Court had declared that the definition of torture contained in the Criminal Code was unconstitutional by way of omission and that it would need to be amended to be brought in line with international instruments. He therefore wondered whether a bill had been submitted proposing such an amendment. The State party had indicated in its report that it had received 4 complaints of acts of torture between 2010 and 2015, but in its opening remarks, the delegation had indicated that only 10 complaints had been received between 2015 and 2017. He wondered whether that figure was correct. He would also appreciate clarification as to how only one of the four complaints of acts of torture registered between 2010 and 2005 had led to a conviction and whether that was a sign of widespread impunity. Furthermore, he would welcome information on any mechanisms in place to provide reparation for victims of acts of torture...

40. **Mr. Muhumuza** said that he would appreciate information on the political, economic and social participation of persons of African descent in Guatemala and on the efforts being made to promote their participation in those spheres...

41. **Mr. Borrayo Reyes** (Guatemala) said that his Government fully recognized that the successful operation of national human rights institutions depended on respect for the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles)...

44. **Ms. Teleguario Sincal** (Guatemala) said that the Ministry of Labour and Social Welfare had organized various initiatives to reduce the gender pay gap, including awareness-raising campaigns, advisory services and capacity-building exercises with a focus on the protection of labour rights. The Ministry had worked with the International Labour Organization (ILO) to launch and promote a campaign entitled "Yes to the ILO Domestic Workers Convention, 2011 (No. 189)". In 2015 and 2016, the General Labour Inspectorate had carried out 845 inspections and had reached over 100,000 workers in the process. Companies focused on the export market and maquila factories were also regularly inspected...

50. **Mr. García Morales** (Guatemala) said that the National Institute of Forensic Sciences

collected disaggregated data on sexual abuse. Over the period 2015–2017, the number of reported cases of sexual abuse had remained relatively stable at approximately 7,000 for women and 800 for men. Measures had been taken to encourage victims of sexual abuse to come forward, in particular in the interior of the country. Inter-agency agreements had been concluded, including with the Ministry of Health, to ensure that cases of sexual abuse identified in clinical settings were reported to the appropriate authorities. The National Institute of Forensic Sciences had made efforts to remove some of the barriers that caused victims to drop their claims. Those measures had caused the proportion of victims who did so to fall significantly between 2016 and late 2017...

69. **Ms. Ochoa Escribá** (Guatemala) said that the ruling which had declared the definition of torture in the Criminal Code unconstitutional on grounds of omission was based on the need to reflect the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and of the Inter-American Convention to Prevent and Punish Torture. The matter was currently before Congress...

70. **The Chair** reminded the delegation of the option to submit its responses in writing within 48 hours of its dialogue with the Committee...

*The meeting rose at 6 p.m.*

#### **14. General Assembly: Opinions adopted by the Working Group on Arbitrary Detention at its eighty-first session, 17–26 April 2018**

Published: 17 July 2018

Document Number: A/HRC/WGAD/2018/24

Author: Human Rights Council

*Opinion No. 24/2018 concerning Lorent Gómez Saleh and Gabriel Vallés Sguerzi (Colombia and the Bolivarian Republic of Venezuela)*

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 33/30...

2. In accordance with its methods of work (A/HRC/36/38), on 24 January 2018, the Working Group transmitted to the Governments of Colombia and the Bolivarian Republic of Venezuela a communication concerning Lorent Gómez Saleh and Gabriel Vallés Sguerzi. The Government of Colombia requested additional time in order to respond to the communication and submitted its response on 6 April 2018. The Government of the Bolivarian Republic of Venezuela has not replied to the communication. Both States are parties to the International Covenant on Civil and Political Rights...

#### *Submissions*

##### *Communication from the source*

4. Lorent Gómez Saleh is a Venezuelan citizen, born in 1988. He is a student and human rights activist, and a founder and member of several non-governmental organizations in the Bolivarian Republic of Venezuela. He is usually resident in Valencia (Carabobo State)...

5. Gabriel Vallés Sguerzi is a Venezuelan citizen, born in 1987. He is a systems engineer and

human rights activist and a member of several non-governmental organizations in the Bolivarian Republic of Venezuela. He is usually resident in Valencia (Carabobo State)...

21. In addition, the source reports that the prosecutor handling the case visited Mr. Gómez Saleh on several occasions to ask him if, in exchange for improved conditions of detention or even his release, he would sign a statement in which he admitted to the charges against him and accused well-known opposition leaders of crimes...

29. The source submits that access to the judicial case file has been unduly restricted. The file is kept by the judge in his office, under lock and key, which means that several rightful requests to review the file have been denied because the judge was not present in the court. Moreover, when Mr. Gómez Saleh's defence counsel has been permitted to review the case file, access has been granted only to certain sections and never to the file as a whole...

33. Lastly, the source claims that their detention is arbitrary under category V because Mr. Gómez Saleh and Mr. Vallés Sguerzi have been discriminated against in the exercise of their right to liberty for obviously political reasons. Both individuals are human rights activists and critics of the Venezuelan Government and they participate actively in public and political affairs. The source alleges that they have been persecuted because of their activities to the point of being deprived of their liberty...

40. On 4 September 2014, at 5 p.m., national police officers detained a Venezuelan citizen at the intersection of Carrera 15 and Calle 100 in Bogotá near the Military University and took him to the premises of the Special Administrative Unit for Migration of Colombia...

41. At 5.10 p.m., migration officials of the above-mentioned Unit, having identified the person concerned as Mr. Lorent Enrique Gómez Saleh, informed him that administrative expulsion proceedings had been opened against him in accordance with article 105 of Decree No. 4000 of 2004. A decision was taken to issue order No. 20147030029475, dated 4 September 2014, expelling him from the country under article 105 of Decree No. 4000 of 2004. He was therefore transferred to Bogotá El Dorado Airport in accordance with the resolution and the powers accorded under article 109 of the Decree...

47. Mr. Vallés Sguerzi was detained at the Ventura Plaza shopping centre in Cúcuta by national police and migration officials and informed that an administrative measure had been taken against him and that he was requested to present himself at the office of the Special Administrative Unit for Migration of Colombia...

48. The Government notes that, once he had arrived at the Unit's office, Mr. Vallés Sguerzi was notified of order No. 20147030029445, of 4 September 2014, expelling him from the country in accordance with article 105 of Decree No. 4000 of 2004. He was also informed of the nature and scope of the sanction and signed a certificate of good treatment...

61. The source notes that the decisions to expel Mr. Gómez Saleh and Mr. Vallés Sguerzi were taken following what the Government describes as a "procedure" that was initiated and completed on the same day. However, there was no procedure: Mr. Gómez Saleh and Mr. Vallés Sguerzi were simply notified of a special administrative act ordering their expulsion, without being duly informed of the facts that served as the basis of the "procedure" or being given the opportunity to obtain legal assistance or to present their case and evidence in connection with the serious acts referred to in article 105 of Decree No. 4000 of 2004...

#### *Detention by Colombia*

68. The Working Group welcomes the cooperation of the Government of Colombia, which replied to the communication from the source within the time limit and provided information



regarding the detention of Mr. Gómez Saleh and Mr. Vallés Sguerzi, the powers of the institutions involved and the legal framework applicable to the expulsion of foreign nationals...

69. The Working Group notes that, according to the information submitted by the parties, Mr. Gómez Saleh was arrested on 4 September 2014 in Bogotá by the national police and was transported to the border town of Cúcuta that same day, where he was expelled from the country and handed over to Venezuelan officers at the border by the Colombian authorities...

70. It further notes that Mr. Vallés Sguerzi was arrested by the police on 5 September 2014 in Cúcuta (Colombia) and was deported and handed over to the Venezuelan authorities at the border that same day...

92. The Working Group urges both Governments to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Gómez Saleh and Mr. Vallés Sguerzi and to take appropriate measures against those responsible for the violation of their rights...

93. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment...

#### Footnotes:

1. See A/HRC/19/57, para. 68.

2. See opinions No. 37/2011, para. 15; No. 38/2011, para. 16; No. 39/2011, para. 17; No. 4/2012, para. 26; No. 47/2012, paras. 19 and 22; No. 34/2013, paras. 31, 33 and 35; No. 35/2013, paras. 33, 35 and 37; No. 36/2013, paras. 32, 34 and 36; No. 38/2012, para. 33; No. 48/2013, para. 14; No. 22/2014, para. 25; No. 27/2014, para. 32; No. 34/2014, para. 34; No. 35/2014, para. 19; No. 44/2016, para. 37; No. 32/2017, para. 40; No. 33/2017, para. 102; and No. 36/2017, para. 110.

3. Opinions No. 52/2017 (Gilbert Alexander Caro Alfonzo); No. 37/2017 (Braulio Jatar); No. 18/2017 (Yon Alexander Goicoechea Lara); No. 27/2015 (Antonio José Ledezma Díaz); No. 26/2015 (Gerardo Ernesto Carrero Delgado, Gerardo Rafael Resplandor Veracierta, Nixon Alfonzo Leal Toro, Carlos Pérez and Renzo David Prieto Ramírez); No. 7/2015 (Rosmit Mantilla); No. 1/2015 (Vincenzo Scarano Spisso); No. 51/2014 (Maikel Giovanni Rondón Romero and 316 others); No. 26/2014 (Leopoldo López); No. 29/2014 (Juan Carlos Nieto Quintero); No. 30/2014 (Daniel Omar Ceballos Morales); No. 47/2013 (Antonio José Rivero González); No. 56/2012 (César Daniel Camejo Blanco); No. 28/2012 (Raúl Leonardo Linares); No. 62/2011 (Sabino Romero Izarra); No. 65/2011 (Hernán José Sifontes Tovar, Ernesto Enrique Rangel Aguilera and Juan Carlos Carvallo Villegas); No. 27/2011 (Marcos Michel Siervo Sabarsky); No. 28/2011 (Miguel Eduardo Osío Zamora); No. 31/2010 (Santiago Giraldo Florez, Luis Carlos Cossio, Cruz Elba Giraldo Florez, Isabel Giraldo Celedón, Secundino Andrés Cadavid, Dimas Oreyanos Lizcano and Omar Alexander Rey Pérez); and No. 10/2009 (Eligio Cedeño).

4. See Human Rights Council resolution 33/30, paras. 3 and 7

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

Published: 1 May 2019

Document Number: CAT/C/SR.1724

Author: Committee against Torture

*Consideration of reports submitted by States parties under article 19 of the Convention Seventh periodic report of Mexico (CAT/C/MEX/7 and CAT/C/MEX/QPR/7)*

3. **Ms. Delgado Peralta** (Mexico) said that Mexico was in the midst of a profound transformation. The new Government had a new vision for the country and welcomed international scrutiny. It placed great importance on multilateral platforms, with a special focus on international cooperation aimed at ensuring that the country's legal framework gave effect to the full exercise of human rights...

10. The Government was aware of the concerns that had been expressed about the establishment of the National Guard. In that regard, the Office of the United Nations High Commissioner for Human Rights had recently agreed to provide the Mexican authorities with technical assistance to ensure that the National Guard operated in line with international standards...

11. Under the protection mechanism for human rights defenders and journalists, 1,144 individuals, including 22 who had allegedly been subjected to torture, had benefited from protective or preventive measures...

18. **Mr. Rodríguez-Pinzón** (Country Rapporteur), welcoming the adoption of the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, said that he wished to hear the delegation's comments on reports that as at August 2018, only the States of Chihuahua and Colima had taken steps to align their own legislation with the Act...

23. A further issue was the use of *arraigo* (precautionary detention without charge), which was allowed for a period of up to 40 days, extendable for up to 80 days, for persons involved in organized crime. The persons detained were not accused of any specific offence and did not enjoy fundamental legal safeguards. The Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had defined *arraigo* as a form of arbitrary detention; as such, it could be used to facilitate torture and ill-treatment...

27. The data on gender-based violence submitted by the State party were not disaggregated by age, ethnic origin and nationality of the victims, did not include the number of complaints, convictions and sentences imposed for gender-based violence, including domestic violence and femicide, and did not specify the period covered. In addition to data updated to 2018 on those subjects, he would appreciate specific information on the measures adopted to combat femicide in Ciudad Juárez...

30. Measures taken to ensure that victims of trafficking in persons had access to effective remedies and redress included the adoption of various legal and administrative instruments, including specific protocols for the safe extraction and care of victims in the States of Guanajuato and Coahuila. He would like to know whether similar protocols had been adopted in other states and what measures were in place to encourage states which currently lacked such protocols to adopt them. He wished to repeat the Committee's request for information on any identification and referral mechanisms for victims of human trafficking

who might be detained in migrant holding centres...

41. As the list of crimes that carried automatic pretrial detention in Mexico had reportedly tripled, the Committee was concerned that the already high proportion of pretrial detainees was set to increase. It would be helpful to hear about the extent to which pretrial detainees contributed to overcrowding in prisons, and the anticipated consequences of the change in the relevant legislation. The delegation should provide more information on the case of Mr. Daniel García, who had reportedly been detained for 16 years without a verdict. He would also be interested to hear the delegation's views on a study conducted by the Centre for Research and Advanced Studies in Social Anthropology that claimed that 40 per cent of people in pretrial detention in Mexico should be released...

46. Given that the 2016 study by the National Institute of Statistics and Geography had concluded that bribery in the Mexican prison system was widespread and chronic, and that the majority of inmates did not complain out of fear of reprisals, he wished to know what the authorities were doing to combat corruption in places of detention...

56. **Ms. Zhang** said that it was a matter of concern that the percentage of applicants that had been granted refugee status had dropped significantly between 2016 and 2017. Moreover, 98,741 migrants in an irregular situation had been detained during the first 11 months of 2017 and 74,604 had subsequently been expelled from the country, 20 per cent of them having been unaccompanied minors. She would be interested to hear more about the current situation on the ground and the measures being taken by the State party to protect the rights of refugees and migrants, particularly since the Committee had learned that the Office of the Special Prosecutor for Offences against Migrants was plagued by institutional problems...

57. A study that had been published the previous year alleged that foreigners held at places of deprivation of liberty administered by the National Institute of Migration were being subjected to torture and ill-treatment. Although the Government had rejected those allegations, the National Human Rights Commission confirmed that they had been supported by evidence. Further clarification on the matter would therefore be greatly appreciated.

**Ms. Belmir** said that she was concerned by the number of arrests being made by heavily armed members of the military who had not received appropriate training on arresting and interrogating individuals. Moreover, an alarming number of arrests took place in the State party without an arrest warrant and suspects were often secretly held in confinement...

60. With regard to the application of the National Code of Criminal Procedure that had come into effect in 2016, Ms. Zhang reminded the delegation that, in order to guarantee a fair trial, it was important to accord equal weight to all statements made before the judge during criminal investigations...

64. **Ms. Racu** said that, despite the progress made over the previous 10 years, there was still room for improvement concerning the State party's juvenile justice system. The Committee had learned that minors accused of serious offences were automatically remanded in pretrial detention. Since many of them were from disadvantaged families and were unable to gather the evidence and funds required to secure their release, they often ended up being detained for weeks or months. She would be interested to know how many minors were currently being held in detention, both on remand and following conviction, and whether those numbers had gone up since the previous reporting cycle...

68. **The Chair** said that the Committee had been informed that incidents of ill-treatment, sexual violence and torture took place in social institutions, psychiatric departments and migration detention centres, some of which were not officially registered. He would therefore

like to know whether the State party intended to put in place a more robust mechanism for monitoring those facilities...

69. **Ms. Delgado Peralta** (Mexico) said that the Government, which had been in power for under six months, was firmly committed to overcoming the challenges that it faced to protect and promote human rights in her country. One of its first actions had been to draw up a multilateral plan with El Salvador, Honduras and Guatemala to address the causes of migratory flows and to develop a human-rights based system of migration management for the region. The Government had also taken action to protect the rights of migrants in Mexican territory, particularly unaccompanied minors, who were applying for asylum in the United States of America. It allowed migrants to stay in Mexico temporarily for humanitarian reasons, and they were entitled to leave and return to the country as they wished during their stay. While in the national territory, she confirmed that all migrants were guaranteed the rights and freedoms provided for under the Constitution, the international treaties to which Mexico was a party and the Migration Act...

#### **16. International Covenant on Civil and Political Rights: List of issues prior to submission of the third report of Guyana**

Published: 31 August 2020

Document Number: CCPR/C/GUY/QPR/3

Author: Human Rights Committee

##### *General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant*

1. Please provide information on measures taken to implement the recommendations contained in the Committee's previous concluding observations (CCPR/C/79/Add.121). Please also report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations...

##### *Anti-corruption measures (arts. 2 and 25)*

5. Please report on the measures taken by the State party to ensure: (a) the full implementation of existing anti-corruption legislation; (b) prompt and thorough investigations, including by the State Assets Recovery Agency, into all allegations of corruption, as well as prosecution and punishment of perpetrators; and (c) transparent management of natural resources, particularly extractive resources such as oil, gold, diamonds and timber. Please comment on reports of corruption by public officials in the petroleum sector, including in relation to the granting of oil production licences in 2016...

##### *Non-discrimination (arts. 2, 3, 23, 25 and 26)*

6. Please report on measures adopted to develop dedicated anti-discrimination legislation that: (a) extends beyond discrimination in employment; (b) provides a clear definition of and criminalizes direct and indirect discrimination; (c) contains a comprehensive list of prohibited grounds of discrimination, including sexual orientation and gender identity; and (d) provides for effective judicial and administrative remedies for victims. Please include statistical information on complaints of discrimination received during the period under review, along with an indication of the basis of discrimination, the nature of investigations conducted and

their outcome, and any redress provided to victims...

*Gender equality (arts. 3 and 26)*

9. With reference to the previous concluding observations (para. 13), please report on the measures taken to achieve the equitable representation of women in public and political life, especially in decision-making positions. Please describe steps taken to introduce statutory quotas for women in national and local legislative assemblies and to review the current quota system for electoral lists, which does not ensure, in practice, equal representation of men and women...

*Voluntary termination of pregnancy (arts. 6–8)*

11. Please report on the steps taken by the State party to ensure the full implementation of the Medical Termination of Pregnancy Act of 1995 and to guarantee safe, prompt and effective access to abortion services throughout the country, particularly in rural and hinterland areas. In this respect, please include information on the availability and accessibility of facilities in the State party that provide abortion services...

*Right to life (art. 6)*

12. With reference to the previous concluding observations (para. 7), please report on the progress made towards abolishing the death penalty and on the current obstacles to abolition. Please update the Committee on the State party's plans to accede to the Second Optional Protocol to the Covenant, including on the status of the draft memorandum prepared by the Ministry of Foreign Affairs in this respect...

*Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (art. 7)*

16. With respect to the previous concluding observations (para. 11), please provide detailed information about the Police Complaints Authority, including: (a) its role in investigating complaints of torture or ill-treatment and excessive use of force by the police; (b) its relationship with other police investigative bodies; and (c) steps taken to ensure its independence and impartiality. Please include statistical data on the number of complaints received by the Police Complaints Authority during the period under review, along with the content and outcomes thereof...

*Treatment of persons deprived of liberty (art. 10)*

17. With reference to the previous concluding observations (para. 17), please report on progress made in: (a) addressing overcrowding in places of detention; (b) improving the material conditions of prisons, particularly at the Lusignan Prison; (c) ensuring adequate access to water and food, clothing and bedding, and health and medical services; and (d) investigating cases of inter-prisoner violence and deaths in places of detention. Please provide statistical data, disaggregated by sex, age and ethnicity, on the number of deaths in places of detention over the reporting period, including the number of cases and causes of death, the number of cases investigated, prosecutions pursued, convictions secured, punishment imposed on offenders and reparations provided to the families of the victims. Please provide information on the existence and operation of an independent monitoring body mandated to regularly monitor and inspect all places of detention...

*Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8, 24 and 26)*

20. Please provide information on the measures taken to combat trafficking in persons and child labour, particularly in rural and hinterland areas, including the investigation, prosecution and conviction of perpetrators and provision of remedy to victims. Please comment on reports of hazardous child labour, especially in mining, logging, farming, fishing and manufacturing industries, and among the Amerindian communities, and of the increasing number of children in street situations. Please also indicate the steps taken by the State party to ensure the birth registration of children and access to identity documents...

*Treatment of aliens, including refugees and asylum seekers (arts. 7, 9, 13 and 24 (3))*

24. Please clarify whether the State party intends to adopt comprehensive national refugee legislation and asylum procedures. Please provide information on the measures taken: (a) to provide adequate safeguards against refoulement, including in light of the absence of a national asylum system; (b) to ensure protection of refugees arriving from the Bolivarian Republic of Venezuela, who are in particularly vulnerable situations, including with regard to their acquisition of legal status and access to basic social services; and (c) to prevent and combat the trafficking of refugee women and girls, particularly those from the Bolivarian Republic of Venezuela, and to ensure the protection of victims...

**17. Report on follow-up to the concluding observations of the Human Rights Committee**

Published: 22 September 2020

Document Number: CCPR/C/128/3/Add.1

Author: Human Rights Committee

*Paragraph 9: Internal armed conflict*

*The State party should continue and intensify its efforts to prevent violations of Covenant rights and to give effect to the rights of victims of the armed conflict to truth, justice and full reparation. It should, in particular, ensure that:*

*@ The appropriate authorities adopt effective preventive measures in response to early warnings issued by the Inter-Agency Early Warning Committee and that they monitor and take proper action on all risk reports and follow-up notes issued by the Ombudsman's Office under the Early Warning System even if they are not converted into early warnings.*

*Information from the Colombian Commission of Jurists*

Despite the progress in investigations into and the prosecution and punishment of alleged perpetrators of killings of social leaders and human rights defenders, the State party has not fully clarified the root causes of the violations. Furthermore, the consistent lack of implementation of the Ombudsman's recommendations in its early warnings and follow-up notes contributes to violence and human rights violations...

In 2017, at least 348 people were victims of homicide. Of the 115 cases in which the alleged perpetrator was known, responsibility was attributed to the State in 94 cases, which shows the persistence of extrajudicial executions in Colombia. The Colombian Commission of Jurists also refers to other human rights violations, including enforced disappearance, arbitrary detention and torture, and provides information on violations affecting vulnerable persons, including children, older adults, and lesbian, gay, bisexual, transgender and intersex persons...

*Committee's evaluation*

The Committee notes the information provided by the State party on the measures taken in response to early warnings issued by the Inter-Agency Early Warning Committee. It requires further information on the measures taken by the State since the adoption of the concluding observations, particularly in relation to the action taken on risk reports and follow-up notes issued by the Ombudsman's Office under the early warning system even if they are not converted into early warnings...

*Paragraph 29: Conditions of detention*

*The State party should redouble its efforts to reduce overcrowding by, inter alia, ensuring that use is made of non-custodial measures, and to improve prison conditions so as to ensure that the dignity of persons deprived of their liberty is respected in accordance with article 10 of the Covenant. It should also step up its efforts to prevent torture and ill-treatment in places of deprivation of liberty, to ensure that all reports of torture or ill-treatment are investigated promptly, thoroughly and impartially by an independent body that has no hierarchical or institutional tie to the suspected perpetrators and to ensure that the responsible parties are brought to justice and punished...*

*Information from the Colombian Commission of Jurists*

Although the total percentage of overcrowding has been reduced, the problem persists. The current rate of overcrowding takes into account the total number of places of detention, not the real distribution of inmates. Similarly, places of detention designated for pretrial detention are also overcrowded...

In 2018, the Criminal Code and the Code of Criminal Procedure were amended, by Act No. 1908 of 9 July 2018. The maximum duration of pretrial detention was increased from two to four years for crimes relating to activity in organized armed groups...

*Paragraph 39: Alleged acts of intimidation, threats or attacks targeting human rights defenders, journalists, trade unionists, judicial officials, lawyers or social or human rights activists...*

*The State party should redouble its efforts to provide timely, effective protection to human rights defenders, journalists, trade unionists, judicial officials, lawyers and social or human rights activists who are the target of acts of intimidation, threats and/or attacks because of the work that they perform. It should also step up its efforts to ensure that all allegations regarding acts of intimidation, threats or attacks are investigated promptly, thoroughly and impartially, and that the perpetrators stand trial and are held accountable for their acts.*

*Information from the Colombian Commission of Jurists*

Since the signing of the Final Agreement, there has been a worrying increase in the number of attacks against human rights leaders and defenders, a situation that currently constitutes a major threat to peacebuilding in Colombia. The State party's response has not been effective, and impunity persists to a high degree...

The peace agreement contains a set of measures that can help to reduce violence against human rights defenders. The Government's refusal to implement these measures makes the situation even more difficult...

**Recommended action:** A letter should be sent informing the State party of the discontinuation

of the follow-up procedure. The information requested should be included in the State party's next periodic report...

**18. Summary record of the first part (public) of the 3736th meeting**

Published: 16 October 2020

Document Number: CCPR/C/SR.3736

Author: Human Rights Committee

*Opening of the session by the representative of the Secretary-General of the United Nations*

1. **Mr. Walker** (Office of the United Nations High Commissioner for Human Rights) said that he was pleased to declare open the Committee's 130th session, which was being held online. Since the outbreak of the coronavirus disease (COVID-19) pandemic, the Committee had continued to show how the human rights treaty bodies could advance their crucial work through creative working methods. He welcomed its efforts to keep the treaty body system functioning in the face of exceptional challenges...

7. **Ms. Kran**, welcoming the words of encouragement offered by the representative of the Secretary-General, said that it was important not to underestimate the sacrifices that had been made by members in order to allow the Committee to continue its work despite the pandemic. She was concerned that the Committee could not fulfil all aspects of its mandate effectively through online meetings; for example, it was unable to hold constructive dialogues with States parties online. The Committee therefore needed to be able to resume its in-person meetings as soon as possible....

*Organizational and other matters, including the adoption of the report of the Working Group on Communications*

10. **Mr. Shany** said that the Working Group on Communications, which consisted of 10 members, had met via videoconference from 28 September to 9 October 2020. The process had been exceptional not only because it had lasted for two weeks instead of one but also because the Working Group had split into three subgroups, one for each of the Committee's working languages. The Working Group had considered 29 draft proposals; of those, 28 had been adopted and 1 was in the process of being adopted. In 9 of the proposals, the Working Group recommended findings of inadmissibility. In 1 of them, it recommended that the Committee should decide to discontinue its consideration of the case. In 17 of them, it recommended that the Committee should find a violation of the Covenant; in 2 of them, it recommended a finding of non-violation...

11. *The report of the Working Group on Communications was adopted.*

*The public part of the meeting rose at 4.30 p.m...*

**19. List of issues in relation to the fourth periodic report of Panama**

Published: 20 August 2020

Document Number: CCPR/C/PAN/Q/4

Author: Human Rights Committee

*Constitutional and legal framework within which the Covenant is implemented (arts. 1 and 2)*

1. In the light of the Committee's previous concluding observations (CCPR/C/PAN/CO/3), please provide information on the establishment of a specific mechanism or procedure for implementing the Committee's Views and give examples of cases in which the domestic

courts have invoked the provisions of the Covenant. Please provide information on the content of the training programmes run for justice officials and on activities carried out to raise public awareness of the Covenant rights and the fact that they are directly applicable under national law. Please also provide information on the rights affected by the measures taken to combat COVID-19 and whether the State party has taken the steps necessary to derogate from the application of any rights protected under the Covenant...

*Human rights violations during the dictatorship era (arts. 2, 6 and 7)*

3. Please provide information on steps taken, pursuant to the Committee's previous concluding observations (para. 7), to ensure that all cases of serious human rights violations, including those documented by the Truth Commission, are duly investigated, that the persons responsible are brought to justice and, where appropriate, punished and that the victims or their families receive fair and adequate compensation. Please also provide information on the legislation regulating the statute of limitations for serious human rights violations...

*Non-discrimination (arts. 2, 3, 26 and 27)*

5. Please provide statistical information on complaints of discrimination received during the period under review, specifying the grounds for discrimination, the investigations conducted and their outcome, and the redress granted to the victims. Please also comment on the measures taken to combat and prevent acts of discrimination, stigmatization and violence against HIV-positive persons...

*Equality between men and women (arts. 2, 3, 25 and 26)*

10. In the light of the Committee's previous concluding observations (para. 16), please provide information on measures taken to eliminate gender stereotypes. Notwithstanding the information provided by the State party in its periodic report (para. 93) that requesting women to undergo pregnancy tests is prohibited by law, please comment on the information received by the Committee according to which this practice is still included as a requirement for access to employment, and provide information on the penalties applied in such cases. With reference to the information provided by the State party in its periodic report (paras. 65–88), please provide information on the results of the measures taken to reduce the wage gap between men and women...

*Violence against women, including domestic violence (arts. 2, 3, 6, 7, 14, 24 and 26)*

11. With reference to the previous concluding observations (para. 18) and paragraphs 47 to 64 of the State party's report, please provide information on the impact of the measures described with respect to the implementation of Act No. 82 of 24 October 2013 and whether the State party has established the necessary regulations for its effective implementation. Based on the statistical data provided by the State party, please clarify the reason for the sharp decrease in the number of cases of femicide registered at the national level between 2014 and 2018 and the low number of convictions in the same period. In this respect, please provide information on the measures taken to: (a) ensure that victims of violence are informed about the procedures for lodging complaints; (b) ensure that victims and their families have access to protective services, including public shelters and counselling and assistance centres; and (c) ensure that all cases of violence against women are investigated, that perpetrators are prosecuted and held to account and that the victims or their family members obtain compensation...

*Persons deprived of their liberty and conditions of detention (arts. 6, 7, 9, 10, 14 and 26)*

16. In the light of the Committee's previous concluding observations (para. 12) and the 2008 amendments to the Code of Criminal Procedure limiting the use of pretrial detention, please provide statistical data on the use, and average duration, of pretrial detention over the last five years. Please also clarify the legal time limits for pretrial detention and describe the steps taken to ensure that remand prisoners are separated from convicted prisoners...

*Migrants, asylum seekers and refugees (arts. 2, 9, 10, 12, 13 and 26)*

25. In the light of the Committee's previous concluding observations (para. 14), please provide information on the implementation of Executive Decree No. 5 of 16 January 2018, which implements Act No. 5 of 26 October 1977 on the ratification of the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees and sets out new provisions for the protection of refugees, including the mandate of the National Commission for the Protection of Refugees. Please provide updated statistical data, disaggregated by sex and age, on the number of asylum seekers and refugees in the State party and on the outcome of their applications. Please also provide information on the average waiting time for asylum applications and on the number of persons waiting for their applications to be processed. In this connection, please explain how the State party ensures access to the national system of asylum for persons, including minors, in need of international protection at borders and throughout the national territory...

*Rights of the child (arts. 16, 23 and 24)*

27. Please provide information on measures taken to prohibit, prevent and punish corporal punishment in all settings and to promote non-violent forms of discipline as an alternative to corporal punishment. In the light of the previous concluding observations (para. 20), please describe efforts made to ensure effective enforcement of the prohibition of child labour. Please also provide statistical information on the number of complaints received, investigations conducted, sentences handed down, penalties imposed, and protection and reparation measures granted, as well as prevention and awareness campaigns conducted...

**20. Report on follow-up to the concluding observations of the Human Rights Committee**

Published: 1 September 2020

Document Number: CCPR/C/128/3/Add.4

Author: Human Rights Committee

*Summary of the State party's reply*

Following the amendment of article 1 of the Constitution in 2015, a number of other laws and provisions were updated. Pursuant to Act No. 9456 of 2017 amending the National Planning Act and the Education Act, the National Planning Act now provides that the Ministry of Planning and Economic Policy is responsible for "ensuring that public investment programmes, including those of decentralized institutions and other bodies governed by public law ..., respect the differences and specific needs of a multi-ethnic and multicultural society" (art. 9)...

With the adoption of Act No. 9358 of August 2016, Costa Rica became the first country in the Americas to ratify the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance...

The Government is currently reviewing the first action plan and designing the second action plan for the National Policy for a Society Free from Racism, Racial Discrimination and Xenophobia 2014–2025. File No. 19288, entitled “Prevention, elimination and punishment of racism and all forms of discrimination”, and File No. 19299, entitled “Investigation of the human rights situation of persons of African descent”, are now before the legislature...

Costa Rica is currently the only country in Central America that is accepting applications for asylum based on all of the various types of situations that are giving rise to large numbers of refugees in the region. Since 2018, the Government has been implementing the National Integration Plan, one of whose main focuses is on recognizing diversity...

The State party provided details regarding the activities and results of the National Plan for Persons of African Descent 2015–2018: Recognition, Justice and Development...

In 2018, a campaign was conducted to raise awareness in Costa Rican society of the rights and obligations of migrants and refugees...

The State party provided information regarding a mass media campaign on the rights of persons with disabilities...

#### *Summary of the State party's reply*

(a) Amendments to expand the grounds for voluntary termination of pregnancy must be made by the legislature in accordance with the appropriate amendment procedure.

(b) The Government has been developing a technical standard to regulate the scope of article 121 of the Criminal Code and to establish objective medical parameters for therapeutic terminations of pregnancy...

#### *Information from Arraigo, State Distance Learning University Centre for Research in Culture and Development and the non-governmental organization Costa Rica Indígena*

Although the General Mechanism for Consultation with Indigenous Peoples was established in 2018, in reality it is only binding on the central State authorities, that is, the ministries of the executive branch. It is not legally binding on autonomous institutions, the legislature, the judiciary or other institutions of the State party, let alone private entities such as corporations and businesses. A law that is binding on the entire government apparatus and on private enterprises is therefore needed...

There are currently no bills that would provide for the proper regulation of the security of land tenure and self-governance of the various indigenous territories. The bill on the autonomous development of indigenous peoples (File No. 14352) was withdrawn by the Legislative Assembly on 30 October 2018 after that bill had spent 24 years awaiting consideration by the legislature and despite extensive consultation with indigenous representatives...

#### *Committee's evaluation*

[B] (a) and (b): The Committee notes the adoption of Decree No. 40932 of 2018 on the establishment of the General Mechanism for Consultation with Indigenous Peoples. However, it requests the State party to clarify whether this mechanism is binding on all State institutions and on private enterprises. It also requests information on the withdrawal of the bill on the

autonomous development of indigenous peoples (File No. 14352) and on the existence of similar bills...

The Committee notes that the Ministry of Justice and Peace has been authorized to carry out consultations. The Committee requests additional information on the measures taken with regard to requests for consultation submitted and/or consultations carried out pursuant to Decree No. 40932 of 2018...

**Recommended action:** A letter should be sent to inform the State party of the discontinuation of the follow-up procedure. The requested information should be provided in the State party's next periodic report...

#### **21. International Convention of the Elimination of All Forms of Racial Discrimination**

Published: 1 December 2020

Document Number: CERD/C/SR.2812/Add.1

Author: Committee on the Elimination of Racial Discrimination

#### *Closure of the session*

1. **Ms. Izsák-Ndiaye** (Rapporteur) said that, over the seven working days of the Committee's 102nd session, the second session that it had conducted exclusively via videoconference owing to the coronavirus disease (COVID-19) pandemic, the Committee had heard from five non-governmental organizations, met with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on trafficking in persons, especially women and children, and engaged in an exchange of views with the United Nations High Commissioner for Human Rights regarding current global challenges in the fight against racism and racial discrimination and the impact of the COVID-19 pandemic. The Committee had also been updated on the treaty body strengthening process by senior officials of the Office of the United Nations High Commissioner for Human Rights...

3. In addition, the Committee had adopted its general recommendation No. 36 on preventing and combating racial profiling, which defined racial profiling, described States parties' obligations under the Convention and addressed various other aspects of racial profiling. The Committee wished to thank all the States, entities, organizations and individuals that had made valuable contributions to that important and timely general recommendation...

4. The Committee had also issued an opinion in the case of *Lars-Anders Ågren et al. v. Sweden*, in which 15 members of the indigenous Sami people had alleged that the State party had violated articles 5 (a) and (d) (v) and article 6 of the Convention by granting mining concessions on territory they traditionally used for reindeer herding, the most central element of their cultural identity. The Committee had recalled that States parties had the obligation to protect the rights of indigenous peoples to their communal lands, territories and resources and to take steps to return lands and territories that they had been deprived of without their free and informed consent. It had indicated that either ignoring the land rights of indigenous peoples or not observing, in practice, the requirement to obtain their free, prior and informed consent constituted a form of discrimination. The State party had failed to demonstrate that it had held good-faith consultations with the people concerned with a view to reaching consensus. In addition, by delegating the consultation process to a mining company with a vested interest, without providing effective guarantees, it had failed in its duty to respect the petitioners' land rights. Furthermore, environmental and social impact studies conducted prior

to the awarding of a concession should be addressed during the consultation process, which had not been done in the case at hand. The Committee was therefore of the view that article 5 (d) (v) had been violated...

6. The Committee's 103rd session would take place from 19 to 30 April 2021 and would most likely be conducted online. As there were concerns that the effect of the COVID-19 pandemic on the Committee's ability to carry out its work was resulting in a protection gap, the Committee was committed to holding online reviews of implementation of the Convention by States parties at that session. However, online reviews could not provide the same level of dialogue or protection as in-person meetings, where all stakeholders were present...

7. **The Chair** declared the 102nd session of the Committee on the Elimination of Racial Discrimination closed.

*The meeting rose at 4.35 p.m.*

## 22. International Convention of the Elimination of All Forms of Racial Discrimination

Published: 20 November 2020

Document Number: CERD/C/SR.2806

Author: Committee on the Elimination of Racial Discrimination

### *Opening of the session*

1. **The Chair** declared open the 102nd session of the Committee on the Elimination of Racial Discrimination.

2. **Mr. Walker** (Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that, since its previous session, the Committee had worked assiduously in several areas to prevent the emergence of a protection gap, despite unprecedented challenges. Unfortunately, the coronavirus disease (COVID-19) pandemic was far from being defeated. It continued to pose human rights challenges related to racial discrimination and was having a disproportionate impact on people of African descent, indigenous peoples, migrants, refugees and asylum seekers. Meanwhile, communities across the globe faced difficulties in accessing health care, education, food and housing. As the development of a vaccine became a reality, the Committee's statement on the pandemic and its implications under the Convention – in particular its recommendation to States to ensure that access to an eventual vaccine against COVID-19 would be provided in a non-discriminatory manner – was more relevant than ever. Along the same lines, the report of the Working Group of Experts on People of African Descent on COVID-19, systemic racism and global protests ([A/HRC/45/44](#)), which had been presented at the September session of the Human Rights Council, recommended that States should examine and minimize the impact of systemic racism against people of African descent in policing, health care, responses to the pandemic and other areas...

3. In June 2020, the Human Rights Council had adopted a resolution which mandated the United Nations High Commissioner for Human Rights to prepare a report examining systemic racism and violations of international human rights law against Africans and people of African descent and the use of excessive force against protesters, bystanders and journalists. OHCHR had now commenced preparatory work on that report, and he encouraged the Committee to contribute by sharing its views and recommendations...

### *Organizational and other matters*

#### *Statements by non-governmental organizations*

6. **Mr. Komatsu** (International Movement against All Forms of Discrimination and Racism) said that, while he welcomed the Committee's effort to work online in the midst of the pandemic, civil society organizations were increasingly concerned about the growing backlog of State party reports and the protection gap caused by the absence of the treaty bodies' review of those reports. On 2 October, a joint letter, signed by 522 civil society organizations and calling for the resumption of such reviews in 2021, had been sent to all the treaty bodies and OHCHR. Civil society organizations were encouraged by the recent decisions taken by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to review at least two State party reports each in their first sessions of 2021 and by the successful online dialogue that had been held in September between the Committee on Enforced Disappearances and the Government of Iraq...

8. **Ms. Agosti** (International Institute on Race, Equality and Human Rights) said that the pandemic had exacerbated inequality, discrimination and exclusion and had produced a disproportionate impact on the lives of women, lesbian, gay, bisexual, transgender and intersex persons and people of African descent. To counter those effects, it was of paramount importance to have an international perspective in order to understand how multiple grounds of discrimination intersected with and exacerbated racial discrimination. The United Nations High Commissioner for Human Rights, in referring to the devastating impact of COVID-19 on people of African descent, had stressed the need to focus not only on the current situation, but also on the root causes of violence, discrimination and stigma...

11. **Ms. Abramenko** (Anti-discrimination Centre Memorial Brussels) said that in recent years, her organization had encountered many false concepts and double standards, and also the manipulation of terminology. Thus, those who fought for independence were branded fascists, while indigenous communities that protested against the actions of industrial corporations were declared "obstacles to economic development". Consequently, international experts and human rights defenders required greater clarity in terms of theories and concepts, as well as an understanding of the complexity of the processes taking place in societies. The discourse on racial discrimination was not static; there was space for the development of both theory and practice. In that sense, it would be advisable to apply concepts that had proven useful in other areas in working against racial discrimination. For example, a racially sensitive approach could be taken to discrimination in employment, recognizing that representatives of minorities were often employed only in low-paid or less responsible positions...

13. **Ms. Ali** (Quaker United Nations Office) said that her organization took note of the Committee's work in linking the historical legacies of slavery and colonialism to contemporary forms of racism, particularly the racism faced by migrants and people on the move. In many parts of the world, racist and xenophobic discourse on migrants had conferred legitimacy on actions that dehumanized them and led to appalling fatalities. Immigration laws and controls excluded people and created distinctions among them, while the continued securitization and racialization of borders highlighted the fact that migrants' lives were seen as disposable. The situation of migrants had been exacerbated by the COVID-19 pandemic, which particularly affected those without a regular status and others in situations of vulnerability...

14. That notwithstanding, the Global Compact for Safe, Orderly and Regular Migration was creating renewed energy through its regional review process, the announcement of “champion countries” and the preparation of guidance for the implementation of its provisions. Considering that human rights, including the right to be protected against discrimination, were a guiding principle of the Compact, her organization would welcome the Committee’s involvement in the Compact’s implementation, for example through the provision of stronger and clearer analysis of the racial aspects of States’ migration governance. In its reviews of the periodic reports of States parties, the Committee could draw attention to the Compact, ask about the progress made by the States parties in giving effect to it and recommend the development of national implementation plans. The Committee might also submit its concluding observations on the reports of relevant States parties to inform the Compact’s regional review process. She too endorsed the call for the Committee to resume reviews of State party reports...

### **23. Situation of human rights in Yemen, including violations and abuses since September 2014**

Published: 28 September 2020

Document Number: A/HRC/45/6

Author: Human Rights Council

Summary: In the present report, the Group of Eminent International and Regional Experts highlights incidents and patterns of conduct since September 2014, including those occurring between September 2014 and June 2019 that were not covered in previous reports (A/HRC/39/43 and A/HRC/42/17), and incidents and patterns between July 2019 and June 2020 in the context of the ongoing conflict and humanitarian crisis. The Group of Eminent Experts finds that the parties to the conflict continue to show no regard for international law or the lives, dignity, and rights of people in Yemen, while third States have helped to perpetuate the conflict by continuing to supply the parties with weapons...

15. It has been reported that, since the beginning of the conflict, approximately 112,000 people have died as a direct result of hostilities, of whom around 12,000 were civilians. The Office of the United Nations High Commissioner for Human Rights has documented at least 7,825 civilians killed (including at least 2,138 children and 933 women) and 12,416 civilians injured (including 2,898 children and 1,395 women) as a direct result of the armed conflict between March 2015 (when the Office began such tracking) and June 2020. These figures do not include the many thousands of people who have died as a result of the worsening socioeconomic, health and humanitarian conditions...

18. By 10 August, Aden had fallen under the control of the southern transitional council. On 22 August, fighting broke out in the city of Ataq, Shabwah Governorate, between Shabwah Elite Forces affiliated with the southern transitional council and the Yemeni armed forces. On 28 August, fighting intensified in Abyan. On 28 and 29 August, the United Arab Emirates launched air strikes in Aden and Zingibar, which it claimed were against “terrorist” groups, while the Government of Yemen claimed the attacks targeted its regular forces. On 25 April 2020, the President of the southern transitional council declared a state of emergency in Aden and the creation of a self-ruled administration in the regions under its control...

30. The Group of Eminent Experts documented two further air strikes that resulted in large numbers of civilian casualties, especially children. On 24 September 2019, in Muzaimir

village, Fakhir town, Dhale’ Governorate, over 30 civilians were killed and injured by two air strikes. One of the deadliest airstrikes of 2020 was launched by the coalition in the early hours of 15 February 2020 on a village in Hayjah area, Maslub District, Jawf Governorate, resulting in approximately 50 civilians killed and injured...

71. Discrimination and violence based on sexual orientation and gender identity have been exacerbated in certain governorates since the conflict started. The Group of Eminent Experts verified cases of violations committed by the Houthis and Security Belt Forces against persons on the grounds of their sexual orientation and gender identity between 2016 and 2020. Nine witnesses described how they had survived violations, including arbitrary detention, ill-treatment, torture and sexual violence. Interrogators had accused them of spreading prostitution and homosexuality and supporting the enemy in doing so...

73. The Group documented 259 cases, and verified 16 individual cases, of children recruited and used in hostilities by several parties to the conflict...

83. The International Organization for Migration reported that, despite the ongoing armed conflict and the catastrophic humanitarian crisis, in 2019 over 138,000 African migrants had crossed the Gulf of Aden and reached Yemen as a transit destination. The Group of Eminent Experts received accounts of migrants, including children, being held captive by smugglers in informal camps in Lahij Governorate...

88. On 4 March 2020, for instance, 35 members of the parliament were sentenced to death in absentia by the specialized criminal court in Sana’a ostensibly for having taken actions threatening the stability of Yemen, its unity and the security of its territory...

89. Ten journalists, arbitrarily detained since 2015, were convicted on 11 April 2020 of national security offences arising out of their broadcasts and writing. Four journalists were sentenced to death. They are currently appealing the decision. Six journalists were sentenced to time already served, with three years of assigned residence and the appointment of a guarantor. They should have thus been immediately released. As at 30 June 2020, only one of the six had been released, while the others are reportedly to be released as part of a prisoner exchange. This case exemplifies the way in which journalists have been subjected to a pattern of violations in order to silence their work...

### **24. Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”**

Published: 7 February 2007

Document Number: A/HRC/4/56

Author: Human Rights Council

5. In a note verbale dated 8 January 2007 addressed to the Office of the High Commissioner for Human Rights, the Permanent Mission of Cuba to the Office of the United Nations at Geneva indicated that, while the Government of Cuba recognized the efforts deployed by the United Nations to end the military occupation by the Israeli forces of the occupied Syrian Golan, its occupation of Arab territories continued, as did the expansion of Jewish settlements...

9. In a note verbale dated 20 January 2007, the Permanent Mission of Morocco to the Office of the United Nations at Geneva reported that Morocco rejected all forms of Israeli practices that violated human rights in Palestine and all the occupied Arab territories, including the Golan Heights, as well as all measures that purport to alter the physical character and



demographic composition of the occupied Arab territories...

9. international law, including that which had been established in the framework of the Madrid Peace Conference of 1991, in particular resolution 6612 (125) of 4 March 2006, in which the Arab League has rejected all measures taken by the Israeli occupation authorities that aim at changing the legal, physical and demographic status of the occupied Syrian Golan, and considers them as null and void and in breach of international conventions and of the Charter and resolutions of the United Nations...

## **25. Report of the Independent Investigative Mechanism for Myanmar**

Published: 7 July 2020

Document Number: A/HRC/45/60

Author: Human Rights Council

6. Welcoming the operationalization of the Mechanism and the appointment of its Head, the General Assembly, in resolution 74/246, urged the Mechanism to swiftly advance its work and to ensure the effective use of evidence of the most serious international crimes and violations of international law collected by the independent international fact-finding mission on Myanmar. In the same resolution, the Assembly also expressed grave concern about the increasing restrictions on humanitarian access, in particular in Rakhine State, and urged the Government of Myanmar to cooperate fully with and to grant full, unrestricted and unmonitored access to all United Nations mandate holders and human rights mechanisms, including the Mechanism...

19. As of March 2020, the Mechanism had recruited personnel with expertise in the following areas, among others: international criminal law; international human rights law; international humanitarian law; criminal investigation and prosecution; information system management; storage and preservation of information, documentation and evidence; military matters; sexual and gender-based crimes and violence; crimes against children; and information technology and security...

63. It is thus dependent upon competent authorities of national, regional and international courts or tribunals to commence criminal proceedings in relation to the most serious international crimes and violations of international law committed in Myanmar since 2011, and for those authorities to make a request to the Mechanism for the sharing of information, documentation and evidence...

75. While the Mechanism will remain guided by its strategy and priorities for the near future, the world has been in a constant state of flux as a result of the COVID-19 pandemic. The impact and consequences of the pandemic will certainly continue to linger and negatively affect the territories, communities and entities that the Mechanism will work in or with. As a result, the Mechanism will continuously assess the relevant circumstances, review its methods, identify areas where it can improve and adopt creative and flexible solutions to remove any obstacles in its way and collect all relevant evidence in an efficient and effective manner...

## **26. Annual report of the Expert Mechanism on the Rights of Indigenous Peoples**

Published: 30 June 2020

Document Number: A/HRC/45/61

Author: Human Rights Council

1. The thirteenth session of the Expert Mechanism on the Rights of Indigenous Peoples, which was scheduled to take place from 8 to 12 June 2020, was postponed to 30 November to 4 December 2020, owing to the coronavirus disease (COVID-19) pandemic...

2. The Expert Mechanism will therefore submit its annual report for 2020 to the Human Rights Council for consideration at its forty-sixth session...