



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

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COMMITTEE AGAINST TORTURE  
Thirty-fourth session  
Geneva, 2-20 May 2005

**List of issues to be considered during the examination of the  
third periodic report of ECUADOR (CAT/C/39/Add.6)**

**Article 2**

1. Please describe any progress made in the implementation of the National Human Rights Plan of 1998 intended to prevent, eradicate and punish human rights violations in the country, in particular regarding the work of the Human Rights Coordination Commission. Please provide examples.
2. What stage has been reached in the cases awaiting a judicial decision - in other words, have the victims been awarded compensation and the perpetrators of the offences duly punished?
3. What are the tangible results of the implementation of the Operative Plan of Action 2000-2002 on the prison situation in the Andean countries, specifically in Ecuador?
4. Please indicate whether a record is kept of information from domestic courts concerning cases of torture and ill-treatment that have occurred in the State party.
5. Please tell the Committee whether legislation prohibiting torture and cruel, inhuman and degrading treatment contains specific provisions regarding gender-based breaches of the Convention, including sexual violence. Please also describe the effective measures taken to monitor the occurrence of, and to prevent such acts, and provide data, disaggregated by the sex, age and ethnicity of the victims, and information on investigation, prosecution and punishment of the perpetrators.
6. The Ecuadorian Constitution recognizes that indigenous communities have the right to exercise their own judicial system based on their traditions and customs. Please describe the Government's relationship with the indigenous leadership and how it is ensuring that the parallel judicial system complies with the Convention.

7. What steps have been taken to end the delays in initiating judicial proceedings, which have led to the release of persons suspected of torture or ill-treatment who have served the maximum period of pre-trial detention (report, para. 25)?

### **Article 3**

8. How does the State party ensure the observance of article 3, paragraph 1, of the Convention in cases of expulsion, return or extradition? Is there a procedure to assess the danger of the person being subjected to torture in the country to which he or she is returned? Can that person appeal to a judicial or other authority?

9. Please provide statistics relating to persons seeking asylum and/or refuge in Ecuador and the granting of refugee or other status on humanitarian grounds.

### **Article 4**

10. Please indicate whether the Convention has been invoked directly before the domestic courts. If so, please provide examples.

11. Please explain why attempted torture is not considered an offence in Ecuador. Please clarify the situation in the light of article 4, paragraph 1, of the Convention.

12. What steps have been taken to eradicate torture in detention centres and prisons, particularly on the premises of the Crime Investigation Office, in order to comply with the Committee's concluding observations of 1993?

13. Please provide information on the case of Rodrigo Ron, an inmate who died in prison in 2002 and whose body showed signs of having been beaten. Has anyone been held accountable for his death? Have the prison guards or other responsible government employees been investigated or sanctioned in any way for actions related to his death?

### **Articles 6 and 7**

14. According to non-governmental sources, the police and armed forces have committed a series of acts while carrying out their duties that have resulted in the arbitrary and incommunicado detention and torture of persons exercising their constitutional right to sexual freedom. How does the State party justify such conduct in the light of articles 6 and 7 of the Convention?

15. NGOs have reported that the State party does not have an established practice of providing criminal detainees, including those to whom articles 6 and 7 apply, with prompt access to lawyers and family members. Please report on any measures the State party has adopted or will adopt in order to ensure that detainees are given prompt access to lawyers and, in the case of foreign citizens, to their State representatives.

16. Article 6, paragraph 1, states that custody and legal measures "may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted". The Committee has information according to which over 70 per cent of detainees in jail in Ecuador have not been formally sentenced, and that detainees are sometimes held for up to two years

before their case is brought before a judge. Please respond to the apparent inconsistencies between the Convention's provisions and the actual practices in the criminal system in Ecuador.

#### Article 10

17. Please provide information on the impact of the human rights training programmes for members of the Ecuadorian armed forces referred to in paragraph 129 of the report, in particular with reference to the prevention of torture.

18. Are there similar training programmes in place for local law enforcement personnel, prison guards, public officials and any other groups of people that "may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment"?

19. Does the State party have any mechanism in place to monitor the success of the training programmes for armed forces personnel and others?

20. Further to paragraph 142 of the report, and in the context of the National Human Rights Education Plan, please indicate whether the State party already has training programmes for medical personnel who identify and document cases of torture and assist in the rehabilitation of victims.

#### Article 11

21. Please provide information on how detention centres administered by private institutions are run.

22. Have the National Congress and the Government allocated part (between 0.5 and 1 per cent) of the annual budget for the administration of prisons and temporary detention centres, with a view to ending overcrowding and malnutrition among detainees and the inhuman conditions in which most of them are held?

23. Please describe the tangible results of the National Human Rights Plan, which provides for the establishment of appropriate investigation and punishment mechanisms in the penitentiary system.

24. Please indicate whether the National Department of Social Rehabilitation in its capacity as administrator of the penitentiary system has eliminated all *calabozos* from Ecuadorian prisons.

25. Why are most of the people who enter a pre-trial detention centre not detained in accordance with a court order, as prescribed by article 24, paragraph 6, of the Constitution?

26. What steps have been taken to eradicate and prevent cases of torture in prisons, in particular in the Quito pre-trial detention centre?

27. What steps has the State party taken to combat sources of corruption such as charging detainees for accommodation and the sale and purchase of drugs in detention centres?

28. Please explain how the law which allows a prisoner to be released only by court order, regardless of the legality of the detention, complies with the State party's obligations under the Convention to ensure safe prison conditions "with a view to preventing any cases of torture", in view of the facts that many detainees are not aware of this law and cannot afford a lawyer, and that the law contributes to the severe overcrowding of the nation's prisons and police stations.

29. Do detainees receive medical care as soon as they are detained? Can they request the care of a doctor of their choice?

### **Articles 12 and 13**

30. What authority is competent to initiate a criminal investigation into cases of torture or cruel treatment, and is the submission of a formal complaint by the alleged victim required? Please indicate whether disciplinary proceedings for acts of torture or cruel, inhuman or degrading treatment take place at the same time as criminal proceedings for the same acts.

31. Please describe how the situation of detainees in police stations outside Quito is monitored in practice. Please also indicate the number of complaints of ill-treatment in these stations, as well as their outcome.

32. Has the State party investigated the cases of the 58 prisoners who died in 2004, as reported by the National Social Rehabilitation Board? Half of these deaths were attributed to illness in prison, and a third to murders by other inmates. In light of these deaths, please explain how the State party has complied with its obligations under the Convention, in particular article 11.

33. Please provide statistics on complaints lodged, disciplinary procedures initiated and sanctions applied against prison guards and police officers in prisons on the grounds of torture.

34. NGO information refers to the police justice system which allows prosecutors and judges who are themselves members of the security forces to try their fellow law enforcement colleagues. Please provide information on the continued use of this system for cases of possible violations of the Convention, and how the continued use of this system accords with the obligation of the State party to "proceed to a prompt and impartial investigation" in such cases.

35. One illustrative case is that of Carlos Aristides Lara Silva and David Eduardo Delgado Galarza, both of whom were arrested on 29 December 2001 by five National Police officers south of Guayaquil. On 1 January 2002 their bodies were found, bearing clear signs of torture as well as bullet wounds. The officers, who were later found guilty of the crime, were all released before their trials were concluded, and the National Court of Police Justice did not order their re-arrest. Can the State party provide any indication as to whether there is any mechanism in place to ensure that these police officers, and others who similarly commit acts of torture serve their sentences or receive other punishment?

36. How has the State party ensured that "the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given"? Please explain fully all mechanisms and procedures the State party is employing in general in such cases to protect the victims and witnesses from retribution or ill-treatment.

37. Please indicate, with reference to paragraph 99 of the report, the progress made with respect to the full implementation of article 26 of the 1998 Constitution concerning the need for any investigation of the offence of torture to be carried out exclusively by independent judges who are members of the judiciary.

38. Can a judge overturn a decision by the Public Prosecutor's Office to close a case concerning alleged torture or ill-treatment of detainees (para. 166)?

39. Please provide statistics on the number of complaints and constitutional and judicial appeals submitted concerning acts of torture (report, para. 196), in particular appeals to the Constitutional Court where a magistrate has refused to grant the remedy of habeas corpus.

#### **Article 14**

40. Please explain whether steps are being taken to introduce into Ecuadorian legislation specific mechanisms to provide compensation to and ensure the rehabilitation of the victims of torture.

41. Please provide information regarding the case of Joffre Aroca Palma, who was arrested by police in Guayaquil on 27 February 2001, and later found murdered. Two officers were found guilty in the case, but neither has served a prison sentence. Has the victim's family received any reparations for his death? If not, please explain why, when such reparations will be awarded and how the State party will comply with article 14 of the Convention.

42. Please provide statistics on the compensation awarded to victims of torture, including acts resulting in the death of the victims, and on the amounts involved (report, para. 204) and the procedures through which it was obtained.

43. Is it possible to bring civil proceedings separately from criminal ones in the case of alleged torture or inhuman treatment (report, para. 222)?

#### **Article 15**

44. Please elaborate on whether the federal criminal code allows statements obtained as a result of torture to be used as evidence against the victims. Please also explain the procedures in place to ensure that admissible evidence is properly screened to remove statements obtained as a result of torture, and describe the training that judges, prosecutors and investigators receive in this matter?

#### **Article 16**

45. What measures have been adopted with respect to instances of excessive use of force by the police and armed forces against indigenous people, particularly in the context of political demonstrations and civil unrest?

46. What steps, if any, has the State party taken to address the concerns of massive overcrowding in prisons and police stations and deficiencies in sanitation and medical treatment?

47. How many women work as defence counsels for victims of human rights violations (especially gender-based violence), Commissioners for Women and the Family, members of the specialized police, or family judges or magistrates who deal with complaints of gender-based violence?

48. Are there specific guarantees protecting foreigners granted asylum in Ecuador on humanitarian grounds against possible ill-treatment?

49. How does the State party ensure that children, particularly indigenous children, are protected from involvement in the worst forms of child labour?

#### **Other**

50. Is there any legislation in the State party aimed at prohibiting the trade and production of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment? If so, please provide information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.

51. Please indicate when Ecuador envisages signing and ratifying the Optional Protocol to the Convention against Torture. In that connection, have steps been taken to establish or designate a national mechanism for conducting periodic visits to places of detention in order to prevent torture and other cruel, inhuman or degrading treatment?

52. Please provide information on legislative, administrative or other measures adopted to combat terrorism. Please also indicate whether such measures have affected any legal and practical safeguards relating to human rights.

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