



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

Distr.
GENERAL

CAT/C/ECU/Q/4
17 February 2009

ENGLISH
Original: SPANISH

COMMITTEE AGAINST TORTURE
Thirty-ninth session
Geneva, 5-23 November 2007

**List of issues prior to the submission of the combined fourth,
fifth and sixth periodic reports of ECUADOR***

Article 1

1. With reference to the previous concluding observations of the Committee against Torture, are all acts of torture referred to in articles 1-4 of the Convention considered offences under domestic criminal law? Please indicate whether the prohibition of such acts is contained in a single provision.

Article 2

2. To what extent does the constitutional process provide for strengthening the protection of human rights?

3. What measures has the State party taken to shorten the period of pretrial detention, including removal of the concept of *detención en firme* from the Code of Criminal Procedure?¹ Please provide information on any pending measures in this respect.

* The present list of issues was adopted by the Committee at its thirty-ninth session in keeping with the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The State party's replies to this list of issues will constitute the report the State party is required to submit under article 19 of the Convention.

¹ See the Committee's concluding observations on the third periodic report of Ecuador (CAT/C/ECU/CO/3), para. 19.

4. Please provide information on all precautionary measures prescribed by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights.
5. Please provide information on the constitutional and legal norms and practice with regard to the non-derogable nature of the prohibition of torture and other forms of cruel, inhuman or degrading treatment during a state of emergency. Is the right of habeas corpus valid during a state of emergency?
6. With reference to the bill on public defenders prepared by the Commission for the Implementation of Criminal Procedural Reform,² please indicate how the independence of the Commission will be ensured and how it will cooperate with the Office of the Ombudsman in efforts to bring those responsible to trial. Please also provide information concerning the status of the bill.³
7. What kinds of effective operational mechanisms have been put in place to allow civil society organizations to participate in implementing the National Human Rights Plan?
8. Please provide statistics and detailed information on the implementation of fundamental legal safeguards applicable to persons held by the police, including the right to notify a family member, to consult a lawyer and a doctor of their choice and to be notified of their rights during questioning, as referred to in the Committee's previous concluding observations.⁴ If training has been provided, please indicate what measures have been taken to evaluate its impact.
9. Please provide statistics and detailed information on the minor's right to have his or her lawyer present during questioning, as referred to in the Committee's concluding observations.⁵

Article 3

10. Please provide information concerning the implementation of article 3 of the Convention in cases of expulsion or return (refoulement) of foreigners, indicating, in particular:
 - (a) The number of persons seeking asylum and the number of returnees;
 - (b) Whether and how the probable risk of torture is assessed in reaching a decision and in procedures to appeal the decision;
 - (c) The procedure for the examination of asylum requests submitted at the border.

² See State party's comments on the Committee's concluding observations (CAT/C/ECU/CO/3/Add. 1), para. 18.

³ CAT/C/ECU/CO/3/Add.1, paras. 20-21.

⁴ CAT/C/ECU/CO/3, para. 21.

⁵ CAT/C/ECU/CO/3, para. 21.

11. Please indicate what specific administrative measures have been put in place in the country's police stations to guarantee respect for due process during deportation, in particular the right to a defence, the presence of a diplomatic agent from the detainee's country and, in the case of refugees, the presence of a staff member of the Office of the United Nations High Commissioner for Refugees (UNHCR), as recommended in paragraph 20 of the Committee's previous concluding observations.

12. Please indicate whether the police and administrative officials responsible for handling deportation procedures throughout the country have been trained in international refugee law, with an emphasis on the content and scope of the principle of non-refoulement.

13. Please provide the most recent official statistics on the number of applications for asylum and/or refugee status, indicating also the number of persons who have been granted refugee status and the number of those rejected.

Articles 4 and 6

14. Please provide information on efforts made by the State party to ensure that, within its jurisdiction, all acts amounting to torture are criminalized.

Article 10

15. Further to paragraph 22 of the Committee's concluding observations and the State party's extensive comments, please provide more detailed information on the number of training programmes organized and the ways in which these have improved the conduct of law enforcement personnel in practice. Please provide information on training in such areas as non-coercive investigatory techniques. What monitoring and evaluation mechanisms are used to assess the impact of these programmes, if any?

Article 11

16. Please provide information on the measures taken by the State party to implement paragraph 24 of the Committee's previous concluding observations⁶ in which the State party was asked to improve physical conditions in detention centres, in particular through the presence of independent medical personnel who are qualified to carry out periodic examinations of prisoners.

17. Please provide information on the outcome of efforts to reduce overcrowding in prisons.⁷

⁶ CAT/C/ECU/CO/3, para. 24.

⁷ Report of the Working Group on Arbitrary Detention: Mission to Ecuador (A/HRC/4/40/Add.2).

18. Please provide details of action taken to follow up reports lodged by individuals⁸ of human rights violations in the prison system. Please indicate whether the operational plan has been implemented and what results have been achieved.

19. Please provide information on the mandate and functions of the Unidad Transitoria de Gestión (transitional management unit), including the human and financial resources allocated to it and its achievements thus far.

20. With reference to information submitted by the State party on investigations into allegations of torture of women between 2001 and 2003,⁹ please indicate the outcome of these investigations, particularly in cases involving sex offences and domestic violence.

21. Please indicate what percentage of the staff assigned to units established by the Office of the Procurator-General to handle sex crimes and domestic violence are women.

22. Please provide information on the conditions to be met by non-governmental organizations and human rights defenders before they can be granted access to places of detention.

Articles 12 and 13

23. Please indicate how allegations of excessive use of force by law enforcement officials during criminal investigations have been investigated, how many such officials have been brought to trial and how many convicted, including details of the rank of those found guilty and the enforcement of sentences.

24. With reference to the Committee's observation that the existence and activities of the military and police courts are not in keeping with the international treaties to which Ecuador is a party, due to their sometimes overly extensive reach, please indicate what steps, including in relation to the allocation of human, material and economic resources, the State party is taking to strengthen the ordinary courts¹⁰ in order to enable them to fully exercise their powers. Please also provide information about the specific duties assigned to such courts and the manner in which these have been interpreted. Please specify whether the jurisdiction of the military and police courts is restricted to acts committed by military and police personnel in the performance of their duties.

25. Please provide information on the current status of the 2007 National Defence Act regarding the reform of military judges and courts.

26. Please provide information on complaints received after 2003 of torture or ill-treatment and on any steps taken by the State party to adequately investigate persons suspected of

⁸ CAT/C/ECU/CO/3, para. 24.

⁹ CAT/C/ECU/CO/3/Add.1, para. 5.

¹⁰ CAT/C/ECU/CO/3, para. 25.

committing acts of torture or ill-treatment against minorities and women. Please also provide information on the treatment of human rights defenders and cases of sexual abuse. Please indicate the number of prosecutions, convictions and sentences handed down.

27. What specific measures has the State party taken to address the slowness and delays in the processing of court cases, which was noted in paragraph 18 of the Committee's previous concluding observations?

Article 14

28. Please inform the Committee of measures taken to provide compensation and/or reparation and rehabilitation for victims of acts of torture,¹¹ including the establishment of a regulatory framework to govern compensation for acts of torture. What types of programmes to provide comprehensive care and support for victims of torture have been devised and implemented?

29. With regard to cases of amicable settlements for the crime of torture and ill-treatment, please provide information on the measures taken to ensure that alleged perpetrators are held accountable for such acts and the form these have taken, with details of the nature of the cases and the action taken against the alleged perpetrators.

30. Please provide information on compliance with the reports and decisions of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights.

Article 16

31. Further to the State party's reference in its comments to the practical difficulties encountered in prosecuting persons accused of torture and ill-treatment,¹² please indicate how the State party aims to overcome such difficulties, particularly with regard to the alleged ill-treatment of members of indigenous communities, so as to implement the Committee's recommendation.¹³

32. Please indicate how the precautionary measures adopted by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights relating to the Sarayaku are being implemented, and describe the status of investigations into reports of ill-treatment of members of that community.¹⁴

¹¹ CAT/C/ECU/CO/3, para. 26.

¹² CAT/C/ECU/CO/3 and CAT/C/ECU/CO/3/Add.1.

¹³ CAT/C/ECU/CO/3, para. 17; see also A/HRC/4/32/Add.2, para. 92, and CAT/C/ECU/CO/3/Add.1, paras. 3, 10, 11, 14 and 15.

¹⁴ A/HRC/4/32/Add.2, para. 89.

33. How does the State party ensure that customary indigenous law is consistent with the State party's international human rights obligations, particularly with regard to practices that could amount to ill-treatment?¹⁵

Other

34. Please inform the Committee about steps taken or plans made to ratify the Optional Protocol to the Convention.

35. Please indicate any concrete measures that have been taken with a view to the broad dissemination of the Convention and the Committee's concluding observations in all appropriate languages in the State party. What actions or programmes have been carried out in cooperation with non-governmental organizations?

36. Please indicate whether the State party envisages signing and ratifying the Rome Statute of the International Criminal Court and please inform the Committee of steps taken to implement the bill on crimes against humanity, which includes the crime of torture.

General information on the human rights situation at the national level, including new measures related to the implementation of the Convention

37. Please provide information on the most recent significant developments since submission of the previous periodic report that have affected the legal and institutional framework for the promotion and protection of human rights. Please also provide any relevant information on follow-up that was submitted to the Committee, including any relevant judicial decisions.

38. Please provide detailed information on any new political, administrative or other measures taken to promote and protect human rights at the national level since submission of the previous periodic report, including human rights programmes and plans of action, the resources and means necessary for their development and their objectives and results.

39. Please provide any other additional information on measures adopted to implement the Convention and the Committee's recommendations since the Committee's consideration of the third periodic report in 2005, including relevant statistical data and information on any other noteworthy developments in the State party relating to the provisions of the Convention.

¹⁵ A/HRC/4/32/Add.2, para. 89.