



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

Distr.: General  
26 April 2013  
English  
Original: French

---

**Committee against Torture**  
**Forty-ninth session**

**Summary record of the first part (public)\* of the 1098th meeting**

Held at the Palais Wilson, Geneva, on Wednesday, 31 October 2012, at 10 a.m.

*Chairperson:* Mr. Grossman

**Contents**

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

*Combined fifth and sixth periodic reports of Mexico*

---

\* No summary record was prepared for the second part (closed) of the meeting.

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

*The meeting was called to order at 10.05 a.m.*

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

*Combined fifth and sixth periodic reports of Mexico (CAT/C/MEX/5-6; CAT/C/MEX/Q/5-6)*

1. *At the invitation of the Chairperson, the delegation of Mexico took places at the Committee table.*
2. **Ms. Villanueva** (Mexico) said that her country still faced major challenges in the area of human rights. However, the recent constitutional reforms related to human rights and the *amparo* procedure, the decisions of the Supreme Court aimed at strengthening the system of guarantees, the ongoing judicial reform, and the strengthening of independent human rights organizations nationwide amounted to a veritable legal revolution. As a result of the amendments made to the Constitution in 2011, which gave constitutional status to the rules established by the international instruments ratified by Mexico, the Convention had been fully incorporated into the Mexican legal order. The amendments strengthened the obligation to investigate human rights violations, to prosecute and punish perpetrators, and to provide redress for victims. There had also been amendments to the law on *amparo*, the mechanism under which it was possible to appeal judicial decisions that might cause injury and which provided the best means of protecting against abuses by the authorities. The reform had included replacing the concept of legal standing (being personally and directly concerned) with that of legitimate interest (risk of violation of individual or collective rights). Furthermore, it allowed the Supreme Court to declare a law unconstitutional. The criminal justice and public security system had also been reformed in 2008, introducing an adversarial oral criminal procedure, based on the principles of adversariality, continuity and public hearings, strengthening the presumption of innocence and the right to a defence, and establishing the prohibition against subjecting suspects to acts of intimidation or torture or placing them in solitary confinement in order to obtain a confession. In addition to the constitutional reforms, a number of legislative provisions and amendments had been adopted, including the amendments introduced to the federal law on the prevention, repression and elimination of torture and other cruel treatment or punishment in April 2012, and the adoption of the law on the national database on missing or disappeared persons. Furthermore, all of the federal entities had laws on torture. However, although international human rights standards were now directly applicable by the national courts, legislation still needed to be harmonized in order to uniformly incorporate international standards on torture into national law.
3. In the face of the serious threat posed to the country by organized crime, the federal authorities had been forced to call on the armed forces to ensure public security. The decision had been taken on a case-by-case basis, in accordance with the opinion of the Supreme Court that recourse to the armed forces to carry out public security tasks was not contrary to the Constitution provided that they were called on for a limited period and at the request of the civil authorities. Against that backdrop, the unprecedented strengthening of the legal basis for the protection of human rights was complemented by the strengthening of various institutional practices and public policies to ensure such protection. In that regard, it was worth mentioning the application of the Istanbul Protocol, the special attention paid to victims, and the improved procedures of the security forces in the area of public security through the adoption of practices based on the prevention of torture. Protocols had been adopted on such matters as detention, appearance before the competent authority, maintaining the chain of custody, and the use of force.
4. In July 2007, the National Human Rights Commission had been designated as the national preventive mechanism, in application of the Optional Protocol to the Convention

against Torture. The Commission had the authority to carry out unannounced visits to all of the places of detention set out in the Optional Protocol, including military prisons, migrant holding centres and psychiatric hospitals. Other preventive activities included training civil servants in human rights. The fight against impunity was one of the priorities of the Mexican Government. Following the 2009 ruling of the Inter-American Court of Human Rights in the *Rosendo Radilla* case, a number of measures had been taken to ensure that all offences related to a human rights violation committed by a member of the military came under the jurisdiction of the civil courts. A draft reform of the Code of Military Justice to that effect was currently under consideration by Congress. The low number of final convictions handed down for acts of torture was due to judicial interpretation problems which, in turn, were the result of legal characterization issues. According to the statistics available to the delegation, between 2005 and 2012, 6 civil servants had been convicted for acts of torture, 143 for abuse of authority, 60 for abuse of position and 305 for abuse of power.

5. In view of the serious concerns of Mexican society in the face of organized crime, Congress had introduced *arraigo* (preventive custody) as part of the 2008 reform of the criminal justice and public security system. *Arraigo* was a preventive measure applied only in exceptional circumstances with a view to ensuring the effective administration of justice and preventing a person accused of a serious offence from evading justice during the investigation. The application of *arraigo* was strictly regulated and limited. In accordance with a constitutional provision, it could not be imposed for more than 40 days, although it could be extended in organized crime cases if it was considered that the circumstances that had prompted its application had not changed. Decisions relating to *arraigo* were taken by a judicial authority, namely one of the seven federal courts specialized in searches, *arraigo* and telephone tapping, which monitored its implementation. *Amparo* proceedings could be instituted against *arraigo* decisions. Persons detained under *arraigo* were generally held in the federal *arraigo* centres, to which the National Human Rights Commission had access at all times, and they could communicate with their lawyer and members of their family.

6. Concerning progress made in implementing the recommendations made by the Committee in 2006, it should be mentioned that, aside from the legislative and institutional measures already mentioned, the State party had adopted provisions guaranteeing the right of foreigners to a hearing before expulsion, entered the offence of femicide in the Criminal Code, clarified the competences of the Special Prosecutor for Crimes of Violence against Women and adopted a protocol for the investigation of femicide and sexual violence against women.

7. **Mr. Mariño Menéndez** (Country Rapporteur) said that the difficulties faced by Mexico in the fulfilment of its obligations in the prevention and eradication of torture were partly due to the State party's federal structure and the coexistence of various laws arising from it, as well as the phenomenon of organized crime and efforts to combat it. In addition, in several states the punishment of torture was regulated by both special laws and the Criminal Code, which in some cases duplicated each other and were not harmonized. The efforts made to incorporate the definition of torture into federal legislation and to harmonize the criminal classification of torture at the various levels of government were therefore to be welcomed. In that context, a model law to prevent and punish torture had been adopted. The question remained whether all of the states would apply the definition of torture contained in the model law given that some of them already had legislation containing such a definition. There was a striking discrepancy between the number of complaints submitted for acts covered by the Convention and the number of convictions handed down, which suggested either that the legislation had been poorly drafted or that the perpetrators of such acts enjoyed impunity. According to information available to the Committee, the procedures in place were not applied in practice, and the recommendations

of the National Human Rights Commission in relation to specific complaints were not followed. He invited the delegation to comment on those reports.

8. He enquired the legal guarantees in relation to the *arraigo* system and the links between that type of detention and cases of enforced disappearance. He noted the establishment of a federal register of all disappearances, but regretted that a similar register had not been established for persons detained by any authority nationwide. He asked whether measures would be taken to that effect. He also asked the delegation to describe the measures adopted to raise awareness of the Istanbul Protocol at the national level, and to indicate whether the competent services in the public prosecutor's office systematically consulted that manual, both at the federal and the state levels. Regarding the implementation of article 3 of the Convention, he enquired whether the State party asked the requesting State for a guarantee that the person in question would not be subjected to torture before proceeding with an extradition. He would also be interested to know what protection the National Human Rights Commission and similar commissions at the state level provided to the tens of thousands of migrants who transited through Mexico every year to reach the United States of America or Canada, whether complaints of ill-treatment or torture submitted by those persons gave rise to investigations, and whether the Mexican authorities entered into contact with the consulates of the countries of origin of such persons.

9. He asked the delegation to confirm that violations of the human rights of civilians came under the jurisdiction of the ordinary courts, and that now only crimes committed by members of the military against other members of the military came under the jurisdiction of the military courts. Finally, he asked the delegation to clarify whether the National Human Rights Commission was empowered to denounce any public authorities that did not act on its recommendations, and to provide additional information on the legislation to protect women's rights and prohibit femicide as well as on the law concerning the protection of human rights defenders and journalists.

10. **Mr. Gaye** (Country Rapporteur) regretted that legal proceedings had not been initiated in relation to the 128 cases of torture committed between 2003 and 2012 reported by the National Human Rights Commission. He asked whether the project to provide training on the principles of the Istanbul Protocol to members of the army, which the Ministry of Defence had planned to implement in collaboration with the Office of the United Nations High Commissioner for Human Rights, would soon be put into action. Noting with concern that under the *arraigo* system suspects were sometimes arrested by members of private militias who committed numerous abuses, he questioned whether the principle of protection set out in article 11 of the Convention was upheld.

11. He would welcome additional information on the programme of complaints for suspected violations of human rights by police officers set up by the Ministry of Public Security, which did not seem very effective given that only 14 of the 3,050 complaints submitted between 1 December 2006 and 30 March 2010 had given rise to recommendations. He asked the delegation to comment on the status of the other pending cases, and whether responsibility for reviewing those complaints might not be handed over to an independent service in the Ministry of Public Security given that the accused persons reported to that Ministry. He also asked for additional information on the action taken by the State party in response to the recommendations of the National Human Rights Commission and the Inter-American Commission on Human Rights and to the recommendations made by the Committee following its examination of the fourth periodic report of Mexico (CAT/C/MEX/CO/4), particularly to prevent all forms of detention which might be conducive to the practice of torture, investigate allegations of arbitrary detention and punish any persons who had committed an offence (para. 13).

12. He asked whether victims of torture who considered that the compensation awarded to them was insufficient could appeal to have the amount reviewed, and whether the State party had put in place a system for the rehabilitation of victims of torture. He invited the delegation to provide information on proceedings brought in cases of sexual or domestic violence as well as on convictions and any compensation awarded to victims in such cases. He also wished to know whether the Mexican courts had ever declared a statement obtained under torture inadmissible, and whether the “pretrial evidence” referred to in paragraph 305 of the State party’s report was considered in a debate involving both the prosecution and defence before, during or after the hearing. Furthermore, he would welcome clarification of the figures contained in paragraph 307 of the report concerning cases of murders of women, as it appeared that the closed cases had been included with the resolved cases. In that connection, he requested the delegation to provide additional information on the results of the prevention and assistance efforts undertaken to combat the alarming phenomenon of the disappearance of women in Mexico.

13. **Mr. Bruni** requested further details of the three torture cases heard by military judges mentioned in paragraph 196 of the report, particularly the outcome of the cases. He asked which places of detention the National Human Rights Commission had visited most frequently, whether the Commission had published a report on the inspections it had carried out to date, and whether its recommendations had been implemented. He also wished to know the current occupation rate in the country’s prisons, which prisons were most overcrowded, and what measures the State party was taking to remedy the problem. Lastly, he asked the delegation to report on the Prison Strategy 2008–2012 and to indicate the budget allocated for its implementation.

14. **Ms. Belmir** asked why the *arraigo* system had been maintained even though it was to have been abolished on entry into force of the accusatory criminal law system.

15. **Mr. Domah** asked the delegation to provide examples of landmark decisions of the Supreme Court of Justice in cases involving torture or ill-treatment committed in the context of *arraigo*. He did not see what could justify the constitutionalization of that system, which was incompatible with the Convention. He wished to know whether persons arrested and held in unofficial detention centres were guaranteed their rights, such as access to a lawyer and a doctor, whether any technical means to monitor observance of the human rights of arrested persons had been introduced, and whether the State party’s authorities had requested the United Nations Office on Drugs and Crime (UNODC) to provide training for Mexican judges on combating organized transnational crime.

16. **Ms. Sveaass** asked whether action had been taken on the 2010 report published by the Mexican Commission for the Defence and Promotion of Human Rights, a local non-governmental organization, entitled “Abandoned and Disappeared”, which referred to serious human rights violations, including practices amounting to torture and ill-treatment, against persons with disabilities placed in institutions in the State party. She also wished to know whether the national preventive mechanism had visited the institutions mentioned in that report, whether it had made recommendations, and whether measures had been taken by the State party to remedy the problems reported.

17. She asked the delegation about the status of the investigation into the incidents that had taken place in the State of Guerrero in December 2011 at a demonstration by students from the rural Raúl Isidro Burgos teacher training college, during which two young people had allegedly been killed when the army had intervened to break up the demonstration. Moreover, given that there was no definition of torture in the legislation of the State of Guerrero, it would be interesting to know whether any measures had been taken to ensure that torture was a criminal offence throughout the country. She asked whether an investigation had been opened into the murder, in March 2012, of Agnes Torres Hernández, a transgender rights activist.

18. **Mr. Tugushi** asked what the Mexican authorities planned to do to address the overcrowding, insecurity, violence and corruption that were prevalent in many of the country's detention centres, particularly in the Molino de las Flores and Oriente prisons, and to act on the recommendations by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment following its visit to Mexico on the situation in the country's psychiatric hospitals. He asked the delegation to comment on the many reports received by the Committee that conditions in the holding centres for irregular migrants were deplorable. Some sources had also reported the disappearance of several migrants being held in those centres. He also asked whether the State party planned to introduce a truly independent forensic medicine service and to take measures to increase the number of forensic doctors in the country. Lastly, he requested statistics on the number of minors held in detention following operations by the federal security forces, as there was no distinction between minors and adults in the statistics from the Office of the Attorney-General of the Republic.

19. **Ms. Gaer** asked what measures were taken by the Mexican authorities in cases of reprisals against human rights defenders. In particular, she wished to know whether investigations were opened, whether those found guilty were adequately punished, whether victims received compensation, and whether protection was extended to human rights organizations that were the targets of reprisals. Noting that, according to the information provided by the State party, the number of members of the army prosecuted for torture in Baja California and the State of Guerrero was very low, she asked whether that meant that the Istanbul Protocol was never used in those states. She wished to know the outcome of the investigations carried out in accordance with the Istanbul Protocol in the States of Chihuahua and Tabasco. Given the disappointing outcome of the investigations into the events of May 2006 in San Salvador Atenco, she wished to know whether the Government had taken measures to help women who had been the victims of sexual violence at that time to identify their attackers. Furthermore, she wished to know whether the judgement handed down by the Inter-American Court of Human Rights in the "cotton field" case had prompted the opening of investigations into the murders of other women subsequently committed in Ciudad Juárez. Lastly, it would be useful to know whether an investigation had been launched into the disappearance and death of Juan Carlos Chavira, Dante Castillo, Raúl Navarro and Félix Vizcarra in that city in April 2011.

20. **The Chairperson** asked whether the State party intended to include an explicit reference to discrimination as one of the grounds in its definition of torture so that violence against women would be covered. He asked the delegation to provide more information on the action taken in the cases of San Salvador Atenco and the Raúl Isidro Burgos de Ayotzinapa teacher training college (Guerrero), and in particular what had become of the student Gerardo Torres Pérez, whom the armed forces had attempted to hold responsible for the gunshots that had caused the death of the two students.

*The public part of the meeting rose at noon.*