



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

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## Committee against Torture

### Concluding observations on the sixth periodic report of Colombia\*\*

1. The Committee considered the sixth periodic report of Colombia<sup>1</sup> at its 1978th and 1981st meetings,<sup>2</sup> held on 18 and 19 April 2023, and adopted the present concluding observations at its 2003rd meeting, held on 8 May 2023.

#### A. Introduction

2. The Committee expresses its appreciation to the State party for having accepted the simplified reporting procedure and submitting its periodic report thereunder, as this facilitates cooperation between the State party and the Committee and allows for a more focused examination of the report and dialogue with the delegation.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation, as well as the responses provided to the questions and concerns raised during the consideration of the periodic report.

4. The Committee welcomes the State party's commitment to the full implementation of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace (peace agreement). The Committee also takes note of the State party's political will to address the significant human rights challenges it faces and applauds its efforts to achieve the objectives of its plan for attaining total peace.

#### B. Positive aspects

5. The Committee welcomes the ratification of or accession to the following international instruments by the State party:

(a) Inter-American Convention on Protecting the Human Rights of Older Persons, in 2022;

(b) Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), in 2022.

6. The Committee also welcomes the fact that, on 7 September 2022, the State party made the declaration provided for under article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance, thereby recognizing the competence

\* Reissued for technical reasons on 25 October 2023.

\*\* Adopted by the Committee at its seventy-sixth session (17 April–12 May 2023).

<sup>1</sup> CAT/C/COL/6.

<sup>2</sup> See CAT/C/SR.1978 and CAT/C/SR.1981.



of the Committee on Enforced Disappearances to receive and consider individual communications.

7. The Committee welcomes the adoption by the State party of the following legislative measures in areas related to the Convention against Torture:

(a) Act No. 2292 of 2023, which introduces affirmative actions for women heads of household in matters relating to crime and prisons policy;

(b) Act No. 2272 of 2022, which defines the State party's peace policy and amends, supplements and extends Act No. 418 of 1997;

(c) Act No. 2261 of 2022, which guarantees the free provision of menstrual health and hygiene products to menstruating women and persons deprived of their liberty, among other provisions;

(d) Act No. 2196 of 2022, which establishes the police disciplinary regulations;

(e) Act No. 2179 of 2021, which is aimed at strengthening the professionalization of the police force;

(f) Act No. 2136 of 2021, which establishes a comprehensive migration policy and reaffirms respect for the principle of non-refoulement;

(g) Statutory Act No. 1957 on the Administration of Justice in the Special Jurisdiction for Peace of 2019;

(h) Decree No. 154 of 2017, which establishes the National Commission on Security Guarantees under the Final Agreement, signed between the Government of Colombia and the Revolutionary Armed Forces of Colombia – People's Army on 24 November 2016;

(i) Act No. 1820 of 2016, which includes provisions on amnesty, pardons and special procedures under criminal law for political and related crimes.

8. The Committee also welcomes the initiatives undertaken by the State party to amend its policies and procedures in order to improve human rights protection and to apply the Convention, in particular:

(a) The adoption of Decision No. 051 of 12 January 2023, which establishes a single regulation governing the provision of comprehensive health care in cases of voluntary termination of pregnancy in accordance with Constitutional Court Decisions Nos. C-355 of 2006 and SU-096 of 2018 and the second operative paragraph of Constitutional Court Decision No. C-055 of 2022;

(b) The signing in 2022 of a cooperation agreement between the Special Jurisdiction for Peace and the Attorney General's Office to ensure that no crime committed as part of the armed conflict goes unpunished;

(c) The establishment in 2022 of the Follow-up and Monitoring Committee tasked with verifying the implementation of the recommendations of the Commission for the Clarification of Truth, Coexistence and Non-Repetition;

(d) The creation in 2022 of a database on victims of human rights violations committed in connection with social protests;

(e) The adoption of the Plan for Expediting the Reduction of Maternal and Perinatal Mortality (2022–2026) in prioritized territories;

(f) The creation of a standing inter-institutional committee on public demonstrations (2020–2021);

(g) Constitutional Court Order No. 576 of 25 August 2021 and the official communication of 31 May 2021 issued by the Attorney General's Office, which concluded that the ordinary justice system was competent to investigate possible violations committed by members of the security forces during the national strike, along with Directive No. 0002 of 4 June 2021 issued by the Attorney General's Office;

(h) The adoption of Decree No. 003 of 2021, which establishes the statute governing the response, use and verification of the legitimate force of the State and protection of the right to peaceful protest;

(i) The issuance of Decision No. 0-0775 of 2021 by the Attorney General's Office, which establishes a national working group attached to the Attorney General's Office tasked with prioritizing, supporting and coordinating investigations to be undertaken without delay into threats against human rights defenders or other specific groups;

(j) The establishment of the National Working Group on Gender-based Violence of the Attorney General's Office by Decision No. 0-0858 of 2021 of the Attorney General's Office;

(k) The construction of additional prison places between 2015 and 2019;

(l) The creation of the Comprehensive System of Truth, Justice, Reparation and Non-Repitition by Legislative Act No. 001 of 4 April 2017.

## C. Principal subjects of concern and recommendations

### Pending follow-up issues from the previous reporting cycle

9. In its previous concluding observations,<sup>3</sup> the Committee requested the State party to provide information on the action taken pursuant to its recommendations on the excessive use of force by law enforcement and military personnel; prison conditions; and redress for victims of torture and ill-treatment.<sup>4</sup> In the light of the information provided in the follow-up report submitted by the State party on 14 October 2016,<sup>5</sup> as well as that contained in its sixth periodic report, the Committee considers that these recommendations have not yet been fully implemented. These pending issues are covered in paragraphs 16 and 17, 24 and 25, and 22 and 23 of the present document.

### Definition of the crime of torture

10. While noting the State party's explanation that the definition of the crime of torture contained in the second paragraph of article 178 of the Criminal Code covers acts of torture committed for the purpose of intimidating or coercing a third party, the Committee remains concerned that this provision still does not explicitly mention this purpose. The Committee also notes that article 137 of the Criminal Code, which defines the crime of torture of a protected person, does not refer to this specific purpose either (arts. 1 and 4).

**11. The Committee reiterates its previous recommendation that the State party should bring articles 137 and 178 of the Criminal Code into line with article 1 of the Convention so that they expressly cover acts of torture committed for the purpose of intimidating or coercing a third party.**

### Fundamental legal safeguards

12. The Committee is seriously concerned by allegations of torture, ill-treatment and sexual violence committed against persons while in police custody during the period under review.<sup>6</sup> While noting the information contained in the State party's report on fundamental safeguards,<sup>7</sup> the Committee remains concerned by consistent reports that the fundamental safeguards against torture and ill-treatment set out in the law are not being rigorously applied in practice, especially in the case of persons detained in the course of the social protests that took place in 2019 and 2021. Of particular concern are reports of mass and arbitrary arrests carried out by police officers who showed no identification and the detention of persons in unofficial locations; difficulties in providing notifications of detention and of transfers to other places of confinement; difficulties in gaining access to a medical examination; and

<sup>3</sup> CAT/C/COL/CO/5, para. 28.

<sup>4</sup> Ibid., paras. 16, 17 and 22.

<sup>5</sup> CAT/C/COL/CO/5/Add.1.

<sup>6</sup> A/HRC/52/25.

<sup>7</sup> CAT/C/COL/6, paras. 8–20.

delays in bringing detained persons before a judicial authority. The Committee is also concerned by reports concerning the misuse of the provision on transfers for protective purposes contained in article 155 of the National Code of Citizen Security and Coexistence (Act No. 1801 of 2016), which are intended to safeguard the life and integrity of persons who are at risk or in danger. According to those reports, its misuse has led to the incommunicado detention of persons deprived of their liberty for periods of up to 24 hours, especially in the context of demonstrations and protests. While taking note of the changes introduced by Act No. 2197 of 2022, which modified the way such transfers are regulated, the Committee observes with concern that a wide margin of discretion in their use continues to be allowed.<sup>8</sup> Finally, the Committee takes note of the information provided by the delegation regarding the complaints concerning arbitrary detentions that are being processed and those awaiting examination by the National Police Commissioner for Human Rights but regrets that very limited information is available on investigations and on disciplinary or penal measures imposed on law enforcement officers for failure to implement procedural safeguards for the prevention of arbitrary detention, torture and ill-treatment (art. 2).

**13. The State party should:**

(a) **Ensure that all complaints of torture and ill-treatment, including sexual violence, are investigated promptly and impartially by an independent body;**

(b) **Ensure that persons deprived of their liberty have the benefit in practice of all fundamental safeguards from the outset of their deprivation of liberty in accordance with international standards, in particular: the rights to promptly inform a family member or third party of their detention; to request and have immediate access to an independent medical examination, apart from any medical examination that may be conducted at the request of the authorities; to be assisted without delay by a lawyer; and to be brought before a judge within the time period prescribed by law;**

(c) **Adopt the necessary measures to prevent arbitrary detentions, particularly those carried out by police officers who show no identification and/or those carried out in unofficial detention centres;**

(d) **Amend article 155 of the National Code of Citizen Security and Coexistence in order to prevent abuses in the execution of transfers for protective purposes;**

(e) **Investigate and punish law enforcement officers who fail to apply fundamental legal safeguards for persons deprived of their liberty and inform the Committee concerning those matters.**

**The military criminal justice system**

14. While welcoming the decision of the Constitutional Court and the Attorney General's Office to assign jurisdiction over alleged human rights violations committed by members of the security forces in the context of the national strike and in relation to the massacre of El Tandil (Tumaco)<sup>9</sup> to the ordinary justice system, the Committee takes note with concern of reports that international standards regarding jurisdiction over alleged human rights violations committed by members of the security forces are not systematically applied by all judicial bodies<sup>10</sup> (arts. 2, 12 and 13).

**15. The Committee reiterates its previous recommendation in which it requested the State party to ensure that grave human rights violations and other abuses committed against civilians by military personnel, including acts of torture and ill-treatment, do not fall within the jurisdiction of military courts and to ensure that the ordinary courts have sole jurisdiction over such acts.<sup>11</sup>**

<sup>8</sup> [A/HRC/49/19](#), para. 54.

<sup>9</sup> [A/HRC/49/19](#), para. 37; and [A/HRC/52/25](#).

<sup>10</sup> [A/HRC/52/25](#).

<sup>11</sup> [CAT/C/COL/CO/5](#), para. 11.

### Excessive use of force

16. The Committee, while noting the information provided by the State party on the registration of allegations of abuse of authority and excessive use of force during the reporting period,<sup>12</sup> remains concerned by reports that little progress has been made in the investigation and prosecution of alleged acts of unnecessary or disproportionate use of force, including the use of lethal force, less-lethal weapons and tear gas in the course of demonstrations, including the social protests that occurred between 2019 and 2021. The Committee is also deeply concerned by reports of physical and psychological torture and ill-treatment of peaceful demonstrators, human rights defenders and journalists and of arbitrary detention, enforced disappearance and sexual and gender-based violence allegedly committed by police officers and members of the Mobile Anti-Riot Squad. In this regard, the Committee regrets that sufficient measures have not been taken to ensure full redress for the victims and their families.<sup>13</sup> It also regrets that it does not have complete information on the army's participation in the maintenance of public order, the established action protocols or the way in which the Unit for Dialogue and Maintenance of Order functions. It is also concerned by reports of the improper use of anti-terrorism laws and laws on other serious offences in the prosecution of protesters,<sup>14</sup> although it welcomes the explanations provided by the delegation concerning plans to reform the applicable regulatory framework. It also notes with interest the announcement of a police reform process<sup>15</sup> and the drafting of a bill to guarantee the right to social protest (arts. 2, 12–14 and 16).

#### 17. The State party should:

(a) **Ensure that prompt and impartial investigations are carried out into all allegations of torture, ill-treatment, excessive use of force and other human rights violations allegedly committed by police officers or members of the Mobile Anti-Riot Squad in charge of controlling public assemblies during the period under review in accordance with the Minnesota Protocol on the Investigation of Potentially Unlawful Death and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised;**

(b) **Ensure that the persons allegedly responsible for these abuses are prosecuted by the ordinary justice system while preventing the involvement of military courts in the investigations and ensure that, if found guilty, they are given sentences commensurate with the gravity of their acts and that full reparations are made to the victims. Psychosocial treatment programmes for victims and their families should be strengthened, as should specific programmes for caring for victims of eye injuries sustained during protests;**

(c) **Reinforce measures for preventing sexual and gender-based violence by members of the security forces, as well as the applicable protocols, in line with the institutional policy of the Ministry of Defence of zero tolerance for acts of sexual violence and strengthen mandatory training programmes for police officers, prosecutors and judges on the identification of gender stereotypes and the prosecution of acts of sexual and gender-based violence;**

(d) **Continue to revise protocols and manuals on the use of less-lethal weapons while ensuring that all law enforcement officers and members of the armed forces continue to receive mandatory in-service training in the proportionate use of force, taking into account the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and in non-coercive investigative techniques;**

(e) **Ensure that the maintenance of public order and security is carried out, insofar as possible, by civilian police forces, that the involvement of military personnel**

<sup>12</sup> CAT/C/COL/6, paras. 167–174; and CAT/C/COL/CO/5/Add.1, paras. 16–42.

<sup>13</sup> A/HRC/52/25.

<sup>14</sup> *Ibid.*; and A/HRC/49/19, paras. 52 and 54. See also Office of the United Nations High Commissioner for Human Rights (OHCHR), “Colombia: Misuse of counter-terrorism measures to prosecute protesters threatens human rights, say UN experts,” press release, 29 March 2023.

<sup>15</sup> A/HRC/49/19, para. 53.

**in the maintenance of public order is exceptional, temporary and duly justified and that it is coupled with strict adherence to protocols relating to the use of force and firearms in line with international human rights standards;**

(f) **Ensure that anti-terrorism laws are not applied to persons accused only of property crimes committed in the course of social protests;**

(g) **Carry forward the reform of the national police force and consider removing this institution from the jurisdiction of the Ministry of Defence.**

#### **State response to violence in the context of the armed conflict and criminal activity**

18. While taking note of the efforts made by the State party, in particular the work of the Special Investigation Unit of the Attorney General's Office; the reactivation in 2022 of the National Commission on Security Guarantees, which is tasked with developing and implementing a policy for dismantling criminal organizations; and the talks undertaken with some of them, the Committee is concerned by:

(a) Reports documenting homicides, disappearances, threats, attacks, sexual and gender-based violence<sup>16</sup> and other types of aggression perpetrated by non-State armed actors and criminal organizations in various areas of the country;<sup>17</sup>

(b) Reports of extrajudicial, summary or arbitrary executions of civilians allegedly committed by members of the security forces in territories where non-State armed actors and criminal organizations operate;<sup>18</sup>

(c) Reports of the forced recruitment of minors by non-State armed groups,<sup>19</sup> although it does take note of plans to update the existing preventive policy and of specialized programmes for the care of victims;

(d) Reports that illicit activities continue to be one of the main causes of violence in regions affected by the conflict, particularly sexual violence against women and girls and other people participating in illicit crop substitution programmes,<sup>20</sup> and of forced internal displacement, especially of Indigenous communities and Afro-Colombians;<sup>21</sup>

(e) The scant progress made in the investigation of the above-mentioned offences, particularly those occurring in rural areas; the limited number of prosecutors and the lack of security in the affected areas; and the insufficiency of the measures in place for the protection of civilians and persons who report and/or participate in the investigation of such crimes;<sup>22</sup>

(f) The shortcomings observed in the follow-up and implementation of recommendations made in the context of the Early Warning System of the Ombudsman's Office by the Inter-Sectoral Commission for Rapid Response to Early Warnings (arts. 2, 12–14 and 16).<sup>23</sup>

#### **19. The State party should:**

(a) **Redouble its efforts to eradicate violence committed by non-State armed groups and criminal organizations; adopt, as a matter of urgency, an action plan for**

<sup>16</sup> CEDAW/C/COL/CO/9, paras. 15 and 16. See also Committee on the Elimination of Discrimination against Women, follow-up letter from the Rapporteur on follow-up to concluding observations, 19 July 2021. Available on the website of the Committee on the Elimination of Discrimination against Women:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUCS%2FCOL%2F45298&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUCS%2FCOL%2F45298&Lang=en) (in English only).

<sup>17</sup> A/HRC/52/25; A/HRC/49/19, paras. 26–29; and A/HRC/46/76, paras. 9–13. See also OHCHR: *Territorial Violence in Colombia: Recommendations for the New Government* (2022). Available at <https://www.hchr.org.co/wp/wp-content/uploads/2022/07/Territorial-Violence-in-Colombia.pdf>.

<sup>18</sup> A/HRC/52/25; A/HRC/49/19, paras. 34–38; and A/HRC/46/76, paras. 14–20.

<sup>19</sup> A/HRC/52/25; and A/HRC/49/19, paras. 30 and 31.

<sup>20</sup> A/HRC/49/19, paras. 18, 28 and 41; and A/HRC/46/76, paras. 6, 16 and 22.

<sup>21</sup> CERD/C/COL/CO/17-19, paras. 12 and 13; and A/HRC/52/25.

<sup>22</sup> A/HRC/49/19, para. 45; and CED/C/COL/OAI/1, paras. 22–25.

<sup>23</sup> OHCHR: *Territorial Violence in Colombia: Recommendations for the New Government* (2022), paras. 90–92.

dismantling illegal armed organizations that is in keeping with the recommendations of the Truth Commission; and ensure the participation of civil society in that effort. The rights of victims should be fully guaranteed during the negotiations and dialogue with non-State armed groups and criminal organizations;

(b) **Build the capacity of the Special Investigation Unit of the Attorney General's Office for promptly and impartially investigating acts of violence committed by non-State armed groups and criminal organizations, as well as abuses committed by members of the security forces, while maintaining a gender focus, and ensure that the persons responsible are duly investigated, prosecuted and punished and that the victims obtain full redress;**

(c) **Reinforce existing measures and adopt a comprehensive policy on the prevention and punishment of non-State armed groups for the forced recruitment of minors and guarantee full redress for the victims, taking into account the harm suffered as a result of torture and ill-treatment;**

(d) **Strengthen measures for preventing forced displacement and for providing protection and assistance to displaced persons. Measures should also be taken to ensure the protection of persons affected by the violence associated with illicit activities through the design and implementation of a strategy focused on human rights, as stipulated in the section of the peace agreement regarding the substitution of illicit crops. In this regard, the Committee draws the State party's attention to the International Guidelines on Human Rights and Drug Policy;<sup>24</sup>**

(e) **Increase the presence of civilian authorities in areas affected by violence committed by armed groups; expand the deployment and territorial capacity of the Attorney General's Office and the Public Prosecutor's Office in affected areas; and review the capacity and methodology of the Inter-Sectoral Commission for Rapid Response to Early Warnings for ensuring the implementation of concrete measures for preventing violence and mounting a rapid response to early warnings.**

### **Transitional justice**

20. The Committee welcomes the progress made in the area of transitional justice, including the first resolutions of conclusions issued by the Special Jurisdiction for Peace.<sup>25</sup> It also welcomes the publication of the final report of the Commission for the Clarification of Truth, Coexistence and Non-Repetition in 2022 and the commitment made by the State party to implement its recommendations. It notes with interest the State party's commitment to adopt measures to promote compliance with the judgment of the Inter-American Court of Human Rights in *Bedoya Lima et al. vs. Colombia*<sup>26</sup> and the study under consideration in relation to the case of *Members and Militants of the Patriotic Union vs. Colombia*.<sup>27</sup> However, the Committee takes note with concern of reports that acts of torture and ill-treatment are not investigated because they are considered to be subsumed under offences that carry a heavier penalty, such as kidnappings, massacres and homicides attributed to non-State armed actors or documented acts of torture in cases of extrajudicial executions attributed to members of the security forces. Also of concern are reports indicating that little progress has been made in the investigation of allegations of sexual and gender-based violence related to the armed conflict and in the prosecution of such cases and that there has been a failure to provide comprehensive reparation to victims, all of which contributes to a general climate of impunity in this respect. In addition, the Committee is concerned about the lack of security in some departments, which is making it difficult to search for and identify disappeared persons and to gain access to information in the possession of some State institutions<sup>28</sup> (arts. 2, 12, 13 and 16).

<sup>24</sup> Human Rights Council resolution 52/24.

<sup>25</sup> [A/HRC/52/25](#); [A/HRC/49/19](#), paras. 59 and 60.

<sup>26</sup> Judgment of 26 August 2021.

<sup>27</sup> Judgment of 27 July 2022.

<sup>28</sup> [A/HRC/49/19](#), para. 57; [CED/C/COL/OAI/1](#), paras. 26 and 27; and [A/HRC/52/25](#).

21. The Committee encourages the State party to continue implementing the provisions of the peace agreement. In particular, the State party should:

(a) Continue to reinforce mechanisms for documenting and investigating acts of torture and ill-treatment, ensure the prosecution of those responsible – including superiors who know or should know of such acts but have not taken appropriate measures to prevent or punish them – when those acts have been committed in conjunction with other crimes, rather than regarding them as being subsumed under offences that carry a heavier penalty, and provide an analysis of the commission of such crimes and the contexts in which they occurred. The State party should also strengthen protocols and training for prosecutors and judges in this area. In this regard, the Committee urges the State party to implement the recommendations regarding the non-repetition of the crime of torture made by the Commission for the Clarification of Truth, Coexistence and Non-Repetition;

(b) Move forward in its efforts to further develop a gender-focused methodology for the investigation of alleged acts of sexual violence, particularly those committed as a form of torture, in the context of the armed conflict. The State party should also ensure the prosecution of the alleged perpetrators, take steps to prevent these crimes and provide care for the victims;

(c) Adopt the measures necessary to guarantee security in the departments affected by violence and implement the recommendations of the Committee on Enforced Disappearances regarding the search for disappeared persons;<sup>29</sup>

(d) Consider inviting the Committee on Enforced Disappearances to conduct a visit to the State party under article 33 of the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>30</sup>

#### **Reparation and access to justice**

22. According to information provided by the State party, 8,766 victims of crimes against sexual freedom and integrity and 472 victims of torture have been registered between 2019 and 2023, with some of them having received compensation and rehabilitation measures through the Comprehensive Victim Support and Reparation Unit. However, the Committee is concerned by reports that little progress has been made in the adoption of comprehensive reparation measures in many cases. The Committee also remains concerned about the effects in terms of victims' rights of the extradition to other countries of leaders of non-State armed groups and/or criminal organizations who have been prosecuted for serious human rights violations.<sup>31</sup> Finally, the Committee regrets that the State party has not provided full information on redress and compensation measures ordered by the courts or other State bodies and actually provided to victims of torture and ill-treatment or their family members in respect of cases not related to the armed conflict during the period under review (art. 14).

23. The State party should step up its efforts to guarantee access to justice for victims of human rights violations committed during the armed conflict, to medical care and psychosocial services, to specialized shelters suited to the victims' needs and to comprehensive measures of redress that incorporate a gender perspective. It should also ensure that mechanisms for judicial cooperation established with other countries do not hinder investigations into abuses committed in Colombia by armed groups and criminal organizations or victims' access to justice. The State party should compile information on all measures of redress ordered by the courts or other State bodies and actually provided to victims of torture or ill-treatment and should furnish that information to the Committee.

<sup>29</sup> CED/C/COL/OAI/1, para. 27.

<sup>30</sup> A/77/56, para. 83.

<sup>31</sup> A/HRC/49/19, para. 70.



### Conditions of detention

24. The Committee remains concerned about overcrowding in prisons and particularly in temporary detention centres. It is also concerned about the misuse of pretrial detention documented cases of prolonged pretrial detention of up to two years in inhumane conditions in temporary detention centres. The Committee is also concerned that there is no effective separation between different categories of prisoners and that a large proportion of the prison population is being held in deplorable conditions. The information available to the Committee points to significant shortcomings in the availability of drinking water, inadequate sanitation and hygiene conditions, poor medical and psychological care and interruptions in the supply of medicines in a number of prisons. Another cause for concern is the situation of women prisoners, most of whom are incarcerated for drug-related offences and who often do not have their specific hygiene and reproductive health needs adequately addressed, and persons with disabilities, who are held in unsatisfactory conditions. Finally, the Committee notes with interest the information provided by the delegation on the existence of a project to reform the country's prisons and jails, which it hopes will adequately address such areas as social reintegration policies and programmes, especially those for minors in conflict with the law (arts. 2, 11 and 16).

#### 25. The State party should:

(a) **Take urgent measures to eliminate overcrowding in prisons and other detention centres, including temporary detention centres, primarily by using alternatives to custodial sentences. In that connection, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). Urgent measures should also be taken to remedy any shortcomings or deficiencies related to general living conditions in all places of deprivation of liberty, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

(b) **Ensure, in law and in practice, that pretrial detention is not applied or prolonged excessively;**

(c) **Continue to strengthen medical, psychological and health care in all detention centres;**

(d) **Ensure that the specific needs of women and persons with disabilities in detention are met, while also taking into account their particular situations;**

(e) **Continue to make progress in the reform of the prison system and in the development of comprehensive social reintegration policies that ensure the prison population has access to education, vocational training and recreational and cultural activities. This reform should also provide for adequate and properly trained prison staff to prevent unlawful acts. The State party should also take into account the International Guidelines on Human Rights and Drug Policy in the implementation of its prison and criminal policy.**

### Solitary confinement

26. While noting the regulatory framework governing solitary confinement,<sup>32</sup> as well as the review of the corresponding manual and other measures being taken to improve its correct application, the Committee expresses concern at reports that these measures are being used for long periods of time as a disciplinary sanction in special treatment units, including for persons with psychosocial or intellectual disabilities. It is also concerned about the allegedly arbitrary way in which such disciplinary sanctions are applied, the lack of due process and the inhuman and degrading conditions of the punishment cells (arts. 2, 11 and 16).

27. **The State party should ensure that solitary confinement is used only in exceptional cases as a last resort, for as short a time as possible (no more than**

<sup>32</sup> CAT/C/COL/6, paras. 132–139.

15 consecutive days) and subject to independent review, and only pursuant to the authorization of a competent authority, in accordance with rules 43 to 46 of the Nelson Mandela Rules, which prohibit solitary confinement in the case of prisoners with physical, intellectual or psychosocial disabilities when their conditions would be exacerbated by the imposition of solitary confinement. The State party should also ensure that the living conditions specified in the Nelson Mandela Rules apply to all prisoners without exception, in accordance with rule 42 therein.

#### **Violence and deaths in places of deprivation of liberty**

28. The Committee is concerned by reports documenting deaths of inmates resulting from the actions or omissions of prison authorities.<sup>33</sup> It is also concerned by reports of arbitrary and excessive use of force, including the improper use of firearms and electroshock weapons, by prison officials responsible for maintaining order and security in prisons. In this regard, the Committee deeply regrets the death of 23 prisoners at La Modelo prison in Bogotá on 21 March 2020, as a result of the alleged disproportionate use of force by prison officials to suppress a riot in protest about the lack of protective measures against the coronavirus disease (COVID-19). According to information provided by the State party, between 2019 and 2023, 374 complaints of excessive use of force, 11 of sexual violence and 4,453 relating to inter-prisoner violence, which may have involved possible negligence on the part of public officials, have been registered. However, the Committee does not have complete statistical information on the number of persons deprived of their liberty who died during the period under review or the results of the investigations carried out, although it takes note of the information provided by the delegation on the investigations opened into the deaths that occurred in La Modelo and Tuluá prisons. The Committee also regrets that information is lacking on specific measures taken to prevent similar cases from occurring in the future, although it notes with interest the working groups set up to draw up a protocol on the response to be taken to crisis situations in prisons (arts. 2, 10, 11 and 16).

29. **The Committee urges the State party to:**

(a) **Ensure that all cases of violence in detention centres and deaths of persons deprived of their liberty are investigated in a prompt and impartial manner by an independent body, duly taking into account the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016);**

(b) **Investigate any possibility of responsibility on the part of public officials for deaths in custody and, where appropriate, duly punish those responsible and provide fair and adequate compensation to family members;**

(c) **Ensure prison security by reviewing regulations on the use of force, including firearms and electroshock weapons, in detention centres in accordance with applicable international standards and by providing adequate training for police and prison officers. The measures and protocols necessary to prevent and reduce violence in places of deprivation of liberty, including sexual and gender-based violence, should also be promoted;**

(d) **Ensure that the resources necessary for the proper medical and health care of the prison population are allocated;**

(e) **Compile and publish detailed statistics on acts of violence, including sexual violence and excessive use of force, and deaths of persons held in places of detention and the outcomes of the related investigations. In this regard, the Committee requests that detailed information be provided on the results of the investigation into the events that occurred at La Modelo prison in March 2020.**

#### **Complaints and investigations into acts of torture and ill-treatment**

30. The Committee takes note of the establishment of a national reporting mechanism which allows persons deprived of their liberty to lodge complaints,<sup>34</sup> as well as other channels

<sup>33</sup> A/HRC/46/76, paras. 15 and 17.

<sup>34</sup> CAT/C/COL/6, paras. 159–166.

enabling them to do so. However, there is concern about reports of significant shortcomings in investigations resulting in a high number of cases being closed and of irregularities in how they are conducted that have sometimes entailed the harassment by prison staff of the alleged victims and led to fear of reprisals. Furthermore, the Committee regrets that it has not received information on the training of medical staff who come into contact with persons deprived of their liberty, nor on mandatory training programmes for judges and prosecutors on the detection of cases of physical and psychological torture and ill-treatment (arts. 2, 11, 12, 13, 14 and 16).

**31. The State party should take the measures necessary to ensure that reporting systems provided in detention centres are effective, independent, accessible and completely safe for alleged victims of torture and ill-treatment. It should also ensure that all medical staff in contact with persons deprived of their liberty receive specific and mandatory training on the detection of cases of torture and ill-treatment in accordance with the Istanbul Protocol, ensuring that all suspected cases of torture and ill-treatment are brought to the attention of the competent judicial authorities. Lastly, the State party should continue to develop and implement mandatory in-service training programmes and provide the instruction necessary to ensure that all public servants, in particular law enforcement officers, judges, prosecutors and prison officials, as well as other persons who may be involved in the custody, interrogation or treatment of persons under any form of arrest, detention or imprisonment, are duly familiar with the provisions of the Convention.**

#### **Monitoring of places of detention**

32. The Committee regrets the limited presence of the Ombudsman's Office in prisons, since it lacks the structure and financial and human resources required in order to carry out regular monitoring activities in prisons, temporary detention centres and other places of deprivation of liberty. In that connection, the Committee welcomes the fact that a bill for the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 2) is being processed.

**33. The Committee encourages the State party to complete the process of ratifying the Optional Protocol, which will pave the way for a national preventive mechanism to be established. The State party is also invited to consider seeking technical assistance from the United Nations, including advice from the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, regarding the designation or establishment of a national preventive mechanism. In the meantime, the State party is urged to strengthen the Ombudsman's Office so that regular monitoring activities can be carried out in all places of deprivation of liberty.**

#### **Migration and asylum**

34. The Committee appreciates the efforts made by the State party to take in a large number of nationals from the Bolivarian Republic of Venezuela since 2015. However, it notes with concern reports that migrants in transit to Panama have disappeared, been murdered and been the victim of sexual violence, as well as reports of an alleged lack of effective and immediate investigations by the State party in this regard. The Committee takes note of the information provided by the State party about the actions taken to implement the road map for ensuring the human security of migrants in transit. On the other hand, the Committee remains concerned about the provisions of article 2.2.3.1.3.2 of Decree No. 1067 of 2015 on the refugee status determination procedure, which prevent migration authorities from receiving asylum applications in the transit zones of international airports (arts. 2, 3, 12, 13 and 16).

**35. The State party should investigate any possible abuses and acts of violence directed at migrants within its territory and strengthen the follow-up given to cases involving deaths, disappearances and sexual violence. It should also amend its legislation to ensure that asylum-seekers have access to the refugee status determination procedure in airport transit zones in order to prevent them from being returned to other States where there are substantial grounds for believing that they would run a personal and foreseeable risk of being subjected to torture.**

### **Human rights defenders, social leaders and journalists**

36. While noting the ongoing efforts to formulate a comprehensive policy aimed at protecting and preventing the risks faced by these persons and the plans to restructure the National Protection Unit of the Ministry of the Interior, the Committee expresses its serious concern at the numerous murders and attacks, threats, surveillance and other acts of intimidation suffered by human rights defenders, social, Indigenous and Afro-Colombian leaders and journalists and the scant progress made in carrying out effective investigations<sup>35</sup> (arts. 2, 12, 13 and 16).

37. **The Committee urges the State party to take the necessary measures to ensure that human rights defenders, social leaders and journalists are free to carry out their work and activities without fear of reprisals or attacks. In particular, the State party should make sure that the competent protection mechanisms have the human and material resources necessary for them to function properly and that protection measures are implemented effectively. It should also move forward in the investigation of murders and harassment of human rights defenders, social leaders and journalists and attacks against them and should ensure that alleged perpetrators are prosecuted, that those found guilty are duly punished and that redress is provided to victims or their families.**

### **Follow-up procedure**

38. **The Committee requests the State party to provide, by 12 May 2024, information on its follow-up to the Committee's recommendations concerning the State party's response to violence in the context of the armed conflict and criminal activity; conditions of detention; monitoring of places of detention; and attacks on human rights defenders, social leaders and journalists (see paras. 19 (a), 25 (a), 33 and 37). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations made in the present concluding observations.**

### **Other issues**

39. **The Committee encourages the State party to consider making the declaration provided for under article 22 of the Convention by which it would recognize the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction.**

40. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations in the appropriate languages through official websites, the media and non-governmental organizations and to inform the Committee of its efforts to do so.**

41. **The Committee requests the State party to submit its next periodic report, which will be its seventh, by 12 May 2027. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its seventh periodic report under article 19 of the Convention.**

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<sup>35</sup> CEDAW/C/COL/CO/9, paras. 17 and 18; CERD/C/COL/CO/17-19, paras. 28 and 29; A/HRC/52/25; A/HRC/49/19, paras. 41–49; A/HRC/46/76, paras. 21–30; and A/HRC/51/53, para. 44. See also the following OHCHR press releases: <https://www.ohchr.org/en/press-releases/2022/08/colombia-extreme-risks-rights-defenders-who-challenge-corporate-activity>, <https://www.ohchr.org/en/press-releases/2022/03/colombia-un-expert-says-killings-nasa-indigenous-human-rights-defenders> and <https://www.ohchr.org/en/press-releases/2019/10/colombia-un-experts-are-outraged-killing-indigenous-leader-and-community>.