

Committee against Torture considers report of Panama

GENEVA (4 August 2017) - The Committee against Torture this afternoon completed the consideration of the fourth periodic report of Panama on its implementation of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In opening remarks, Augusto Gomez Ruiloba, Permanent Representative of Panama to the United Nations Office at Geneva, said that members of the delegation were responsible for monitoring the implementation of recommendations of the United Nations treaty bodies, and for ensuring the enforcement of human rights treaties in the country.

Presenting the report, Etéreo Armando Medina, Director of the Penitentiary System of Panama, noted that Panama had managed to achieve significant progress in the field of human rights. The Government recognized that torture was one of the most serious acts affecting human rights, which was why protection against torture was indisputable. Since 2011 Panama had harmonized the crime of torture in line with international standards, namely incorporating the act of intention. The crime torture carried a sentence of 10 to 15 years of imprisonment. The Criminal Procedure Code underscored that evidence obtained through torture, threats and any illicit interview were unacceptable. A free legal advisory system, as well as rehabilitation and reparations, were available to victims of torture.

Experts commended the State party for its interactive dialogue with civil society, and for candid recognition of the challenges that the country faced. They noted that the State party's definition of torture failed to fully comply with article 1 of the Convention against Torture, and that there was no statute of limitation for the crime of torture. They also raised the issues of liberal use of pre-detention, fundamental

legal safeguards for detainees, the establishment of budget of the National Mechanism for the Prevention of Torture, excessive use of force by police forces, training for prison staff and medical doctors, deaths in custody, rising figures of domestic violence, inability of a large number of asylum seekers to go through a refugee status determination procedure, universal jurisdiction over persons responsible for acts of torture, poor detention conditions and gang violence in prisons, prison overcrowding, the complaint system available to persons deprived of liberty, violence and discrimination against lesbian, gay, bisexual, transgender and intersex persons, police brutality against indigenous peoples, victims of the dictatorship, femicide, and corporal punishment of girls, boys and adolescents.

In his concluding remarks, Mr. Medina said the Government of Panama acknowledged its legal and practical stumbling blocks and it, thus, restated its willingness and strict commitment to continue working with the Committee against Torture. The Government would undertake all efforts to comply with international standards, and it would deepen standards to ensure that no act of torture and ill-treatment took place.

The delegation of Panama included representatives of the Ministry of Foreign Affairs, the Ministry of Public Security, the National Penitentiary System, the Supreme Court of Justice, the Office of the Attorney General, and the Permanent Mission of Panama to the United Nations Office at Geneva.

The Committee will next meet in public on Wednesday, 9 August, at 10 a.m. to discuss follow-up to articles 19 and 22 of the Convention against Torture.

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AUGUSTO GOMEZ RUILOBA, Permanent Representative of Panama to the United Nations Office at Geneva, said that the delegation was responsible for monitoring the implementation of recommendations of the United Nations treaty bodies, and to ensure the enforcement of human

rights treaties in the country, and then presented members of the delegation.

ETÉREO ARMANDO MEDINA, Director of the Penitentiary System of Panama, noted that Panama had achieved significant progress in the field of human rights, as it recognized that the ratification of human rights treaties called for States to act responsibly and to regularly report to the international community on national advances. Panama was promoting, since 2015, a strategic plan to monitor the reporting process to the United Nations treaty bodies, said Mr. Medina and urged other committees to adopt the simplified reporting procedure and urged other countries to implement the same methodology. The fourth periodic report of Panama was a result of a participatory approach in which 25 governmental institutions, the Ombudsman Office and civil society had taken part. Torture was one of the most serious acts affecting human rights, and that was why the protection against torture was indisputable. In 2011, the definition of the crime of torture had been harmonized with international standards as the act of intention had been therein incorporated. The crime of torture was punished by a sentence of 10 to 15 years of imprisonment while the Criminal Procedure Code underscored that evidence obtained through torture, threats and any illicit interview were unacceptable. A free legal advisory system, as well as rehabilitation and reparations, were available to victims of torture, noted Mr. Medina.

The fight against human trafficking was a priority for the Government of Panama. The 2011 Law on Human Trafficking had created a National Commission for the Prevention of Human Trafficking and for the Implementation of the National Plan of Action. The national strategy for the prevention and fight against that crime was being implemented since 2015, in cooperation with security forces and in alliance with media. Panama had voluntarily approached the Inter-American Court of Human Rights to express openness and willingness to respond to all its rulings in a timely fashion, and had accordingly criminalized

enforced disappearances. As for the penitentiary system, Panama was working to reform it to become rehabilitation-orientated and to recognize the human rights of inmates. It had implemented a new procedural system to address the problem of persons in pre-trial detention and to come up with measures alternative to detention. With respect to improving the life of prisoners, the main goal was to guarantee their human rights through amelioration of basic services, reduction of prison overcrowding, and streamlining of a gender perspective. Among many actions, there was a special emphasis on the condition of women in prison. The transformation of the penitentiary system also included better care for juvenile prisoners. The first legislation pilot project on the national torture prevention mechanism had been presented and adopted by the National Assembly in 2017; an inter-institutional group was currently working on the elaboration of the selection criteria for its members and on defining its financial resources, and the Government recognized that this work was far from finished. Just like for the entire international community, the protection and promotion of human rights was a challenge for Panama and it was one of the pillars of its policy, Mr. Medina concluded.

Questions by the Country Co-Rapporteurs

JENS MODVIG, Committee Chairperson and Co-Rapporteur for Panama, regretted that the report of Panama had been received 16 years late and asked for reasons behind the delay.

He noted that the State party's definition of torture failed to fully comply with article 1 of the Convention against Torture, as it failed to include the "instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." Would the State party bring the definition of torture in line with the requirements of article 1 of the Convention?

Turning to the punishment for torture, Mr. Modvig asked about the investigation of cases alleged torture and ill-

treatment in the reporting period. What were the precise offences and circumstances? Why all six cases had resulted in a temporary stay of proceedings and what was the current status and outcome of the six cases?

There was no statute of limitation for either criminal proceedings or sentencing in cases where torture had been practiced in a widespread and systematic manner against civilian population.

Mr. Modvig noted that the use of pre-trial detention in Panama was quite liberal, resulting in a large proportion of the prison population being still under trial and not yet sentenced and found guilty. What was the national statistics for the length of pre-trial detention? How many complex cases eligible for up to three years of pre-trial detention did Panama have per year?

What were the guarantees and principles of the juvenile criminal system that had been adopted?

As for the fundamental legal safeguards, what was the number of arrests made through an arrest warrant and through apprehension *in flagrante delicto*? How many of the *flagrante delicto* arrests had been made inside prisons? Did the State party have an assessment of the application in practice of the constitutional provision that all persons placed under arrest had to be informed of the reasons for their arrest and the right to a lawyer? What were the resources set aside for legal aid on a national basis? How many lawyers were involved in the provision of legal aid and how many arrestees were in need of legal aid?

Mr. Modvig also inquired about the practical implementation of the right to be examined by a medical doctor. He recommended Panama to reconsider the method where the police officers were those documenting that the arrestees were informed of their rights and were not mistreated by the police.

As for the preventive measures to avoid ill-treatment of detainees by police and prison guards on a systematic scale, what was the total number of disciplinary cases against police officers in Panama? There seemed to be a massive underreporting of cases of excessive use of force either because cases were not presented to the authorities or because they were dismissed without sanctions. What training activities were in place to ensure compliance with the principles of necessity and proportionality when using force?

With respect to the complaint mechanisms available to persons deprived of their liberty, Mr. Modvig asked for statistics on the received complaints. A system for receiving complaints of acts of ill-treatment or torture committed by prison officials was not yet in place, which, given the high rate of pre-trial detention, was a problem that had to be urgently fixed. What did the State party intend to do to ensure an effective and secure complaint opportunity for the prison population and when could such a mechanism be in place?

Turning to the issue of training, Mr. Modvig asked the delegation whether the training on interviewing skills for the police officers was a part of the basic training for detectives, and whether their training also included the provisions of the Convention against Torture and the application of non-coercive interviewing skills. Were medical doctors trained in the early identification and documentation of torture and ill-treatment? Were medical examinations consistently performed in all prisons?

The Committee was informed that access to healthcare and medicines was very poor in Panamanian prisons, with only 70 health professionals providing healthcare services to the prison population of some 17,000. What were the procedures for investigating deaths in prison? Was the Minnesota Protocol (the 1991 United Nations Minnesota Manual on the Effective Prevention of Extra-legal, Arbitrary

and Summary Executions) an integral part of the new procedure?

Mr. Modvig noted that despite many initiatives taken by the Government to combat domestic violence, figures had continued to rise. One such initiative was the Secretariat for the protection of victims, witnesses, experts and other participants in criminal proceedings. How many victims and witnesses were supported? Did indigenous peoples of Panama have the same access to support measures? How many women used the care centres for women set up around the country?

The Committee was informed that only a very small proportion of those entering Panama was actually allowed to go through a refugee status determination procedure, with some 95 per cent considered inadmissible for such an assessment. Would the State party consider a revision of the legislation on asylum and adding a provision which allowed permanent residency for reasons similar to but not covered by the Refugee Convention?

With respect to the universal jurisdiction over persons responsible for acts of torture, why was it that the Criminal Code in its article 19 only included torture committed in a widespread and systematic manner and why the concept of universal jurisdiction did not cover non-systematic and non-widespread cases of torture in Panama's law?

CLAUDE HELLER ROUASSANT, Committee Expert and Co-Rapporteur for Panama, welcomed the political will of Panama's authorities to maintain their reporting obligations towards United Nations treaty bodies.

He highlighted poor conditions in detention in the country with the second highest rate of imprisonment in Latin America. Prison overcrowding was a persistent problem, leading to poor living conditions, including inadequate medical services and lack of drinking water, excessive use of

force and preventive holding, in a general environment of drugs and corruption.

Women in detention accounted for less than seven per cent of the whole prison population; they suffered from poor access to justice, nutrition, health and rehabilitation services, shredded links with the family, and lack of facilities for pregnant women. An inter-institutional mechanism on women deprived of their liberty set up in 2011 to improve the conditions of women in detention had not met in the past few months – could the delegation comment?

The Co-Rapporteur welcomed the existence of the disciplinary code for the police which allowed the prosecution of the police for harming the detainees, and also welcomed the prohibition of the use by state prison officers of disciplinary measures that constituted torture, degrading and ill-treatment including corporal punishment, withholding food, confinement in dark cells, the use of shackles, chains, straight jacket, and all other measures that compromised human dignity of detainees. Prison officers were prohibited from using cruel, ill and degrading treatment on people deprived of their liberty.

The national police was authorized by the law with securing the areas outside of the prisons while the security inside was the responsibility of state prison officers; however, the national police continued to play an important role inside several prisons, and this was an issue of concern.

Was the complaint system available to persons deprived of liberty trustworthy? The National Torture Prevention Mechanism should operate as an independent institutional entity - what was the progress of the implementation of the law establishing the Mechanism, when would the authorities in charge be appointed and what its human and financial resources for 2017-2018 would be?

The Ombudsman Office had a moral and not legal authority to cooperate with the Government and the right to operate

without interferences, including in accessing and assessing any public institution or office. At the same time, the Office of Persons Deprived of Liberty was tasked with inspecting places of detention, but it received very few complaints of torture and ill-treatment. What was the nature of complaints received by the Ombudsman Office?

Deplorable conditions in safe houses for persons with disabilities had been reported, they lacked trained personnel and there were reports of persons with physical disabilities not being allowed to use canes. What was the legal status of such safe houses and what certification procedure was in place?

Lesbian, gay, bisexual, transgender and intersex persons in Panama continued to suffer from violence and discrimination, and they still seemed to be rejected by the State, whereas sex workers suffered from the excessive use of force by the police. There was a lack of legal duty of the State towards those populations.

Two indigenous leaders had recently been punished because they had made a deal with a Chinese company without having consulted the community. What was the approach adopted by the State party to that case?

Up until September 2016, some 17,300 irregular migrants had been detained by the border guards in the Darién region, most were Cuban, Haitian and Congolese. There was a rise in the asylum applications by Venezuelan citizens, many of which had been denied. This meant that there were thousands of persons in Panama in need of international protection.

The delegation was asked about progress made in drafting various protocols regulating access to prisons and whether non-governmental organizations had access; the number of investigations into the cases of the excessive use of force and the sanctions meted out; the status of the several cases concerning the victims of the dictatorship which were still

pending in the Inter-American Court of Human Rights; and whether the case of enforced disappearance of Heliodoro Portugal would be suspended following the death of the former President Manuel Noriega.

The prison reform aimed at reducing prison overcrowding. Civil society organizations and the Special Rapporteur on Torture had requested the authorities to put an end to the practice of transferring detainees to the high-security prison on the Island of Punta Coco.

What measures had been taken to independently and impartially investigate alleged incidents of excessive use of force by the police in connection with the right to peaceful assembly of trade union members and indigenous peoples, in particular concerning the events that had occurred at the hydroelectric project in the province of Bocas del Toro?

Corporal punishment of girls, boys and adolescents was not explicitly prohibited, remarked Mr. Heller and asked about the status of the bill on the rights of the child? Necessary amendments needed to be made in the Civil Code and the Family Code as soon as possible as a matter of urgency.

The Commission of 20 December 1989 had been set up in July 2016 to investigate human rights abuses committed during the period between 19 December 1989 and the withdrawal of the United States' invasion troops. What were the reasons for the establishment of the Commission and what was the information about its work?

Questions by the Experts

Experts observed that the prison system in Panama did not meet the constitutional provisions regarding the conditions of detention, and that despite the reform of the prison system and the opening of the new prison of Nueva Joya in 2015, prison overcrowding and living conditions in prisons remained problematic.

Experts were particularly concerned about the high-security prison of Punta Coco, where inmates were exposed to excessive solitary confinement and lacked access to basic services, and where transfers into the prison continued in spite of the recommendation that the prison be closed due to inhumane treatment of inmates.

Juveniles in detention were routinely deprived of basic necessities and beaten by prison guards, and some had even died. What steps would the Government take to improve the conditions in juvenile detention facilities? Why had the age of criminal responsibility been decreased from 14 to 12 years?

Refugee children were not being identified as such and were very often repatriated without their situation being properly evaluated and assessed.

The shortage of and the low salaries of prison staff was a serious problem - what concrete measures would be taken to increase the level of professionalism among prison guards? Had there been any progress with respect to non-invasive body searches?

The most striking feature of the prison life in Panama was gang violence and inmates had access to fire arms. Had there been investigations of deaths in custody that resulted from prisoner-to-prisoner violence? There was a disproportionate number of Afro-Panamanians in prison and they were treated worse than other population groups.

What were the punishments handed down for the crime of femicide?

The Inter-American Court of Human Rights had ordered that the families of victims of torture receive redress, remarked the Experts and asked the delegation to provide data and statistics on the reparations and rehabilitation of victims of torture.

Why was there a difference in the statute of limitation between a systematic and wide-spread torture and the torture committed in an un-systematic manner? The impact on the victims was the same in either case, while such a distinction served only to deprive the victims from bringing their cases to the civil court and obtaining reparations for the harm done, Experts remarked.

Replies of the Delegation

With respect to pre-trial detention, the delegation explained that 54 per cent of the total population had passed trial. All prisons had posters with information on the rights and responsibilities of inmates. As for the training of prison staff, they underwent curriculum with a strong component on national legislation. The professionalization of the prison staff was one of the priorities of the reform of the penitentiary system, with focus on prevention of torture. The provision of healthcare in prisons remained a challenge. Nevertheless, medical personnel were trained on torture and were required to report signs of torture.

The investigation unit of the Penitentiary System had conducted 65 separate investigations in 2014, 96 in 2015 and 137 in 2016. The complaints system was functioning and during 2017 1,244 complaints had been received. The General Directorate of the Penitentiary System shared the Government's vision of zero tolerance for corruption.

The objective of the penitentiary census was to collect information on the circumstances and conditions of life of persons deprived of liberty, and to come up with penitentiary policies that were rehabilitation-oriented and that guaranteed the security of persons deprived of liberty. The census allowed for the adoption of effective penitentiary measures and to collect reliable data regarding vulnerable populations, such as lesbian, gay, bisexual, transgender and intersex persons, women and juveniles in detention. There was an absolute prohibition of any discrimination based on race, gender, nationality, and religious belief.

Panama had significantly increased the number of public defenders, raising the coverage to one public defender for every 15,000 inhabitants.

As for the case of enforced disappearance of Heliodoro Portugal, a new date for hearing had been set and it would take place in November 2017. According to the Code of Criminal Proceedings, the statute of limitation expired when the maximum sentence for the crime expired. Panama had taken its international commitment and created a subcommittee to draft relevant changes. Accomplices in torture would be punished and would face the maximum sentence. Attempted torture would also carry an appropriate sentence.

Panama had undertaken measures to digitalize information about all relevant trials and sentencing. That system would allow the Government to collect disaggregated data. At the moment, the Government only had general data about trials and sentencing. Between September 2011 and June 2017, there had been 22 cases of femicide, out of which five received sentencing. In the same period, 15,329 cases of domestic violence had been recorded, whereas 579 sentences had been down.

As for violence against children and corporal punishment, the Government of Panama recognized that it had not explicitly prohibited all types of corporal punishment. To deal with that problem, a technical commission had been established.

With respect to the reparation for victims of torture and ill-treatment, the delegation reiterated its standing commitment to democratic processes and demonstrated willingness to pursue the provision of reparations, which was a State policy.

When conducting arrest, the police had to take proportional measures, read the suspects' rights, transfer to a State hospital, and bring the person before a competent authority. The police officer was compelled to inform the

arrestee of the reasons of the arrest, and the police unit had to submit a report that the suspect was treated appropriately. The training to mitigate the excessive use of force was in line with the United Nations basic principles on the use of firearms. The general training included professional ethical development, human conduct, consciousness of the duties of the national police force, and the complaints mechanism.

During peaceful demonstrations, police forces were prohibited from using lead, plastic and rubber pellets. Panama guaranteed the right to peaceful assembly and protest without weapons. When public disturbances and threats to third parties occurred, police forces could only use less extreme measures to maintain peace. As for the events of 2 June 2017 involving lesbian, gay, bisexual, transgender and intersex persons and sex workers, the demonstrators blocked traffic in the area and, as a result, 15 demonstrators had been detained. They had not been handcuffed and they had been accompanied by the Ombudsman Office personnel.

The National Mechanism for the Prevention of Torture had been created in 2017 as a national body attached to the Ombudsman Office. The Government was obliged under law to provide it with the necessary resources. The Ombudsman Office had asked for an extraordinary budget of 800,000 US dollars to initiate the functioning of the Mechanism. In May 2017 an inter-institutional commission had been set up to elaborate regulations for the selection of the Mechanism members.

The participatory process had been used in the drafting of the fourth periodic report of Panama, with the participation of 25 public entities, the Ombudsman Office and non-governmental organizations.

As for the 20 December 1989 Commission, in 2015 the first session of the dialogue with the families of victims had been held, leading to the establishment of the commission. The Commission aimed at ascertaining the truth about what had

happened and to honour the victims of the invasion. It was made up of five outstanding professionals who were publicly recognized.

Panama respected the right to self-determination of indigenous peoples. With respect to the practice of *cepo*, the Government was reaching to various indigenous peoples in order to convey to them the importance of respect for the physical autonomy of every individual.

As for the transfer of prisoners to the Punta Coco high-security prison, that transfer was in line with the national public security policy. The Government acknowledged that it faced some security challenges, namely with respect to persons linked with organized crime. Those had to be held in high-security prisons. The Government was conducting technical and legal assessment across the executive in order to come up with a legal mechanism that would provide greater certainty for persons deprived of their liberty.

The Government had also taken a number of measures to counter the use of solitary confinement in the Punta Coco prison.

As for the bill on prison reform, it aimed at transforming the national prison system to make it more secure and humane, and to guarantee the human rights of those serving administrative sentences. The prison reform revolved around five basic pillars: institutional strengthening, professionalization of the prison staff, ensuring the life and human rights of those deprived of their liberty, improving of the living conditions, and strengthening of rehabilitation programmes.

With respect to women in detention, living conditions for women had been improved in various prisons. There were literacy programmes, primary and secondary education programmes, work education and labour insertion programmes, sports, cultural and religious events. Female inmates also benefited from special reproductive health

services. Gender perspective was included in a cross-cutting fashion in the penitentiary system to ensure that women had access to services tailored to their needs.

Follow-up Questions by Experts

JENS MODVIG, Committee Chairperson and Co-Rapporteur for Panama, commended the State party for interactive dialogue with civil society. He recommended that the definition of torture be aligned with the Convention and stressed the importance of gathering relevant statistics which revealed how policies were implemented on the ground.

Did the Code on Criminal Proceedings explicitly stipulate the right of detainees to receive medical assistance? Would the State party consider that the lawyer also sign the police report to ensure that arrestees were treated adequately? Was it possible to allow legal aid defenders to attend the entire process of interrogation?

Mr. Modvig welcomed the increasing of wages for prison medical staff, noting that prison health was not an attractive field. What were the outcomes of the investigations of cases of death in custody?

What was the State party's response with respect to the issue of asylum seekers not being able to gain refugee status? What oversight mechanism was applied regarding the use of pellets by police forces?

CLAUDE HELLER ROUASSANT, Committee Expert and Co-Rapporteur for Panama, thanked the delegation for having candidly admitted the challenges that Panama faced. When would the prison staff fully take on their responsibilities in all prisons?

As for the resources available to the National Mechanism for the Prevention of Torture, Mr. Heller noted that 800,000 US dollars was not sufficient for its operations. When would the Mechanism be fully integrated and operational? The

selection process for its membership and leadership was going at a snail's pace.

Could civil society gain access to the penitentiary system? If that practice existed, how would it be regulated? Who was imprisoned in the Punta Coco high-security prison?

Speaking of police brutality towards indigenous peoples, Mr. Heller asked for additional comments and clarification from the delegation.

An Expert reiterated her questions about enforced disappearances. The State party had an article in its Criminal Code, more or less close to article 1 of the Convention. However, the problem was that the statute of limitation was applied to some crimes committed between 1968 and 1989. Where were the conclusions drawn from? The statute of limitation should not apply to the crime of torture.

The population of African descent was ill-treated in detention, and minors of African descent suffered from general discrimination.

What was the status of victims of torture who had benefited from free legal aid? Was legal aid also offered during civilian proceedings for reparations and redress?

There was an overlap between preventive and reactive measures in preventing torture. How would the State party ensure that the two approaches could coexist?

Experts also drew attention to the issue of training for police on non-coercive interviewing methods, and traditional harmful practices (cepo).

As for prison gang violence, what was done to prevent inmates' access to firearms? Had any prison officers in the La Joyita prison been sanctioned for the use of firearms by prisoners?

What measures was the Government considering in order to improve schooling and extracurricular activities for juveniles in detention?

Experts observed the discrepancy between the number of reported femicide cases and the number of prosecuted cases.

Replies by the Delegation

In case of a death in custody, the responsibility of prison staff was assessed, the delegation explained. The five cases registered in 2016 involved negligence.

Non-governmental organizations had access to the country's prisons.

As for asylum seekers requesting refugee status, the Government was currently reviewing relevant regulations and the Committee's observations would be taken into consideration.

With respect to the timetable for the prison staff to take over the administration of all prisons, that would happen in about four years, when enough graduates had completed their academy education.

There were still open investigations of the cases of smuggling of firearms in prisons. If firearms were found in the possession of inmates, all corresponding investigations were triggered. The delegation clarified that the 11 prisoners held in the Punta Coco prison were believed to be leaders of drug gangs.

As for education programmes for juveniles in detention, Panama was a leader in the region. Great investments had been made in new infrastructure for minors in conflict with the law. Minors reaching the age of 18 would not be sent to prisons for adults, but would remain in juvenile centres.

Article 10 of the Code of Criminal Proceedings stipulated that the right to legal counsel was irrevocable from the very beginning of procedures, unless the suspect wanted to represent himself or herself. There was no record of free legal counsel having been provided to victims of torture. The right to medical examination was also guaranteed under law, and all police officers were required to provide medical assessment.

The delegation explained that there had not been enough of jurisprudence with respect to the crime of femicide.

As for the prosecution of police officers for ill-treatment and abuse of civilians, nine cases were still pending. On non-coercive methods of interviewing, the delegation noted that the national police had to conduct dignified and respectful treatment of citizens in all circumstances.

With respect to the Barro Blanco dam project, the Government had addressed the situation and had begun a 19-month consultation with indigenous communities and private companies involved in the project. The case had been brought to the Inter-American Commission of Human Rights due to a complaint about police brutality. Nevertheless, the Government had established that police brutality had not taken place.

Turning to the potential overlap of the functions of the National Mechanism for the Prevention of Torture with that of the Ombudsman Office, the delegation clarified that the two bodies had been set up by two very different laws. The budgetary resources earmarked for the Mechanism could not be used for other purposes. The appointments to the Mechanism were supposed to take place shortly.

Concluding remarks

ETÉREO ARMANDO MEDINA, Director of the Penitentiary System of Panama, thanked for the comments and recommendations made by the Committee, and he welcomed

the positive and constructive dialogue. The Government of Panama acknowledged its legal and practical stumbling blocks. Unfortunately, the practice of torture and ill-treatment continued to be widespread globally. Accordingly, Panama restated its willingness and strict commitment to continue working with the Committee against Torture. The Government would undertake all efforts to comply with international standards, and it would deepen standards to ensure that no act of torture and ill-treatment took place. States had an obligation to adapt their domestic legislation to international standards and to ensure their implementation.

JENS MODVIG, Committee Chairperson, thanked the delegation for the constructive and frank dialogue. He reminded the delegation of the opportunity to submit written replies within 48 hours, which would influence the Committee's concluding observations. The Committee would point out to several of the most urgent recommendations and would request a follow-up report on them within a year. Mr. Modvig also invited the delegation to submit national implementation plans for the remaining recommendations.

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AUGUSTO GOMEZ RUILOBA, Permanent Representative of Panama to the United Nations Office at Geneva, said that the delegation was responsible for monitoring the implementation of recommendations of the United Nations treaty bodies, and to ensure the enforcement of human rights treaties in the country, and then presented members of the delegation.

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called for States to act responsibly and to regularly report to the international community on national advances. Panama was promoting, since 2015, a strategic plan to monitor the reporting process to the United Nations treaty bodies, said Mr. Medina and urged other committees to adopt the simplified reporting procedure and urged other countries to implement the same methodology. The fourth periodic report of Panama was a result of a participatory approach in which 25 governmental institutions, the Ombudsman Office and civil society had taken part. Torture was one of the most serious acts affecting human rights, and that was why the protection against torture was indisputable. In 2011, the definition of the crime of torture had been harmonized with international standards as the act of intention had been therein incorporated. The crime of torture was punished by a sentence of 10 to 15 years of imprisonment while the Criminal Procedure Code underscored that evidence obtained through torture, threats and any illicit interview were unacceptable. A free legal advisory system, as well as rehabilitation and reparations, were available to victims of torture, noted Mr. Medina.

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improving the life of prisoners, the main goal was to guarantee their human rights through amelioration of basic services, reduction of prison overcrowding, and streamlining of a gender perspective. Among many actions, there was a special emphasis on the condition of women in prison. The transformation of the penitentiary system also included better care for juvenile prisoners. The first legislation pilot project on the national torture prevention mechanism had been presented and adopted by the National Assembly in 2017; an inter-institutional group was currently working on the elaboration of the selection criteria for its members and on defining its financial resources, and the Government recognized that this work was far from finished. Just like for the entire international community, the protection and promotion of human rights was a challenge for Panama and it was one of the pillars of its policy, Mr. Medina concluded.

Questions by the Country Co-Rapporteurs

JENS MODVIG, Committee Chairperson and Co-Rapporteur for Panama, regretted that the report of Panama had been received 16 years late and asked for reasons behind the delay.

He noted that the State party's definition of torture failed to fully comply with article 1 of the Convention against Torture, as it failed to include the "instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." Would the State party bring the definition of torture in line with the requirements of article 1 of the Convention?

Turning to the punishment for torture, Mr. Modvig asked about the investigation of cases alleged torture and ill-treatment in the reporting period. What were the precise offences and circumstances? Why all six cases had resulted in a temporary stay of proceedings and what was the current status and outcome of the six cases?

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Mr. Modvig noted that the use of pre-trial detention in Panama was quite liberal, resulting in a large proportion of the prison population being still under trial and not yet sentenced and found guilty. What was the national statistics for the length of pre-trial detention? How many complex cases eligible for up to three years of pre-trial detention did Panama have per year?

What were the guarantees and principles of the juvenile criminal system that had been adopted?

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As for the preventive measures to avoid ill-treatment of detainees by police and prison guards on a systematic scale, what was the total number of disciplinary cases against police officers in Panama? There seemed to be a massive underreporting of cases of excessive use of force either

because cases were not presented to the authorities or because they were dismissed without sanctions. What training activities were in place to ensure compliance with the principles of necessity and proportionality when using force?

With respect to the complaint mechanisms available to persons deprived of their liberty, Mr. Modvig asked for statistics on the received complaints. A system for receiving complaints of acts of ill-treatment or torture committed by prison officials was not yet in place, which, given the high rate of pre-trial detention, was a problem that had to be urgently fixed. What did the State party intend to do to ensure an effective and secure complaint opportunity for the prison population and when could such a mechanism be in place?

Turning to the issue of training, Mr. Modvig asked the delegation whether the training on interviewing skills for the police officers was a part of the basic training for detectives, and whether their training also included the provisions of the Convention against Torture and the application of non-coercive interviewing skills. Were medical doctors trained in the early identification and documentation of torture and ill-treatment? Were medical examinations consistently performed in all prisons?

The Committee was informed that access to healthcare and medicines was very poor in Panamanian prisons, with only 70 health professionals providing healthcare services to the prison population of some 17,000. What were the procedures for investigating deaths in prison? Was the Minnesota Protocol (the 1991 United Nations Minnesota Manual on the Effective Prevention of Extra-legal, Arbitrary and Summary Executions) an integral part of the new procedure?

Mr. Modvig noted that despite many initiatives taken by the Government to combat domestic violence, figures had continued to rise. One such initiative was the Secretariat for

the protection of victims, witnesses, experts and other participants in criminal proceedings. How many victims and witnesses were supported? Did indigenous peoples of Panama have the same access to support measures? How many women used the care centres for women set up around the country?

The Committee was informed that only a very small proportion of those entering Panama was actually allowed to go through a refugee status determination procedure, with some 95 per cent considered inadmissible for such an assessment. Would the State party consider a revision of the legislation on asylum and adding a provision which allowed permanent residency for reasons similar to but not covered by the Refugee Convention?

With respect to the universal jurisdiction over persons responsible for acts of torture, why was it that the Criminal Code in its article 19 only included torture committed in a widespread and systematic manner and why the concept of universal jurisdiction did not cover non-systematic and non-widespread cases of torture in Panama's law?

CLAUDE HELLER ROUASSANT, Committee Expert and Co-Rapporteur for Panama, welcomed the political will of Panama's authorities to maintain their reporting obligations towards United Nations treaty bodies.

He highlighted poor conditions in detention in the country with the second highest rate of imprisonment in Latin America. Prison overcrowding was a persistent problem, leading to poor living conditions, including inadequate medical services and lack of drinking water, excessive use of force and preventive holding, in a general environment of drugs and corruption.

Women in detention accounted for less than seven per cent of the whole prison population; they suffered from poor access to justice, nutrition, health and rehabilitation services, shredded links with the family, and lack of facilities for

pregnant women. An inter-institutional mechanism on women deprived of their liberty set up in 2011 to improve the conditions of women in detention had not met in the past few months – could the delegation comment?

The Co-Rapporteur welcomed the existence of the disciplinary code for the police which allowed the prosecution of the police for harming the detainees, and also welcomed the prohibition of the use by state prison officers of disciplinary measures that constituted torture, degrading and ill-treatment including corporal punishment, withholding food, confinement in dark cells, the use of shackles, chains, straight jacket, and all other measures that compromised human dignity of detainees. Prison officers were prohibited from using cruel, ill and degrading treatment on people deprived of their liberty.

The national police was authorized by the law with securing the areas outside of the prisons while the security inside was the responsibility of state prison officers; however, the national police continued to play an important role inside several prisons, and this was an issue of concern.

Was the complaint system available to persons deprived of liberty trustworthy? The National Torture Prevention Mechanism should operate as an independent institutional entity - what was the progress of the implementation of the law establishing the Mechanism, when would the authorities in charge be appointed and what its human and financial resources for 2017-2018 would be?

The Ombudsman Office had a moral and not legal authority to cooperate with the Government and the right to operate without interferences, including in accessing and assessing any public institution or office. At the same time, the Office of Persons Deprived of Liberty was tasked with inspecting places of detention, but it received very few complaints of torture and ill-treatment. What was the nature of complaints received by the Ombudsman Office?

Deplorable conditions in safe houses for persons with disabilities had been reported, they lacked trained personnel and there were reports of persons with physical disabilities not being allowed to use canes. What was the legal status of such safe houses and what certification procedure was in place?

Lesbian, gay, bisexual, transgender and intersex persons in Panama continued to suffer from violence and discrimination, and they still seemed to be rejected by the State, whereas sex workers suffered from the excessive use of force by the police. There was a lack of legal duty of the State towards those populations.

Two indigenous leaders had recently been punished because they had made a deal with a Chinese company without having consulted the community. What was the approach adopted by the State party to that case?

Up until September 2016, some 17,300 irregular migrants had been detained by the border guards in the Darién region, most were Cuban, Haitian and Congolese. There was a rise in the asylum applications by Venezuelan citizens, many of which had been denied. This meant that there were thousands of persons in Panama in need of international protection.

The delegation was asked about progress made in drafting various protocols regulating access to prisons and whether non-governmental organizations had access; the number of investigations into the cases of the excessive use of force and the sanctions meted out; the status of the several cases concerning the victims of the dictatorship which were still pending in the Inter-American Court of Human Rights; and whether the case of enforced disappearance of Heliodoro Portugal would be suspended following the death of the former President Manuel Noriega.

The prison reform aimed at reducing prison overcrowding. Civil society organizations and the Special

Rapporteur on Torture had requested the authorities to put an end to the practice of transferring detainees to the high-security prison on the Island of Punta Coco.

What measures had been taken to independently and impartially investigate alleged incidents of excessive use of force by the police in connection with the right to peaceful assembly of trade union members and indigenous peoples, in particular concerning the events that had occurred at the hydroelectric project in the province of Bocas del Toro?

Corporal punishment of girls, boys and adolescents was not explicitly prohibited, remarked Mr. Heller and asked about the status of the bill on the rights of the child? Necessary amendments needed to be made in the Civil Code and the Family Code as soon as possible as a matter of urgency.

The Commission of 20 December 1989 had been set up in July 2016 to investigate human rights abuses committed during the period between 19 December 1989 and the withdrawal of the United States' invasion troops. What were the reasons for the establishment of the Commission and what was the information about its work?

Questions by the Experts

Experts observed that the prison system in Panama did not meet the constitutional provisions regarding the conditions of detention, and that despite the reform of the prison system and the opening of the new prison of Nueva Joya in 2015, prison overcrowding and living conditions in prisons remained problematic.

Experts were particularly concerned about the high-security prison of Punta Coco, where inmates were exposed to excessive solitary confinement and lacked access to basic services, and where transfers into the prison continued in spite of the recommendation that the prison be closed due to inhumane treatment of inmates.

Juveniles in detention were routinely deprived of basic necessities and beaten by prison guards, and some had even died. What steps would the Government take to improve the conditions in juvenile detention facilities? Why had the age of criminal responsibility been decreased from 14 to 12 years?

Refugee children were not being identified as such and were very often repatriated without their situation being properly evaluated and assessed.

The shortage of and the low salaries of prison staff was a serious problem - what concrete measures would be taken to increase the level of professionalism among prison guards? Had there been any progress with respect to non-invasive body searches?

The most striking feature of the prison life in Panama was gang violence and inmates had access to fire arms. Had there been investigations of deaths in custody that resulted from prisoner-to-prisoner violence? There was a disproportionate number of Afro-Panamanians in prison and they were treated worse than other population groups.

What were the punishments handed down for the crime of femicide?

The Inter-American Court of Human Rights had ordered that the families of victims of torture receive redress, remarked the Experts and asked the delegation to provide data and statistics on the reparations and rehabilitation of victims of torture.

Why was there a difference in the statute of limitation between a systematic and wide-spread torture and the torture committed in an un-systematic manner? The impact on the victims was the same in either case, while such a distinction served only to deprive the victims from bringing their cases to the civil court and obtaining reparations for the harm done, Experts remarked.

Replies of the Delegation

With respect to pre-trial detention, the delegation explained that 54 per cent of the total population had passed trial. All prisons had posters with information on the rights and responsibilities of inmates. As for the training of prison staff, they underwent curriculum with a strong component on national legislation. The professionalization of the prison staff was one of the priorities of the reform of the penitentiary system, with focus on prevention of torture. The provision of healthcare in prisons remained a challenge. Nevertheless, medical personnel were trained on torture and were required to report signs of torture.

The investigation unit of the Penitentiary System had conducted 65 separate investigations in 2014, 96 in 2015 and 137 in 2016. The complaints system was functioning and during 2017 1,244 complaints had been received. The General Directorate of the Penitentiary System shared the Government's vision of zero tolerance for corruption.

The objective of the penitentiary census was to collect information on the circumstances and conditions of life of persons deprived of liberty, and to come up with penitentiary policies that were rehabilitation-oriented and that guaranteed the security of persons deprived of liberty. The census allowed for the adoption of effective penitentiary measures and to collect reliable data regarding vulnerable populations, such as lesbian, gay, bisexual, transgender and intersex persons, women and juveniles in detention. There was an absolute prohibition of any discrimination based on race, gender, nationality, and religious belief.

Panama had significantly increased the number of public defenders, raising the coverage to one public defender for every 15,000 inhabitants.

As for the case of enforced disappearance of Heliodoro Portugal, a new date for hearing had been set and it would take place in November 2017. According to the Code of

Criminal Proceedings, the statute of limitation expired when the maximum sentence for the crime expired. Panama had taken its international commitment and created a subcommittee to draft relevant changes. Accomplices in torture would be punished and would face the maximum sentence. Attempted torture would also carry an appropriate sentence.

Panama had undertaken measures to digitalize information about all relevant trials and sentencing. That system would allow the Government to collect disaggregated data. At the moment, the Government only had general data about trials and sentencing. Between September 2011 and June 2017, there had been 22 cases of femicide, out of which five received sentencing. In the same period, 15,329 cases of domestic violence had been recorded, whereas 579 sentences had been down.

As for violence against children and corporal punishment, the Government of Panama recognized that it had not explicitly prohibited all types of corporal punishment. To deal with that problem, a technical commission had been established.

With respect to the reparation for victims of torture and ill-treatment, the delegation reiterated its standing commitment to democratic processes and demonstrated willingness to pursue the provision of reparations, which was a State policy.

When conducting arrest, the police had to take proportional measures, read the suspects' rights, transfer to a State hospital, and bring the person before a competent authority. The police officer was compelled to inform the arrestee of the reasons of the arrest, and the police unit had to submit a report that the suspect was treated appropriately. The training to mitigate the excessive use of force was in line with the United Nations basic principles on the use of firearms. The general training included professional ethical development, human conduct,

consciousness of the duties of the national police force, and the complaints mechanism.

During peaceful demonstrations, police forces were prohibited from using lead, plastic and rubber pellets. Panama guaranteed the right to peaceful assembly and protest without weapons. When public disturbances and threats to third parties occurred, police forces could only use less extreme measures to maintain peace. As for the events of 2 June 2017 involving lesbian, gay, bisexual, transgender and intersex persons and sex workers, the demonstrators blocked traffic in the area and, as a result, 15 demonstrators had been detained. They had not been handcuffed and they had been accompanied by the Ombudsman Office personnel.

The National Mechanism for the Prevention of Torture had been created in 2017 as a national body attached to the Ombudsman Office. The Government was obliged under law to provide it with the necessary resources. The Ombudsman Office had asked for an extraordinary budget of 800,000 US dollars to initiate the functioning of the Mechanism. In May 2017 an inter-institutional commission had been set up to elaborate regulations for the selection of the Mechanism members.

The participatory process had been used in the drafting of the fourth periodic report of Panama, with the participation of 25 public entities, the Ombudsman Office and non-governmental organizations.

As for the 20 December 1989 Commission, in 2015 the first session of the dialogue with the families of victims had been held, leading to the establishment of the commission. The Commission aimed at ascertaining the truth about what had happened and to honour the victims of the invasion. It was made up of five outstanding professionals who were publicly recognized.

Panama respected the right to self-determination of indigenous peoples. With respect to the practice of *cepo*, the

Government was reaching to various indigenous peoples in order to convey to them the importance of respect for the physical autonomy of every individual.

As for the transfer of prisoners to the Punta Coco high-security prison, that transfer was in line with the national public security policy. The Government acknowledged that it faced some security challenges, namely with respect to persons linked with organized crime. Those had to be held in high-security prisons. The Government was conducting technical and legal assessment across the executive in order to come up with a legal mechanism that would provide greater certainty for persons deprived of their liberty.

The Government had also taken a number of measures to counter the use of solitary confinement in the Punta Coco prison.

As for the bill on prison reform, it aimed at transforming the national prison system to make it more secure and humane, and to guarantee the human rights of those serving administrative sentences. The prison reform revolved around five basic pillars: institutional strengthening, professionalization of the prison staff, ensuring the life and human rights of those deprived of their liberty, improving of the living conditions, and strengthening of rehabilitation programmes.

With respect to women in detention, living conditions for women had been improved in various prisons. There were literacy programmes, primary and secondary education programmes, work education and labour insertion programmes, sports, cultural and religious events. Female inmates also benefited from special reproductive health services. Gender perspective was included in a cross-cutting fashion in the penitentiary system to ensure that women had access to services tailored to their needs.

Follow-up Questions by Experts

JENS MODVIG, Committee Chairperson and Co-Rapporteur for Panama, commended the State party for interactive dialogue with civil society. He recommended that the definition of torture be aligned with the Convention and stressed the importance of gathering relevant statistics which revealed how policies were implemented on the ground.

Did the Code on Criminal Proceedings explicitly stipulate the right of detainees to receive medical assistance? Would the State party consider that the lawyer also sign the police report to ensure that arrestees were treated adequately? Was it possible to allow legal aid defenders to attend the entire process of interrogation?

Mr. Modvig welcomed the increasing of wages for prison medical staff, noting that prison health was not an attractive field. What were the outcomes of the investigations of cases of death in custody?

What was the State party's response with respect to the issue of asylum seekers not being able to gain refugee status? What oversight mechanism was applied regarding the use of pellets by police forces?

CLAUDE HELLER ROUASSANT, Committee Expert and Co-Rapporteur for Panama, thanked the delegation for having candidly admitted the challenges that Panama faced. When would the prison staff fully take on their responsibilities in all prisons?

As for the resources available to the National Mechanism for the Prevention of Torture, Mr. Heller noted that 800,000 US dollars was not sufficient for its operations. When would the Mechanism be fully integrated and operational? The selection process for its membership and leadership was going at a snail's pace.

Could civil society gain access to the penitentiary system? If that practice existed, how would it be regulated? Who was imprisoned in the Punta Coco high-security prison?

Speaking of police brutality towards indigenous peoples, Mr. Heller asked for additional comments and clarification from the delegation.

An Expert reiterated her questions about enforced disappearances. The State party had an article in its Criminal Code, more or less close to article 1 of the Convention. However, the problem was that the statute of limitation was applied to some crimes committed between 1968 and 1989. Where were the conclusions drawn from? The statute of limitation should not apply to the crime of torture.

The population of African descent was ill-treated in detention, and minors of African descent suffered from general discrimination.

What was the status of victims of torture who had benefited from free legal aid? Was legal aid also offered during civilian proceedings for reparations and redress?

There was an overlap between preventive and reactive measures in preventing torture. How would the State party ensure that the two approaches could coexist?

Experts also drew attention to the issue of training for police on non-coercive interviewing methods, and traditional harmful practices (cepo).

As for prison gang violence, what was done to prevent inmates' access to firearms? Had any prison officers in the La Joyita prison been sanctioned for the use of firearms by prisoners?

What measures was the Government considering in order to improve schooling and extracurricular activities for juveniles in detention?

Experts observed the discrepancy between the number of reported femicide cases and the number of prosecuted cases.

Replies by the Delegation

In case of a death in custody, the responsibility of prison staff was assessed, the delegation explained. The five cases registered in 2016 involved negligence.

Non-governmental organizations had access to the country's prisons.

As for asylum seekers requesting refugee status, the Government was currently reviewing relevant regulations and the Committee's observations would be taken into consideration.

With respect to the timetable for the prison staff to take over the administration of all prisons, that would happen in about four years, when enough graduates had completed their academy education.

There were still open investigations of the cases of smuggling of firearms in prisons. If firearms were found in the possession of inmates, all corresponding investigations were triggered. The delegation clarified that the 11 prisoners held in the Punta Coco prison were believed to be leaders of drug gangs.

As for education programmes for juveniles in detention, Panama was a leader in the region. Great investments had been made in new infrastructure for minors in conflict with the law. Minors reaching the age of 18 would not be sent to prisons for adults, but would remain in juvenile centres.

Article 10 of the Code of Criminal Proceedings stipulated that the right to legal counsel was irrevocable from the very beginning of procedures, unless the suspect wanted to represent himself or herself. There was no record of free legal counsel having been provided to victims of torture. The right to medical examination was also guaranteed under law, and all police officers were required to provide medical assessment.

The delegation explained that there had not been enough of jurisprudence with respect to the crime of femicide.

As for the prosecution of police officers for ill-treatment and abuse of civilians, nine cases were still pending. On non-coercive methods of interviewing, the delegation noted that the national police had to conduct dignified and respectful treatment of citizens in all circumstances.

With respect to the Barro Blanco dam project, the Government had addressed the situation and had begun a 19-month consultation with indigenous communities and private companies involved in the project. The case had been brought to the Inter-American Commission of Human Rights due to a complaint about police brutality. Nevertheless, the Government had established that police brutality had not taken place.

Turning to the potential overlap of the functions of the National Mechanism for the Prevention of Torture with that of the Ombudsman Office, the delegation clarified that the two bodies had been set up by two very different laws. The budgetary resources earmarked for the Mechanism could not be used for other purposes. The appointments to the Mechanism were supposed to take place shortly.

Concluding remarks

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The Committee was informed that access to healthcare and medicines was very poor in Panamanian prisons, with only 70 health professionals providing healthcare services to the prison population of some 17,000. What were the procedures for investigating deaths in prison? Was the Minnesota Protocol (the 1991 United Nations Minnesota Manual on the Effective Prevention of Extra-legal, Arbitrary and Summary Executions) an integral part of the new procedure?

Mr. Modvig noted that despite many initiatives taken by the Government to combat domestic violence, figures had continued to rise. One such initiative was the Secretariat for the protection of victims, witnesses, experts and other participants in criminal proceedings. How many victims and witnesses were supported? Did indigenous peoples of Panama have the same access to support measures? How many women used the care centres for women set up around the country?

The Committee was informed that only a very small proportion of those entering Panama was actually allowed to go through a refugee status determination procedure, with some 95 per cent considered inadmissible for such an assessment. Would the State party consider a revision of the legislation on asylum and adding a provision which allowed permanent residency for reasons similar to but not covered by the Refugee Convention?

With respect to the universal jurisdiction over persons responsible for acts of torture, why was it that the Criminal Code in its article 19 only included torture committed in a widespread and systematic manner and why the concept of universal jurisdiction did not cover non-systematic and non-widespread cases of torture in Panama's law?

CLAUDE HELLER ROUASSANT, Committee Expert and Co-Rapporteur for Panama, welcomed the political will of Panama's authorities to maintain their reporting obligations towards United Nations treaty bodies.

He highlighted poor conditions in detention in the country with the second highest rate of imprisonment in Latin America. Prison overcrowding was a persistent problem, leading to poor living conditions, including inadequate medical services and lack of drinking water, excessive use of force and preventive holding, in a general environment of drugs and corruption.

Women in detention accounted for less than seven per cent of the whole prison population; they suffered from poor access to justice, nutrition, health and rehabilitation services, shredded links with the family, and lack of facilities for pregnant women. An inter-institutional mechanism on women deprived of their liberty set up in 2011 to improve the conditions of women in detention had not met in the past few months – could the delegation comment?

The Co-Rapporteur welcomed the existence of the disciplinary code for the police which allowed the prosecution

of the police for harming the detainees, and also welcomed the prohibition of the use by state prison officers of disciplinary measures that constituted torture, degrading and ill-treatment including corporal punishment, withholding food, confinement in dark cells, the use of shackles, chains, straight jacket, and all other measures that compromised human dignity of detainees. Prison officers were prohibited from using cruel, ill and degrading treatment on people deprived of their liberty.

The national police was authorized by the law with securing the areas outside of the prisons while the security inside was the responsibility of state prison officers; however, the national police continued to play an important role inside several prisons, and this was an issue of concern.

Was the complaint system available to persons deprived of liberty trustworthy? The National Torture Prevention Mechanism should operate as an independent institutional entity - what was the progress of the implementation of the law establishing the Mechanism, when would the authorities in charge be appointed and what its human and financial resources for 2017-2018 would be?

The Ombudsman Office had a moral and not legal authority to cooperate with the Government and the right to operate without interferences, including in accessing and assessing any public institution or office. At the same time, the Office of Persons Deprived of Liberty was tasked with inspecting places of detention, but it received very few complaints of torture and ill-treatment. What was the nature of complaints received by the Ombudsman Office?

Deplorable conditions in safe houses for persons with disabilities had been reported, they lacked trained personnel and there were reports of persons with physical disabilities not being allowed to use canes. What was the legal status of such safe houses and what certification procedure was in place?

Lesbian, gay, bisexual, transgender and intersex persons in Panama continued to suffer from violence and discrimination, and they still seemed to be rejected by the State, whereas sex workers suffered from the excessive use of force by the police. There was a lack of legal duty of the State towards those populations.

Two indigenous leaders had recently been punished because they had made a deal with a Chinese company without having consulted the community. What was the approach adopted by the State party to that case?

Up until September 2016, some 17,300 irregular migrants had been detained by the border guards in the Darién region, most were Cuban, Haitian and Congolese. There was a rise in the asylum applications by Venezuelan citizens, many of which had been denied. This meant that there were thousands of persons in Panama in need of international protection.

The delegation was asked about progress made in drafting various protocols regulating access to prisons and whether non-governmental organizations had access; the number of investigations into the cases of the excessive use of force and the sanctions meted out; the status of the several cases concerning the victims of the dictatorship which were still pending in the Inter-American Court of Human Rights; and whether the case of enforced disappearance of Heliodoro Portugal would be suspended following the death of the former President Manuel Noriega.

The prison reform aimed at reducing prison overcrowding. Civil society organizations and the Special Rapporteur on Torture had requested the authorities to put an end to the practice of transferring detainees to the high-security prison on the Island of Punta Coco.

What measures had been taken to independently and impartially investigate alleged incidents of excessive use of force by the police in connection with the right to peaceful

assembly of trade union members and indigenous peoples, in particular concerning the events that had occurred at the hydroelectric project in the province of Bocas del Toro?

Corporal punishment of girls, boys and adolescents was not explicitly prohibited, remarked Mr. Heller and asked about the status of the bill on the rights of the child? Necessary amendments needed to be made in the Civil Code and the Family Code as soon as possible as a matter of urgency.

The Commission of 20 December 1989 had been set up in July 2016 to investigate human rights abuses committed during the period between 19 December 1989 and the withdrawal of the United States' invasion troops. What were the reasons for the establishment of the Commission and what was the information about its work?

Questions by the Experts

Experts observed that the prison system in Panama did not meet the constitutional provisions regarding the conditions of detention, and that despite the reform of the prison system and the opening of the new prison of Nueva Joya in 2015, prison overcrowding and living conditions in prisons remained problematic.

Experts were particularly concerned about the high-security prison of Punta Coco, where inmates were exposed to excessive solitary confinement and lacked access to basic services, and where transfers into the prison continued in spite of the recommendation that the prison be closed due to inhumane treatment of inmates.

Juveniles in detention were routinely deprived of basic necessities and beaten by prison guards, and some had even died. What steps would the Government take to improve the conditions in juvenile detention facilities? Why had the age of criminal responsibility been decreased from 14 to 12 years?

Refugee children were not being identified as such and were very often repatriated without their situation being properly evaluated and assessed.

The shortage of and the low salaries of prison staff was a serious problem - what concrete measures would be taken to increase the level of professionalism among prison guards? Had there been any progress with respect to non-invasive body searches?

The most striking feature of the prison life in Panama was gang violence and inmates had access to fire arms. Had there been investigations of deaths in custody that resulted from prisoner-to-prisoner violence? There was a disproportionate number of Afro-Panamanians in prison and they were treated worse than other population groups.

What were the punishments handed down for the crime of femicide?

The Inter-American Court of Human Rights had ordered that the families of victims of torture receive redress, remarked the Experts and asked the delegation to provide data and statistics on the reparations and rehabilitation of victims of torture.

Why was there a difference in the statute of limitation between a systematic and wide-spread torture and the torture committed in an un-systematic manner? The impact on the victims was the same in either case, while such a distinction served only to deprive the victims from bringing their cases to the civil court and obtaining reparations for the harm done, Experts remarked.

Replies of the Delegation

With respect to pre-trial detention, the delegation explained that 54 per cent of the total population had passed trial. All prisons had posters with information on the rights and responsibilities of inmates. As for the training of prison staff, they underwent curriculum with a strong component on

national legislation. The professionalization of the prison staff was one of the priorities of the reform of the penitentiary system, with focus on prevention of torture. The provision of healthcare in prisons remained a challenge. Nevertheless, medical personnel were trained on torture and were required to report signs of torture.

The investigation unit of the Penitentiary System had conducted 65 separate investigations in 2014, 96 in 2015 and 137 in 2016. The complaints system was functioning and during 2017 1,244 complaints had been received. The General Directorate of the Penitentiary System shared the Government's vision of zero tolerance for corruption.

The objective of the penitentiary census was to collect information on the circumstances and conditions of life of persons deprived of liberty, and to come up with penitentiary policies that were rehabilitation-oriented and that guaranteed the security of persons deprived of liberty. The census allowed for the adoption of effective penitentiary measures and to collect reliable data regarding vulnerable populations, such as lesbian, gay, bisexual, transgender and intersex persons, women and juveniles in detention. There was an absolute prohibition of any discrimination based on race, gender, nationality, and religious belief.

Panama had significantly increased the number of public defenders, raising the coverage to one public defender for every 15,000 inhabitants.

As for the case of enforced disappearance of Heliodoro Portugal, a new date for hearing had been set and it would take place in November 2017. According to the Code of Criminal Proceedings, the statute of limitation expired when the maximum sentence for the crime expired. Panama had taken its international commitment and created a subcommittee to draft relevant changes. Accomplices in torture would be punished and would face the maximum sentence. Attempted torture would also carry an appropriate sentence.

Panama had undertaken measures to digitalize information about all relevant trials and sentencing. That system would allow the Government to collect disaggregated data. At the moment, the Government only had general data about trials and sentencing. Between September 2011 and June 2017, there had been 22 cases of femicide, out of which five received sentencing. In the same period, 15,329 cases of domestic violence had been recorded, whereas 579 sentences had been down.

As for violence against children and corporal punishment, the Government of Panama recognized that it had not explicitly prohibited all types of corporal punishment. To deal with that problem, a technical commission had been established.

With respect to the reparation for victims of torture and ill-treatment, the delegation reiterated its standing commitment to democratic processes and demonstrated willingness to pursue the provision of reparations, which was a State policy.

When conducting arrest, the police had to take proportional measures, read the suspects' rights, transfer to a State hospital, and bring the person before a competent authority. The police officer was compelled to inform the arrestee of the reasons of the arrest, and the police unit had to submit a report that the suspect was treated appropriately. The training to mitigate the excessive use of force was in line with the United Nations basic principles on the use of firearms. The general training included professional ethical development, human conduct, consciousness of the duties of the national police force, and the complaints mechanism.

During peaceful demonstrations, police forces were prohibited from using lead, plastic and rubber pellets. Panama guaranteed the right to peaceful assembly and protest without weapons. When public disturbances and threats to third parties occurred, police forces could only use less extreme measures to maintain peace. As for the events

of 2 June 2017 involving lesbian, gay, bisexual, transgender and intersex persons and sex workers, the demonstrators blocked traffic in the area and, as a result, 15 demonstrators had been detained. They had not been handcuffed and they had been accompanied by the Ombudsman Office personnel.

The National Mechanism for the Prevention of Torture had been created in 2017 as a national body attached to the Ombudsman Office. The Government was obliged under law to provide it with the necessary resources. The Ombudsman Office had asked for an extraordinary budget of 800,000 US dollars to initiate the functioning of the Mechanism. In May 2017 an inter-institutional commission had been set up to elaborate regulations for the selection of the Mechanism members.

The participatory process had been used in the drafting of the fourth periodic report of Panama, with the participation of 25 public entities, the Ombudsman Office and non-governmental organizations.

As for the 20 December 1989 Commission, in 2015 the first session of the dialogue with the families of victims had been held, leading to the establishment of the commission. The Commission aimed at ascertaining the truth about what had happened and to honour the victims of the invasion. It was made up of five outstanding professionals who were publicly recognized.

Panama respected the right to self-determination of indigenous peoples. With respect to the practice of *cepo*, the Government was reaching to various indigenous peoples in order to convey to them the importance of respect for the physical autonomy of every individual.

As for the transfer of prisoners to the Punta Coco high-security prison, that transfer was in line with the national public security policy. The Government acknowledged that it faced some security challenges, namely with respect to persons linked with organized crime. Those had to be held in

high-security prisons. The Government was conducting technical and legal assessment across the executive in order to come up with a legal mechanism that would provide greater certainty for persons deprived of their liberty.

The Government had also taken a number of measures to counter the use of solitary confinement in the Punta Coco prison.

As for the bill on prison reform, it aimed at transforming the national prison system to make it more secure and humane, and to guarantee the human rights of those serving administrative sentences. The prison reform revolved around five basic pillars: institutional strengthening, professionalization of the prison staff, ensuring the life and human rights of those deprived of their liberty, improving of the living conditions, and strengthening of rehabilitation programmes.

With respect to women in detention, living conditions for women had been improved in various prisons. There were literacy programmes, primary and secondary education programmes, work education and labour insertion programmes, sports, cultural and religious events. Female inmates also benefited from special reproductive health services. Gender perspective was included in a cross-cutting fashion in the penitentiary system to ensure that women had access to services tailored to their needs.

Follow-up Questions by Experts

JENS MODVIG, Committee Chairperson and Co-Rapporteur for Panama, commended the State party for interactive dialogue with civil society. He recommended that the definition of torture be aligned with the Convention and stressed the importance of gathering relevant statistics which revealed how policies were implemented on the ground.

Did the Code on Criminal Proceedings explicitly stipulate the right of detainees to receive medical assistance? Would the

State party consider that the lawyer also sign the police report to ensure that arrestees were treated adequately? Was it possible to allow legal aid defenders to attend the entire process of interrogation?

Mr. Modvig welcomed the increasing of wages for prison medical staff, noting that prison health was not an attractive field. What were the outcomes of the investigations of cases of death in custody?

What was the State party's response with respect to the issue of asylum seekers not being able to gain refugee status? What oversight mechanism was applied regarding the use of pellets by police forces?

CLAUDE HELLER ROUASSANT, Committee Expert and Co-Rapporteur for Panama, thanked the delegation for having candidly admitted the challenges that Panama faced. When would the prison staff fully take on their responsibilities in all prisons?

As for the resources available to the National Mechanism for the Prevention of Torture, Mr. Heller noted that 800,000 US dollars was not sufficient for its operations. When would the Mechanism be fully integrated and operational? The selection process for its membership and leadership was going at a snail's pace.

Could civil society gain access to the penitentiary system? If that practice existed, how would it be regulated? Who was imprisoned in the Punta Coco high-security prison?

Speaking of police brutality towards indigenous peoples, Mr. Heller asked for additional comments and clarification from the delegation.

An Expert reiterated her questions about enforced disappearances. The State party had an article in its Criminal Code, more or less close to article 1 of the Convention. However, the problem was that the statute of limitation was applied to some crimes committed between

1968 and 1989. Where were the conclusions drawn from? The statute of limitation should not apply to the crime of torture.

The population of African descent was ill-treated in detention, and minors of African descent suffered from general discrimination.

What was the status of victims of torture who had benefited from free legal aid? Was legal aid also offered during civilian proceedings for reparations and redress?

There was an overlap between preventive and reactive measures in preventing torture. How would the State party ensure that the two approaches could coexist?

Experts also drew attention to the issue of training for police on non-coercive interviewing methods, and traditional harmful practices (cepo).

As for prison gang violence, what was done to prevent inmates' access to firearms? Had any prison officers in the La Joyita prison been sanctioned for the use of firearms by prisoners?

What measures was the Government considering in order to improve schooling and extracurricular activities for juveniles in detention?

Experts observed the discrepancy between the number of reported femicide cases and the number of prosecuted cases.

Replies by the Delegation

In case of a death in custody, the responsibility of prison staff was assessed, the delegation explained. The five cases registered in 2016 involved negligence.

Non-governmental organizations had access to the country's prisons.

As for asylum seekers requesting refugee status, the Government was currently reviewing relevant regulations and the Committee's observations would be taken into consideration.

With respect to the timetable for the prison staff to take over the administration of all prisons, that would happen in about four years, when enough graduates had completed their academy education.

There were still open investigations of the cases of smuggling of firearms in prisons. If firearms were found in the possession of inmates, all corresponding investigations were triggered. The delegation clarified that the 11 prisoners held in the Punta Coco prison were believed to be leaders of drug gangs.

As for education programmes for juveniles in detention, Panama was a leader in the region. Great investments had been made in new infrastructure for minors in conflict with the law. Minors reaching the age of 18 would not be sent to prisons for adults, but would remain in juvenile centres.

Article 10 of the Code of Criminal Proceedings stipulated that the right to legal counsel was irrevocable from the very beginning of procedures, unless the suspect wanted to represent himself or herself. There was no record of free legal counsel having been provided to victims of torture. The right to medical examination was also guaranteed under law, and all police officers were required to provide medical assessment.

The delegation explained that there had not been enough of jurisprudence with respect to the crime of femicide.

As for the prosecution of police officers for ill-treatment and abuse of civilians, nine cases were still pending. On non-coercive methods of interviewing, the delegation noted that the national police had to conduct dignified and respectful treatment of citizens in all circumstances.

With respect to the Barro Blanco dam project, the Government had addressed the situation and had begun a 19-month consultation with indigenous communities and private companies involved in the project. The case had been brought to the Inter-American Commission of Human Rights due to a complaint about police brutality. Nevertheless, the Government had established that police brutality had not taken place.

Turning to the potential overlap of the functions of the National Mechanism for the Prevention of Torture with that of the Ombudsman Office, the delegation clarified that the two bodies had been set up by two very different laws. The budgetary resources earmarked for the Mechanism could not be used for other purposes. The appointments to the Mechanism were supposed to take place shortly.

Concluding remarks

ETÉREO ARMANDO MEDINA, Director of the Penitentiary System of Panama, thanked for the comments and recommendations made by the Committee, and he welcomed the positive and constructive dialogue. The Government of Panama acknowledged its legal and practical stumbling blocks. Unfortunately, the practice of torture and ill-treatment continued to be widespread globally. Accordingly, Panama restated its willingness and strict commitment to continue working with the Committee against Torture. The Government would undertake all efforts to comply with international standards, and it would deepen standards to ensure that no act of torture and ill-treatment took place. States had an obligation to adapt their domestic legislation to international standards and to ensure their implementation.

JENS MODVIG, Committee Chairperson, thanked the delegation for the constructive and frank dialogue. He reminded the delegation of the opportunity to submit written replies within 48 hours, which would influence the Committee's concluding observations. The Committee would

point out to several of the most urgent recommendations and would request a follow-up report on them within a year. Mr. Modvig also invited the delegation to submit national implementation plans for the remaining recommendations.