



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

Distr.: General  
11 June 2019  
English  
Original: Spanish  
English, French and Spanish only

## Committee against Torture

### List of issues prior to submission of the initial report of the Dominican Republic\*

#### Specific information on the implementation of articles 1–16 of the Convention

1. In the light of article 74 of the Constitution of the Dominican Republic, which establishes that the Convention takes precedence over national law and is directly and immediately applicable, please provide information on cases in which the Convention has been invoked or applied in the national courts.<sup>1</sup> Please also provide information on the consultations held with national institutions for the promotion and protection of human rights, non-governmental organizations and other organizations in the process of preparing the initial report of the Dominican Republic.<sup>2</sup>

#### Articles 1 and 4

2. Please provide information on the steps taken by the State party to bring articles 303–303.4 of the Criminal Code (Act No. 24-97) into line with article 1 of the Convention. Please indicate whether there is a timetable for the amendment of this Code. In addition, please clarify: (a) what penalties apply in cases of torture committed by public officials, in the light of article 198 (2) of the Criminal Code; (b) whether attempted torture is a criminal offence; (c) whether national legislation provides for the criminal responsibility of all superior officials who consent to or acquiesce in torture or ill-treatment; (d) whether national legislation establishes a statute of limitations for the crime of torture in cases where it does not amount to a crime against humanity; (e) whether military criminal law includes provisions relating to torture offences and, if it does, please provide information on their content and the related penalties; and (f) whether there are any other administrative or regulatory provisions relating to the prohibition of torture.

#### Article 2

3. Please provide information on legislative and other measures taken by the State party to ensure that all persons deprived of their liberty enjoy all fundamental safeguards from the outset of deprivation of liberty, specifically: (a) formal registration of their arrest and detention; (b) the right to be informed of their rights and the reasons for their detention; (c) the right of indigent persons to receive legal assistance from a public defender; (d) the right to notify a person of their choice of their detention; (e) the right to be brought before a judge without delay and to be informed of the applicable time limits; (f) the right to

\* Adopted by the Committee at its sixty-sixth session (23 April–17 May 2019).

<sup>1</sup> Guidelines on the form and content of initial reports under article 19 to be submitted by States parties to the Convention against Torture (CAT/C/4/Rev.3), para. 4.

<sup>2</sup> Ibid.; CCPR/C/DOM/CO/6, paras. 5–6; E/C.12/DOM/CO/4, paras. 7–8.



challenge the lawfulness of their detention (habeas corpus); and (g) the right to seek and undergo a medical examination, conducted in accordance with the principles of confidentiality and privacy, by independent medical personnel or medical personnel of their choice. Please also indicate whether there is emergency or anti-terrorism legislation that could restrict the guarantees of detainees and whether incommunicado detention is practised.

4. Please indicate how the State party ensures, in practice, that fundamental legal safeguards are afforded to all persons deprived of their liberty. In the light of allegations of torture and ill-treatment being used by the police as a means of obtaining confessions, please also indicate whether the State party has installed, or plans to install, video surveillance systems in places of detention.

5. Please clarify whether there is legislation or jurisprudence relating to the prohibition on invoking superior orders, including orders from military authorities, as a justification for torture.<sup>3</sup> Please also indicate whether there are any circumstances in which a subordinate is lawfully permitted to oppose an order to commit acts of torture and provide information on the recourse procedures available to the subordinate in such circumstances and on any such cases that may have occurred. In addition, please clarify whether the concept of “due obedience” as a criminal law defence has any impact on the effective implementation of the prohibition on invoking superior orders as a justification for torture.

6. Please indicate what steps have been taken to ensure that the Ombudsman’s Office has the independence, budget, infrastructure and human resources necessary to carry out its mandate in full, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please provide statistical data, disaggregated by year and by the age group (minor/adult), sex and ethnic origin or nationality of the victim, on the number of complaints of torture and ill-treatment received by the Ombudsman’s Office since its establishment in 2013, on ex officio investigations conducted by the Office and on the follow-up given to such investigations. Please clarify whether the Office can make unannounced visits to detention centres, indicate how many such visits it has made annually since its establishment and describe any follow-up being given to the recommendations resulting from such visits.

### **Article 3**

7. Please indicate whether the principle of non-refoulement is recognized under the legislative framework regulating the expulsion of undocumented migrants, extradition and asylum, in accordance with article 3 of the Convention. Please also clarify which authority decides whether a person is to be extradited, expelled or returned and whether this authority has a legal obligation to consider in each case the personal and foreseeable risk of the person concerned being subjected to torture in the country of destination. Please explain how compliance with this obligation is ensured in practice and on the basis of which criteria compliance is determined. In addition, please clarify whether it is possible to appeal an extradition, expulsion or refoulement decision and, if so, indicate with which authority appeals are filed, which procedure is applicable and whether appeals and applications for asylum have a suspensive effect on expulsion and extradition decisions.

8. In the light of reports of mass deportations, including refoulement at the border without due respect for procedural safeguards, please clarify whether persons subject to expulsion, refoulement or extradition orders are informed of their right to apply for asylum and/or appeal an expulsion/extradition decision and of the prescribed time limits for requesting asylum and appealing a refused asylum application or an expulsion/extradition decision. Please also indicate how asylum seekers are guaranteed access to legal assistance and interpretation services throughout the asylum procedure and whether these services are provided free of charge by an independent provider.

9. Please provide information on existing mechanisms or protocols for the identification and immediate referral of vulnerable asylum seekers, including victims of torture, human trafficking and gender-based violence, and whether these mechanisms

---

<sup>3</sup> CAT/C/4/Rev.3, para. 11.

include an independent medical examination. If so, please indicate how many independent medical examinations were conducted in each of the past five years and in how many cases the examiners found evidence of torture or gender-based violence having been perpetrated. Please also indicate what steps have been taken to ensure that unaccompanied or separated children and victims of torture or trauma who are seeking asylum are treated in a manner consistent with their specific needs.

10. Please provide detailed statistical information for the past five years, disaggregated by the sex, country of origin or nationality and age group (minor/adult) of the victim, on: (a) the number of asylum applications registered; (b) the number of applications for asylum or other forms of humanitarian protection approved and the number of asylum seekers whose applications were granted because they had been tortured or ran the risk of being tortured if returned; (c) the number of persons who were returned, extradited or expelled, indicating the grounds on which they were returned and providing a list of the countries of destination; and (d) the number of appeals filed against expulsion decisions on the basis that the applicants could be in danger of being subjected to torture and ill-treatment in their countries of origin, and the results of these appeals.

11. Please indicate the number of refoulements, extraditions and expulsions carried out by the State party over the past five years after receiving diplomatic assurances or the equivalent thereof, as well as the number of cases in which the State party has provided diplomatic assurances or guarantees. Please indicate the minimum required content of these assurances or guarantees, whether given or received, and the arrangements made for subsequent monitoring in these cases.

#### **Articles 5–9**

12. Please provide information on the legislative or other measures taken to establish jurisdiction in the cases covered by article 5 of the Convention and include examples of occasions in which the provisions established in paragraph (1) (b) and (c) of this article were applied. Please indicate whether the State party has for any reason refused another State's request for the extradition of an individual suspected of having committed acts of torture and whether it has initiated prosecution proceedings against this individual as a result. If so, please provide information on the applicable legal provisions and the outcome of the proceedings.

13. Please indicate whether torture and the related offences mentioned in article 4 of the Convention are extraditable offences and whether they are covered in extradition treaties concluded with other States parties. Please provide information on cases in which the State party has agreed to extradite a person for torture or related offences.

14. Please describe the mutual assistance treaties or agreements that the State party has entered into with other entities, whether countries, international courts or international institutions, and indicate whether, in application of these treaties or agreements, evidence related to prosecutions for torture and ill-treatment has actually been shared in practice. Please provide examples.

#### **Article 10**

15. Please provide information on training programmes conducted by the State party with a view to ensuring that all public officials, including, in particular, members of the armed forces, police officers, law enforcement officials, prison officers and immigration and border control officers: (a) have a full understanding of the provisions of the Convention and are aware that violations will not be tolerated and will be investigated, and that those responsible will be prosecuted; (b) treat members of vulnerable groups appropriately, with due regard for their gender, cultural or ethnic affiliation and sexual orientation or gender identity; and (c) are aware of the provisions guaranteeing the right to asylum and facilitating the identification of applicants who may be victims of torture, human trafficking and gender-based violence. Please indicate whether this training is mandatory or optional, how often it is provided, how many officers, as a proportion of their total number, have received the training, whether there are plans to provide training for officers who have yet to receive it, and whether the State party has developed a

methodology to assess the effectiveness and impact of its training programmes in terms of reducing the number of cases of torture and ill-treatment. If so, please provide information on the methodology's content and application.

16. Please provide detailed information on the training programmes organized for judges, prosecutors, forensic doctors and other medical staff who deal with persons deprived of their liberty to equip them to detect and document the physical and psychological consequences of torture. Please indicate whether these programmes include specific training about the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

#### **Article 11**

17. Please describe the procedures established to ensure compliance with article 11 of the Convention and provide information on interrogation rules, instructions, methods and practices and arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment that are intended to prevent cases of torture and ill-treatment.

18. Please provide statistical data for each of the past five years, disaggregated by the place of detention, sex, age group (minor/adult) and nationality of detainees, on the capacity and occupancy rate of all places of detention, the number of persons being held in pretrial detention and the number of prisoners serving sentences. Please also provide information on the steps taken to prevent overcrowding in places of detention and to increase the use of alternatives to pretrial detention and imprisonment, particularly in cases involving adolescents in conflict with the law.

19. In the light of Supreme Court judgment No. 555/17, which states that detention conditions in prisons "amount to a serious and flagrant breach of the constitutional order", please indicate what steps have been taken to ensure adequate living conditions, hygiene and sanitation in all places of detention and to provide appropriate food and medical assistance in prisons. Please name the places of deprivation of liberty where educational, work and recreational programmes are yet to be implemented, indicate whether medical examinations are routinely carried out upon admission to detention centres and describe the procedure by which medical personnel can report signs of ill-treatment without risk of reprisals.

20. Please provide information on measures adopted to ensure the separation of pretrial detainees from convicted prisoners, minors from adults and men from women, and specify in which places of deprivation of liberty detainees are yet to be separated in this way. Please provide information on the State party's efforts to address the specific needs of children and adolescents in comprehensive care centres for adolescents in conflict with the law, particularly with respect to, inter alia, educational services, access to adequate food and medicine and protection against violence, and to address the needs of women deprived of their liberty. Please indicate whether women are guarded by personnel of the same sex.

21. Please provide information on the disciplinary system in places of detention and indicate whether there is a procedure that guarantees due process. Please also provide information on: (a) the maximum duration, in law and in practice, of solitary confinement; (b) the measures in place to ensure that solitary confinement is not imposed on children and adolescents in conflict with the law or persons with psychosocial disabilities; (c) whether a register of disciplinary penalties is kept in all places of detention and whether the proportionality of penalties is monitored; and (d) the living conditions in solitary confinement cells.

22. Please provide information on the frequency of violent incidents among prisoners, including information on any cases involving possible negligence on the part of prison personnel, and on the number of complaints of ill-treatment by prison personnel made over the past five years. Please provide data on the complaints received and the follow-up given to these complaints, as well as on corruption among prison personnel, such as the alleged collection of fees from prisoners.

23. Please provide statistical data from each of the past five years on the number of deaths of persons in detention, including in mental health institutions and police detention centres, disaggregated by place of detention, sex, age group (minor/adult) and ethnic origin or nationality of the deceased and cause of death in each case. Please provide detailed information on the results of investigations into these deaths, the number of deaths attributed to assaults committed or tolerated by public officials in which excessive force was used or timely medical assistance and treatment was lacking, and the steps taken to prevent similar cases from occurring in the future. In particular, please provide information on the outcome of investigations into the incident that resulted in the death of three prisoners and left two more seriously injured on 1 June 2018 in Corrections and Rehabilitation Centre No. 11 in San Pedro de Macorís following an unsuccessful attempt to escape.

24. Please describe the procedure and criteria used to assess the necessity and proportionality of placing undocumented migrants in administrative detention and indicate the maximum duration of administrative detention for migration reasons that is permitted by law. Please also indicate whether asylum seekers may be placed in administrative detention and, if so, under what conditions, and describe the alternatives to administrative detention that exist. Please clarify whether decisions to impose administrative detention are periodically reviewed and whether it is possible to challenge the lawfulness and proportionality of such decisions and the duration of the detention they impose. Please provide yearly statistical data, disaggregated by the sex, age group (minor/adult) and nationality of detainees, on the number of persons detained for migration reasons over the past five years, the maximum and average duration of detention each year and the proportion of the total number of cases per year in which alternatives to detention were used. In addition, please clarify what proportion of the total number of asylum seekers are detained every year and indicate the average duration of their detention. Please provide information on the category and conditions of administrative detention under which undocumented migrants are held and indicate whether the separation of men from women is guaranteed.

25. Please provide information on the measures envisaged to ensure that families of undocumented migrants with children, as well as unaccompanied child migrants, are detained only as a last resort and for the shortest time possible, and clarify under what category of detention and in which type of establishment they are held if they are detained. Please also indicate what steps have been taken to ensure that temporary identity documents are promptly issued to refugee and asylum-seeking children and members of their families free of charge so as to prevent the risk of their being detained or deported.

26. Please provide information on the procedural and substantive guarantees that are applicable to the involuntary confinement of persons with psychosocial disabilities and of children and adolescents living in residential care homes. Please also provide information on the measures in place to prevent the out-of-home care of children and adolescents and the confinement of persons with psychosocial disabilities, such as community-based rehabilitation services and other outpatient treatment programmes. Please specify the number of persons interned in each of the past five years in: (a) psychiatric hospitals and other institutions for persons with psychosocial disabilities and (b) care homes for children and adolescents. Please clarify whether there is an independent mechanism for overseeing these institutions and whether there are accessible channels for reporting, monitoring and remedying any ill-treatment that occurs within them. In addition, please provide information on the use of physical and chemical means of restraint and other medical non-consensual coercive measures on persons admitted to psychiatric institutions.

### Articles 12–13

27. Please indicate which authorities are competent to initiate and carry out an investigation, at both the criminal and disciplinary levels, when there is reason to believe that an act of torture or ill-treatment has been committed under the State party's jurisdiction. In this regard, please specify:

(a) Which police oversight body is competent to initiate a criminal or disciplinary investigation into cases where there is evidence of torture or ill-treatment by

police officials, how this body interacts with the Attorney General's Office and the Ombudsman's Office during the investigation and what safeguards are in place to ensure that there is no hierarchical or institutional link between the suspected perpetrators and the inspectors;

(b) Which internal oversight body is competent to intervene in cases where there is evidence of torture or ill-treatment by prison or military personnel and how this body interacts with the Attorney General's Office and the Ombudsman's Office during the investigation;

(c) Whether the Attorney General's Office is required to initiate an ex officio investigation where there is reason to believe that an act of torture or ill-treatment has been committed and to request that the potential victim undergo a forensic medical examination;

(d) Whether the alleged perpetrator is automatically suspended from his or her functions while the investigation is being conducted and/or prohibited from further contact with the alleged victim.

28. Please indicate what remedies are available to persons who claim to have been subjected to acts of torture or ill-treatment, especially persons deprived of their liberty, and what remedies are available to complainants in the event that the competent authorities refuse to investigate their case. In addition, please explain how the State party guarantees the confidentiality and independence of the system for receiving complaints of torture and ill-treatment in cases where the victim is deprived of their liberty and indicate what mechanisms are in place to protect victims of torture and ill-treatment, members of their family, witnesses and investigators against any form of intimidation or reprisal arising as a consequence of complaints submitted.

29. Please provide statistical data for each of the past five years, disaggregated by sex, age group (minor/adult) and ethnic origin or nationality of the victim and the service to which the accused person belongs, on complaints of actual or attempted acts of torture and ill-treatment and complicity, participation or acquiescence in such acts. Please indicate how many ex officio investigations have been opened into the above-mentioned offences. Please provide information on all judicial and disciplinary proceedings initiated, convictions handed down, decisions to stay proceedings made, cases shelved, and criminal penalties and disciplinary measures imposed. In particular, please provide information on the outcome of the investigations into the alleged torture of (a) Arcenes Ceneus (Wilson Celiant) in April 2016 and (b) Luis Manuel Lember Matínez and Eduardo Luis Cruz in April 2014.

#### **Article 14**

30. Please describe the procedure established in the State party to ensure that victims of torture and their families obtain redress. In the light of article 61 of the National Police Institutional Act, please clarify whether the State party is legally responsible for the conduct of perpetrators of torture and ill-treatment and is therefore obliged to compensate the victims. Please also clarify whether the right to receive compensation for torture or ill-treatment is dependent on a judgment having been handed down in criminal proceedings and whether civil proceedings related to torture and ill-treatment are subject to a statute of limitations.

31. Please provide information on rehabilitation programmes for victims of torture and ill-treatment, the material, human and budgetary resources allocated to these programmes and the degree of cooperation with specialized non-governmental organizations in this area.

32. In the light of paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14, please provide information on redress and compensation measures, including the means of rehabilitation, ordered by the courts and actually provided to victims of torture or their families over the past five years. This should include the number of requests for compensation that have been made, the number of requests granted and the amounts awarded and actually disbursed in each case.

**Article 15**

33. Please provide information on legal provisions concerning the prohibition on using statements obtained through torture as evidence. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

**Article 16**

34. Please provide information on the measures adopted by the State party to ensure the safety and physical integrity of human rights defenders, social leaders and journalists by protecting them against any acts of intimidation or violence that they may face in the course of their activities. Please indicate how many complaints of acts of violence and intimidation have been registered against members of these groups on an annual basis over the past five years, specifying those in which the alleged perpetrators are State actors. Please also provide detailed information on the outcome of the criminal investigations opened into these complaints and the related prosecutions and penalties, with particular regard to: (a) the killing of the journalist Luis Manuel Medina and the radio producer and director Leónidas Martínez in 2017; (b) the alleged abuse, threats and insults directed towards members of the National Human Rights Commission by members of the security forces and local mayors, particularly the allegations that Saturnino Reyes was abused by police officers on 12 July 2018 and that José García and Ángel Días were physically and verbally assaulted in September 2018; (c) the irregular detention of Juan Núñez, spokesperson of the Union of Sugar Cane Farmers, on 16 October 2018; (d) the death threats directed against Juan Bolívar Díaz, Luis Eduardo Lora Iglesias, Roberto Cavada and Amelia Deschamps in 2015; (e) the harassment of Fausto Rosario Adames and members of his family in 2013; and (f) the harassment and abuse directed against Sonia Pierre, leader of the Dominican-Haitian Women's Movement, in 2011.

35. Please indicate what legislative and other measures have been taken by the State party to combat hate crimes and acts of intolerance against specific groups, including: (a) migrants and persons of Haitian descent, such as attacks against and the eviction of Haitians from the area of Galindo in North Santo Domingo in January 2018 and the community of Ortega in 2015, indicating what mechanisms are available to migration control agencies such as the General Directorate of Migration, the Specialized Land Border Security Agency and the Army, for identifying and punishing potential acts of violence committed by their officials against migrants during migration-related detention and deportation procedures; and (b) lesbian, gay, bisexual, transgender and intersex persons, particularly transgender women. Please provide data on cases of hate crime identified over the past five years disaggregated by grounds for discrimination, the sex, age group and ethnic origin or nationality of the victim and whether the perpetrator was a public official. Please provide information on the outcome of the investigations and prosecutions conducted in each case and the sentences and penalties imposed.

36. Please indicate what steps have been taken to address police brutality and the excessive use of force by law enforcement officials, including extrajudicial killings, and allegations that public officials have been complicit in acts of violence linked to contract killing and drug trafficking. In particular, please provide:

(a) Information on the steps taken to ensure that the regulations on the use of force, particularly lethal force, and the application thereof are fully in line with international standards and that law enforcement and security officials undergo training on these standards, as recommended by the Human Rights Committee;

(b) Information on the steps taken to withdraw the armed forces from public safety assignments, especially the so-called "mixed patrols";

(c) Yearly statistical data, disaggregated by the type of offence and the sex, age group and ethnic origin or nationality of the victim, on the number of cases of excessive use of force and extrajudicial killings by public officials identified in the past five years and the number of prosecutions sought, convictions secured and penalties imposed in relation to these cases. In particular, please provide information on the outcome of the investigations into the alleged extrajudicial killings of: (i) Cristopher Cristian Rosario and Carlos Andrés

de Jesús Alcántara on 20 January 2018; (ii) Reynaldo Ambiorix Valdez Luciano and Amauris Pérez Chacón on 26 January 2018; (iii) Argenis Cruz Orozco on 29 January 2018; (iv) Queibin Bonifacio Valdez in May 2018; (v) Juan José Silvestre Pacheco on 3 August 2018; (vi) José María Figueroa De Paula on 18 July 2018; Ruben Darío Hipolite Martinez on 9 November 2018; (vii) two men at the new market in Capotillo by patrolling officers of the National Directorate of Drug Control on 25 October 2018; (viii) Steven Ortega Javier on 28 June 2016; and (ix) Walder Sánchez on 30 May 2014.

37. Please provide information on the steps taken to combat all forms of violence against women, with particular regard to cases that involve acts or omissions on the part of State authorities or other entities that engage the State party's international responsibility in accordance with the Convention. Please also provide information regarding:

(a) Whether there are plans to amend the Criminal Code to: (i) guarantee safe, legal and effective access to voluntary termination of pregnancy when the life or health of the pregnant woman or girl is in danger and when carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is the result of rape or incest or is not viable; (ii) make all forms of violence against women criminal offences; (iii) put an end to use of the remedy of conciliation between aggressors and victims and the practice of not pressing criminal charges against rapists who marry their child victims;

(b) The protection services, support and legal assistance available to victims of all forms of violence against women, including human trafficking;

(c) The current capacity of shelters for women victims of gender-based violence or human trafficking, specifying whether the shelters cover existing demand;

(d) Yearly statistic data, disaggregated by the type of crime or offence and by the age group (minor/adult) and ethnic origin or nationality of the victim, on the number of incidents registered, complaints submitted, investigations opened, prosecutions sought, sentences handed down and penalties imposed over the past five years in cases of gender-based violence, including domestic violence, femicide, rape and human trafficking, as well as the number of restraining orders issued and the reparations afforded to victims during this period. Please also indicate how many members of the security forces were implicated in cases of trafficking and gender-based violence during the same period.

38. Please indicate what steps have been taken to ensure that the corporal punishment of children is expressly prohibited in all circumstances. Please also indicate what steps have been taken to combat the sexual exploitation and abuse of children and adolescents, with particular regard to cases involving acts or omissions on the part of State authorities or other entities that engage the international responsibility of the State party in accordance with the Convention. Please also provide information on the protection services, support and legal advice available to victims of the sale, sexual exploitation and abuse of children. In addition, please provide information on the number of complaints submitted, investigations opened, prosecutions sought, convictions secured and penalties imposed over the past five years in (a) cases involving the physical punishment of children and (b) cases of child sexual exploitation.

### **Other issues**

39. Please indicate whether the State party has considered ratifying the Optional Protocol to the Convention and recognizing the competence of the Committee in accordance with article 22 of the Convention.

### **General information on other measures and developments relating to the implementation of the Convention in the State party**

40. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken to implement the provisions of the Convention since its ratification by the State party, including institutional developments, plans or programmes.

Please indicate the resources allocated for this purpose and provide relevant statistical data.  
Please also provide any other information that the State party considers relevant.

---