



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

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## Committee against Torture

### List of issues prior to submission of the fourth periodic report of the Philippines\*

#### Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee's previous recommendations

##### Follow-up questions from the previous reporting cycle

1. In its previous concluding observations (CAT/C/PHL/CO/3, para. 43),<sup>1</sup> the Committee requested the State party to provide further information regarding areas of particular concern identified by the Committee, namely concerning pretrial detention and overcrowding (para. 14), the measures taken with regard to torture and ill-treatment (para. 16) and the steps taken to close all secret places of detention (para. 22). The Committee regrets that the State party has not yet submitted a follow-up report, which was due on 13 May 2017. The aforementioned areas of concern are discussed below under the corresponding articles of the Convention.

##### Article 2<sup>2</sup>

2. With reference to the Committee's previous concluding observations (para. 8), please provide updated information on the measures taken to effectively implement the Anti-Torture Act of 2009 (Republic Act 9745) with a view to eliminating impunity for acts of torture and ill-treatment. Please indicate the number of convictions handed down under the Act during the period under review and details thereof. Please also inform the Committee about the work of the oversight committee created under section 20 of the Act and provide information on whether that committee has established a database for systematically collecting information on the implementation of the Act – including on investigations, prosecutions, access to medical evaluations, acts of reprisal and the implementation of the rehabilitation programme – and submitted an inventory of all detention centres and facilities.

\* Adopted by the Committee at its sixty-fifth session (12 November–7 December 2018).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

<sup>2</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.



3. With regard to the Committee's previous concluding observations (para. 10), please provide information on the measures adopted to guarantee that all detained persons are afforded in practice all fundamental legal safeguards from the outset of their deprivation of liberty, such as being informed orally and in writing about the charges against them and about their rights, having prompt access to a lawyer or legal aid, having the opportunity to immediately request and receive a medical examination by an independent doctor, having their detention recorded in a register, having the opportunity to notify a family member or any other persons of their own choice of their deprivation of liberty immediately after apprehension, and being brought promptly before a judge.

4. Further to the previous concluding observations (para. 12), please inform the Committee on the steps taken to put an end to arrests without a warrant, including the specific measures to ensure that all arrested persons are immediately registered and to hold criminally, civilly and administratively liable all officials who arrest persons without a legal basis. Please provide detailed information on the reported practice of arresting loiterers as part of a "crime prevention" campaign, and indicate the measures in place to prevent police from arbitrarily implementing this campaign. Please provide recent examples of investigations conducted into complaints of warrantless arrests.

5. In relation to the Committee's previous concluding observations (para. 22), please provide information on the measures adopted to close all secret places of detention,<sup>3</sup> including the one in Laguna Province, and on any investigations conducted into cases of torture and ill-treatment committed in secret places of detention and the outcome of those investigations. Please inform the Committee about the status and outcome of the investigation into allegations of torture of detainees held in a reportedly closet-sized secret cell in Raxabago Police Station in Tondo, in the Manila Police District, which was discovered by the Commission on Human Rights of the Philippines in April 2017.

6. In the light of the Committee's previous concluding observations (para. 24) and the national anti-drug campaign that was launched in 2016, please state how the State party is in compliance with the Convention given the extremely high number of cases of extrajudicial killings committed during the anti-drug operations as well as the reported acquiescence of the State party in such acts. In particular, please provide information on:

(a) Any measures taken by the high-level authorities to issue a public statement unambiguously affirming that extrajudicial killings will not be tolerated and any person committing or participating in such acts or acting as an accomplice will be held personally responsible before the law and liable to criminal penalties;

(b) The specific measures adopted to prevent, investigate and prosecute extrajudicial killings and enforced disappearances, especially those attributable to the authorities, including at the national government level, and particularly with regard to the anti-drug operations;<sup>4</sup>

(c) Whether the State party envisages retracting the shoot-to-kill order issued by President Rodrigo Roa Duterte;<sup>5</sup>

(d) The measures taken to ensure prompt, impartial and effective investigations into cases of extrajudicial killings and enforced disappearance, and the prosecution and conviction of perpetrators, including those with command responsibility.<sup>6</sup> Please provide recent examples of such investigations;

(e) Any compensation available and actually provided to victims of extrajudicial killings and enforced disappearance and to their families;

(f) Statistical data on the number of victims, complaints, investigations, prosecutions, convictions and sentences imposed in cases of extrajudicial killings and enforced disappearance. In this regard, please comment on the reportedly narrow definition of "extrajudicial killing" in Administrative Order 35, which excludes the extrajudicial

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<sup>3</sup> A/HRC/WG.6/27/PHL/3, para. 42.

<sup>4</sup> Ibid., para. 32.

<sup>5</sup> Ibid., paras. 5 and 35.

<sup>6</sup> Ibid., paras. 32, 38 and 54.

killing of suspected criminals by the police,<sup>7</sup> and provide information on the work of the inter-agency body created under the same Administrative Order to prevent and investigate extrajudicial killings;

(g) Efforts to effectively implement the Anti-Enforced or Involuntary Disappearance Act,<sup>8</sup> and to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

7. Please provide information on all the measures taken during the reporting period to combat impunity for extrajudicial killings committed by security officers. Please respond to reports that high-level officials, including President Duterte, have publicly condoned and encouraged extrajudicial killings,<sup>9</sup> and that many police officers escaped accountability by falsifying evidence and claiming self-defence. Please also provide information on the outcome of the investigations and disciplinary or criminal proceedings in the following cases:

(a) The killings of 13 suspected drug dealers on 21 March 2018 and of 32 suspects in August 2017 during anti-drug raids in Bulacan;

(b) The alleged killing of Paquito Mejos by members of the Philippine National Police for being a drug suspect, at his home on 14 October 2016;

(c) The reported holding in secret detention and killing of Jee Ick-Joo, a national of the Republic of Korea, by members of the Philippine National Police in October 2016;

(d) The alleged killing of Rolando Espinosa, then mayor of Albuera, Leyte, by members of the Criminal Investigation and Detection Group of the police on 5 November 2016 while detained in jail in Baybay;

(e) The reported execution of Kian delos Santos by police officers during an anti-drug operation in Caloocan City on 16 August 2017.

8. With reference to the previous concluding observations (para. 26), please provide information on the measures to address the underreporting of torture and ill-treatment committed by public officials. In particular, please indicate the measures taken to:

(a) Inform victims of torture and ill-treatment, their families and witnesses about the laws and procedures for lodging complaints;

(b) Strengthen protection measures for victims of torture, their families and witnesses, including by adequately funding protection programmes run by the Commission on Human Rights of the Philippines and the Department of Justice, and prevent and investigate incidents of reprisals and other forms of harassment;

(c) Ensure that health professionals documenting torture and ill-treatment are able to examine victims independently, maintain the confidentiality of medical records and report to the authorities signs of torture and ill-treatment without fear of reprisal. Please indicate whether it is ensured that health professionals are not hierarchically subordinated to the head of the detention facility or other security organs.

9. With reference to the Committee's previous concluding observations (para. 32), please provide information on the steps taken to establish a national preventive mechanism in compliance with the Optional Protocol to the Convention.<sup>10</sup> Please provide information on the interim national preventive mechanism created within the Commission on Human Rights of the Philippines, including its functional and institutional mandate, financial and human resources and independence and the visits that it has conducted. Please indicate the efforts made to ensure regular monitoring of places of detention by non-governmental organizations.

10. Further to the Committee's previous concluding observations (para. 34), please provide information on the steps taken to enable the Commission on Human Rights of the

<sup>7</sup> Ibid., para. 31.

<sup>8</sup> Ibid., para. 40.

<sup>9</sup> Ibid., para. 36.

<sup>10</sup> Ibid., para. 6.

Philippines to carry out its mandate independently and effectively, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In particular, please provide information on:

- (a) The annual budgets assigned to the Commission during the reporting period;
- (b) The efforts made to expedite the adoption of the charter of the Commission;<sup>11</sup>
- (c) The measures in place to ensure that the Commission conducts investigations into allegations of police abuse, in particular extrajudicial killings committed in relation to the anti-drug campaign, without undue influence or fear of reprisal;<sup>12</sup>
- (d) Whether the Commission is able to make regular and unannounced visits to all places of detention, including police stations and psychiatric institutions, without any restriction. In this regard, please respond to reports that the Commission was denied prompt access to the Cebu Provincial Detention and Rehabilitation Centre in March 2017 and to the La Union Provincial Jail in San Fernando in March 2018.

11. With reference to the Committee's previous concluding observations (para. 40), please clarify whether the Executive Orders No. 003 and No. 030 of Manila City, which have reportedly led to inadequate access to sexual and reproductive health services and subsequent damage to women's mental and physical health, have been officially revoked. Please also provide information on the measures taken to revoke other similar orders, such as Executive Order No. 03 of Sorsogon City. Please also provide information on measures taken to:

- (a) Afford all women adequate access to sexual and reproductive health services, in particular to safe and modern methods of contraception,<sup>13</sup> and restore access to emergency contraceptives for victims of sexual violence;
- (b) Allow for legal exceptions to the prohibition of abortions in specific circumstances, such as when the pregnancy endangers the life or health of the woman, when it is the result of rape or incest and in cases of fetal impairment, and put in place mechanisms to ensure that these exceptions are honoured in practice;
- (c) Establish a confidential complaints mechanism for women subjected to discrimination, harassment or ill-treatment while seeking post-abortion or post-pregnancy treatment or other reproductive health services;
- (d) Combat ill-treatment of women seeking post-pregnancy care in government hospitals and provide effective legal remedies to victims.

12. Please provide information on the measures taken to eliminate all forms of violence against women, particularly with regard to cases involving the actions or omissions of State authorities or others that engage the State party's international responsibility in accordance with the Convention, and to address the issue of underreporting by victims.<sup>14</sup> Please provide annual statistical data, disaggregated by sex, age, and ethnicity or origin, on the number of victims, complaints, investigations, emergency protection orders, prosecutions, convictions and sentences imposed in cases of violence against women, including sexual and domestic violence.

13. With regard to the State party's efforts to combat trafficking, please provide disaggregated data on the number of investigations and prosecutions and the sentences handed down to perpetrators in cases of human trafficking during the period under review. Please indicate what measures have been taken to:

- (a) Reduce the backlog of trafficking cases filed in court;

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<sup>11</sup> Ibid., para. 3.

<sup>12</sup> Ibid., para. 38.

<sup>13</sup> Ibid., para. 7.

<sup>14</sup> CEDAW/C/PHL/CO/7-8, para. 25.

(b) Address the continued occurrence of trafficking involving Filipina female domestic workers and to prevent the phenomenon;<sup>15</sup>

(c) Ensure that public officials allegedly involved in trafficking are promptly and impartially investigated, prosecuted and, if found responsible, punished.

### Article 3

14. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might have been subject to torture if returned to their country of origin. Please provide information on the steps taken to ensure the identification of victims of torture among asylum seekers. Please also include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled. Please indicate the grounds on which they were sent back, and provide a list of countries to which individuals were returned. Please provide updated information on the type of appeal mechanisms that exist, any appeals that have been made and the outcome of those appeals.

15. Please indicate the number of cases of refoulement, extradition and expulsion carried out during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What is the minimum content of such assurances, whether given or received, and what measures have been taken in such cases with regard to subsequent monitoring?

### Articles 5–9

16. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention.

17. Please clarify what treaties or agreements on mutual judicial assistance the State party has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture and ill-treatment. Please provide examples.

18. Please indicate whether the State party has rejected the request of a State for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

### Article 10

19. With reference to the Committee's previous concluding observations (para. 36), please provide information on training provided to all law enforcement officials, prison staff,<sup>16</sup> security officers, border guards and other public officials involved in the implementation of the Anti-Torture Act on the prohibition of torture and other cruel, inhuman and degrading treatment in accordance with section 21 of the Act as well as the Convention. Please provide information on the methodology used to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment.

20. Please clarify whether training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) is being provided to medical personnel and law enforcement and judicial officials who deal with detainees and asylum seekers and are involved in the investigation and documentation of cases of torture. Please indicate whether the training is regular and compulsory, the overall size of the target group and the percentage trained during the period under review.

<sup>15</sup> A/HRC/WG.6/27/PHL/2, para. 42.

<sup>16</sup> Ibid., para. 26.

**Article 11**

21. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous periodic report. Please indicate the frequency with which they are reviewed.

22. With reference to the Committee's previous concluding observations (para. 14), please indicate what measures have been adopted to address the concern about the high number of pretrial detainees. Please provide information on the specific steps taken to:

(a) Release detainees whose pretrial detention exceeds the maximum penalty for their alleged offences and review the legality of the pretrial detention of all detainees;

(b) Reduce the backlog of cases in the courts,<sup>17</sup> including by filling the vacancies of judges and prosecutors, and expedite the cases of persons held under the Comprehensive Dangerous Drugs Act;

(c) Guarantee fundamental legal and procedural safeguards to persons in pretrial detention, in particular the right to be brought before a judge without delay;

(d) Increase the use of non-custodial measures in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(e) Provide redress and compensation to victims of unjustified prolonged pretrial detention.

23. In the light of the previous concluding observations (para. 28), please provide information on the specific measures taken to bring the conditions of detention into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). In particular, please indicate the steps taken to alleviate severe prison overcrowding,<sup>18</sup> including the use of alternatives to imprisonment both before and after trial. Please provide statistical data, disaggregated by sex, age, and ethnic origin or nationality, on the number of pretrial detainees, convicted prisoners and persons deprived of their liberty in psychiatric hospitals and institutions for persons with psychosocial or physical disabilities, and the occupancy rate of all places of detention. Please indicate the measures taken to:

(a) Improve the substandard material conditions, particularly the sanitary conditions, of detention facilities, including police lock-up cells and immigration detention centres such as the one in Bicutan,<sup>19</sup> and to enhance out-of-cell activities for detainees;<sup>20</sup>

(b) Afford all detainees adequate access to medical care, in particular for the prevention and treatment of infectious diseases; improve the quality of prisoners' medical records; and increase the number of medical doctors and nurses.<sup>21</sup> Please respond to reports that the vast majority of reported deaths of inmates were caused by illness and the unavailability of timely medical care;

(c) Prevent incidents of death, suicide, attempted suicide and inter-prisoner violence in custody. Please provide statistical data on such incidents, indicating the causes thereof, the results of investigations into the incidents and the measures taken by the State authorities to prevent them;

(d) Protect the rights of vulnerable detainees, notably women, children and persons with mental health conditions. Please indicate whether female and male detainees are held in separate facilities and whether minors are kept strictly separate from adult detainees.<sup>22</sup> In particular, please inform the Committee about the conditions and regime for

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<sup>17</sup> Ibid., para. 27.

<sup>18</sup> Ibid., para. 26.

<sup>19</sup> A/HRC/WG.6/27/PHL/3, para. 131.

<sup>20</sup> A/HRC/WG.6/27/PHL/2, paras. 25–26.

<sup>21</sup> Ibid., para. 26; A/HRC/WG.6/27/PHL/3, para. 46.

<sup>22</sup> A/HRC/WG.6/27/PHL/2, para. 25.

the detention of women at the municipal lock-up cell in General Nakar, Quezon, which reportedly has no cells available for women.

### Articles 12–13

24. With reference to the Committee's previous concluding observations (para. 16), please provide annual statistical data on the number of complaints, investigations, prosecutions, convictions and punishments imposed in cases of torture and ill-treatment, including excessive use of force, committed by law enforcement, security, military or prison officials, including recent examples of such complaints. This information should include the number of such cases reported by doctors following medical examinations of detainees and the outcome of those cases. Please also provide information on the measures taken to:

(a) Create an independent body to investigate allegations of torture or ill-treatment by security officers, particularly police officers, in order to ensure that there is no hierarchical or institutional link between the suspected perpetrators and the investigators. In this regard, please address the Committee's concerns that the Internal Affairs Service of the Philippine National Police is supervised by the Office of the Chief of Police and thus may not be fully independent;

(b) Ensure that all suspects in *prima facie* cases of torture and ill-treatment are immediately suspended from duties. Please indicate the percentage of cases in which suspected public officials were actually suspended;

(c) Protect complainants, victims and their relatives against reprisals, duly inform them of the progress and results of their complaint and guarantee their right to judicial remedy and participation in the proceedings.

### Article 14

25. 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 ordered by the courts since the consideration of the State party's previous report. That should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also indicate what kind of rehabilitation programmes are provided to victims and whether they include medical and psychological assistance.<sup>23</sup>

26. With reference to the Committee's previous concluding observations (para. 38), please provide information on the implementation of sections 18 and 19 of the Anti-Torture Act, which provide, respectively, for compensation to victims of torture and for the formulation of a victim rehabilitation programme. Please indicate whether the State party has established a lead coordinating agency for the effective implementation of the rehabilitation programme, including adequate funding.<sup>24</sup> Please inform the Committee about the measures adopted to prevent the abduction and recruitment of children by armed groups,<sup>25</sup> facilitate their reintegration into society and provide them with rehabilitation specially designed for their needs.

### Article 15

27. Further to the Committee's previous concluding observations (para. 18), please provide information on the measures taken to ensure respect, both in law and in practice, for the principle of the inadmissibility of evidence obtained through torture. Please provide information on examples of cases that have been dismissed by courts owing to the introduction of coerced evidence or testimony, and on the prosecution and punishment of officials who extracted such confessions. Please include information on relevant educational programmes provided to law enforcement and judicial officers.

<sup>23</sup> A/HRC/WG.6/27/PHL/3, para. 45.

<sup>24</sup> *Ibid.*

<sup>25</sup> S/2017/294, paras. 25–31.

**Article 16**

28. With reference to the Committee's previous concluding observations (para. 20), please provide updated information on the measures taken to implement the prohibition of the practice of blindfolding detainees, including training provided to security officers and sanctions imposed in cases of blindfolding. Please clarify whether visual identification is still required in the prosecution of cases of torture and ill-treatment.

29. Further to the Committee's previous concluding observations (para. 30), please provide updated information on the situation of children in conflict with the law, particularly those who are detained in holding centres or "houses of hope" in the Metro Manila and Mindanao regions. Please explain what measures have been taken to:

(a) Ensure that children are detained as a measure of last resort only and that children who are detained are not held in pretrial detention for long periods;

(b) Afford to detained children all fundamental legal and procedural safeguards, in particular immediate access to a lawyer or legal aid;

(c) Investigate all reports of torture and ill-treatment of children in conflict with the law. In this regard, please provide information on the status and outcome of the investigations and disciplinary or criminal proceedings in the case of a 15-year-old boy who was reportedly arrested and tortured on 12 April 2016 in Basilan Province by Armed Forces soldiers for his alleged association with the Abu Sayyaf Group;<sup>26</sup>

(d) Turn over children in conflict with the law to the custody of the Department of Social Welfare and Development;

(e) Provide specialized training to social workers, judges,<sup>27</sup> and all personnel in contact with those children;

(f) Prevent juvenile delinquency and recidivism.

30. In relation to the Committee's previous concluding observations (para. 42), please provide information on the measures adopted to prohibit the corporal punishment of children, particularly with regard to cases in public institutions, by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, that engage the State party's international responsibility under the Convention, including any efforts to adopt anti-corporal punishment bills. Please also provide information on the status of Bill No. 922, the aim of which is to lower the age of criminal responsibility to 9 years.<sup>28</sup>

31. Please provide information on the measures in place to protect journalists and human rights defenders from threats, acts of violence and even killings,<sup>29</sup> many cases of which are reportedly attributable to public officials, and to promptly and impartially investigate such cases and prosecute and punish the perpetrators. Please provide the Committee with statistical data on the number of complaints, investigations, prosecutions, convictions and punishments imposed in cases of violent acts committed against journalists or human rights defenders. Please include recent examples of such investigations undertaken, including any investigation into the murder of human rights lawyer Benjamin Ramos in November 2018, and the results. Furthermore, please inform the Committee on the status of Senate Bill No. 1699, whose aim is to protect human rights defenders,<sup>30</sup> and on the detention of Senator Leila de Lima, who has allegedly been targeted for having led a Senate inquiry into killings committed during the war on drugs.

32. Please provide information on the measures adopted to combat violence, harassment and intimidation against lesbian, gay, bisexual, transgender and intersex persons and on the number of complaints and police reports, investigations, prosecutions, convictions and punishments handed down in cases of offences committed against these persons.

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<sup>26</sup> Ibid., para. 34.

<sup>27</sup> A/HRC/WG.6/27/PHL/3, para. 49.

<sup>28</sup> A/HRC/WG.6/27/PHL/2, para. 35.

<sup>29</sup> A/73/18, para. 17; A/HRC/WG.6/27/PHL/2, para. 40; A/HRC/WG.6/27/PHL/3, para. 63.

<sup>30</sup> A/HRC/WG.6/27/PHL/3, para. 65.

33. Please provide information on the content and status of the bill aimed at reintroducing the death penalty. Please respond to reports that the Speaker of the House of Representatives openly threatened members of Congress with a view to persuading them to vote for the bill or abstain from voting.

**Other issues**

34. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that those measures are compatible with its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to antiterrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

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

35. Please provide information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.

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