



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

Distr.: General
16 January 2019

Original: English
English, French and Spanish only

Committee against Torture

List of issues prior to submission of the sixth periodic report of Israel*

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/ISR/CO/5, para. 52),¹ the Committee requested the State party to provide further information regarding areas of particular concern identified by the Committee, namely concerning independent medical examinations of persons deprived of liberty (para. 21), administrative detention (para. 23 (a)), solitary confinement and other forms of isolation (para. 25 (b)) and allegations of torture and ill-treatment during interrogation (para. 31 (b)). Noting that a reply concerning the information sought by the Committee was provided on 19 September 2017 (CAT/C/ISR/CO/5/Add.1), and with reference to the letter dated 20 August 2018 from the Committee’s Rapporteur on follow-up, the Committee considers that the recommendations included in paragraphs 21, 23 (a), 25 (b) and 31 (b) have not yet been implemented (see paras. 34, 6, 23 and 30, respectively, of the present document).

Articles 1 and 4

2. With reference to the Committee’s previous concluding observations (paras. 12–13), please provide updated information on the measures taken to make torture a separate and specific offence in domestic legislation, with a definition of torture that is consistent with article 1 of the Convention, includes appropriate penalties and is not subject to any statute of limitations.²

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

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

² CCPR/C/ISR/CO/4, para. 13; and A/HRC/38/15, paras. 118.75–118.76.



Article 2³

3. Further to the previous concluding observations (paras. 8–9), please provide information on the steps taken to ensure the full implementation of the Convention's provisions to all persons under its jurisdiction or effective control.

4. Please provide clarification regarding any efforts under way to repeal domestic legislation that could result in immunity for acts of torture or ill-treatment. In particular, and with reference to the Committee's previous concluding observations (paras. 14–15), please provide detailed information on the measures that the State party has taken or is taking to review section 34 (11) of the Penal Law, which does not explicitly exclude necessity as a defence for the use of torture.⁴ Please also provide examples of relevant cases and/or judicial decisions.

5. In the light of the previous concluding observations (paras. 16–17, 20–23 and 28–29) and the State party's follow-up replies,⁵ please provide information on any new measures taken by the State party during the reporting period to ensure that all detainees, including juvenile detainees, enjoy all legal safeguards, in law and in practice, from the outset of their deprivation of liberty. In particular, please provide information on any new measures to: (a) ensure the rights of detainees to have access to a lawyer,⁶ to request and receive an examination by an independent physician of their choice, to be informed of their rights and of the charges against them, to notify a relative or any other person of their choice of their arrest, and to be brought promptly before a judge, regardless of the reasons for their arrest (referring separately to people detained under civil and military law); (b) to keep detention registers up to date; and (c) to ensure the availability of legal aid.

6. Further to the Committee's previous concluding observations (paras. 22–23), please indicate whether the State party has reviewed its legislation and policies to ensure that all detention, and in particular administrative detention under Military Order No. 1651 (Order regarding Security Provisions (Judea and Samaria)), the Emergency Powers (Detention) Law of 1979 and the Incarceration of Unlawful Combatants Law No. 5762-2002, as amended in August 2008, are brought into conformity with the provisions of the Convention.⁷ Please provide updated information, disaggregated by sex, age, and ethnic origin or nationality, on the number of persons, including children, subjected to administrative detention during the period under consideration. What measures have been taken to ensure that current administrative detainees are either promptly charged or immediately released? Please comment on reports indicating that administrative detention is also being used to keep incarcerated individuals in prison even after the completion of their sentence.

7. With regard to the Committee's previous concluding observations (paras. 18–19), please indicate whether the State party has made audio and video recording of interrogations a standard procedure. Please indicate whether any steps have been taken to remove the exemption from the obligation to provide audiovisual documentation in the case of persons detained for security offences.⁸

8. Further to the Committee's previous concluding observations (paras. 10–11), please indicate the measures taken to establish a national human rights institution that complies

³ 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.

⁴ CCPR/C/ISR/CO/4, para. 14; and A/HRC/38/15, para. 118.77.

⁵ CAT/C/ISR/CO/5/Add.1, paras. 2–10.

⁶ A/HRC/38/15, para. 118.84.

⁷ CCPR/C/ISR/CO/4, para. 10; and A/HRC/38/15, paras. 118.79–118.83, 118.164–118.165 and 119.4.

⁸ CCPR/C/ISR/CO/4, para. 14.

with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).⁹

Article 3

9. With reference to the previous concluding observations (paras. 46–47), please provide information on the measures that have been taken to revise domestic legislation on refugees and asylum seekers to fulfil all obligations under article 3 of the Convention. In this regard, please describe the measures taken during the period under review to enhance the fairness and effectiveness of the asylum system with the aim of ensuring that no person was returned to a country where he or she was at risk of being tortured.¹⁰ Please comment on information before the Committee indicating the existence of policies and legislation aimed at inducing the departure of asylum seekers from Israel, such as deprivation of liberty, denial of access to the labour market, health services and social security benefits and imposition of deductions from their salaries.

10. Please indicate whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision and whether such an appeal has a suspensive effect. Please provide an update on appeals that have been made and the outcome of those appeals. Please also provide detailed information on the measures adopted to identify vulnerable persons seeking asylum in the State party, including victims of torture or trauma, and to ensure that their specific needs are taken into consideration and addressed in a timely manner.

11. Please provide 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 tortured if returned to their country of origin. Please include information, disaggregated by country of origin, on the number of persons who have been returned, extradited or expelled since the Committee considered the State party's previous report, including the list of countries to which the individuals were returned. Please include detailed information regarding the forced relocation of Eritrean and Sudanese nationals to third countries, such as Rwanda and Uganda, during the period under review.¹¹ In this connection, please comment on the cancellation by Prime Minister Benjamin Netanyahu of the framework of common understanding of 2 April 2018 between the State party and the Office of the United Nations High Commissioner for Refugees on solutions for Eritrean and Sudanese nationals living in Israel.

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

Articles 5–9

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

14. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

15. Please indicate what measures have been adopted by the State party to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). Please provide information about the action taken by the State party to collaborate with the Argentine courts to extradite persons under investigation for offences of torture committed during the military

⁹ CEDAW/C/ISR/CO/6, paras. 20–21; and A/HRC/38/15, paras. 118.36–118.46.

¹⁰ A/HRC/38/15, paras. 118.135–118.139 and 119.2.

¹¹ CCPR/C/ISR/CO/4, para. 20.

dictatorship, or indicate whether the State party has initiated its own criminal proceedings in consequence thereof.

16. 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 or ill-treatment. Please provide examples.

Article 10

17. Bearing in mind the Committee's previous concluding observations (paras. 36–37 and 50–51), please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, prison staff, border guards and members of the military are fully acquainted with the provisions of the Convention and are aware that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment, and, if so, please provide information on that methodology.

18. Please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting the physical and psychological sequelae of torture, including whether the programmes contain specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

19. With regard to the Committee's previous concluding observations (paras. 32–33), please indicate whether law enforcement and security officials are adequately trained on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Has the State party reviewed its rules of engagement or regulations on opening fire to ensure consistency with international law?¹²

Article 11

20. Bearing in mind the Committee's previous concluding observations (paras. 30–31), 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. Please explain the amendment to the Youth Law, which allows for children between the ages of 12 and 14 years to be sentenced to imprisonment for specific offences. Please also provide information on the amendments to the military detention regime, including those concerning the detention of children, and on their implementation in practice.

21. Please provide statistical data, disaggregated by gender, age, and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please inform the Committee about the measures taken to address concerns regarding conditions of detention in prisons and other places of detention,¹³ including interrogation and detention facilities of the Israel Security Agency. Please describe the measures taken to reduce prison overcrowding during the period under review, including the use of alternatives to imprisonment both before and after trial.

22. Please provide information on efforts by the State party to meet the special needs of minors, women and persons with disabilities in detention.¹⁴ In particular, please explain the reasons for the increase in the number of children held in detention, and whether such

¹² A/70/421, para. 72 (b).

¹³ A/HRC/38/15, para. 118.163.

¹⁴ A/HRC/38/15, paras. 118.123–118.124.

detention has been used as a measure of last resort and limited to the shortest possible period, as provided for in international human rights standards. Please also indicate the measures taken to ensure that juveniles are separated from adults in all places of detention. Please clarify the current policy regarding the placement of children under house arrest.

23. With reference to the Committee's previous concluding observations (paras. 24–25) and in the light of the State party's follow-up replies,¹⁵ please indicate whether the State party has taken measures to bring its legislation and practice on solitary confinement into line with international standards. Please include data on the use of solitary confinement during the period under review, including in so-called protected prison wards, and an indication of its duration.

24. Please inform the Committee about the measures taken to address concerns regarding health care in prisons. Please comment on reports of medical negligence that led, in some cases, to serious consequences for the health of the detainees concerned. In the light of the previous concluding observations (paras. 26–27), please also indicate the number of detainees on hunger strike during the period under review and whether they were fed against their will. Has the force-feeding law been invoked or applied since it was enacted in 2015? Please comment on concerns expressed with regard to the systematic suspension by the State authorities of family visits to detainees on hunger strike, the refusal to issue permits to their families, and other punitive measures such as the use of solitary confinement and restricted access to lawyers.

25. With regard to the Committee's previous concluding observations (paras. 44–45), please provide updated information on the number of irregular migrants and asylum seekers in detention in the State party. Please indicate any measures taken by the State party during the reporting period to ensure that detention of irregular migrants and asylum seekers is only used as a last resort, where necessary and for as short a period as possible, and to further implement in practice alternatives to detention. What measures have been taken to introduce a limit for immigration detention and to prevent cases of prolonged or de facto indefinite detention?¹⁶ Please also provide information on the impact of the measures taken to improve the conditions of detention and health-care provision at Saharonim prison – the main immigration detention facility in the State party – and Yahalom detention facility at Ben Gurion Airport. Please provide information on the measures taken to ensure the early identification of victims of torture and to guarantee that such individuals are not detained in the context of asylum procedures. Please also provide information on the investigations and disciplinary or criminal proceedings in relation to allegations of ill-treatment by immigration officers while conducting arrests and interrogations and during detention.

26. Please provide information on whether the authorities monitor inter-prisoner violence, on the number of complaints that have been made or registered, and on whether investigations are conducted and the outcomes. Please describe any preventive measures that have been taken in this regard.

27. Please comment on information before the Committee indicating that serious concerns persist regarding the transportation of detainees, including substandard material conditions and unnecessarily long periods of confinement in prisoner transport vehicles.

28. Please provide statistical data regarding deaths in custody during the period under consideration, including in police custody and mental health detention, disaggregated by place of detention, sex, age, ethnic origin or nationality and cause of death. Please provide information on the manner in which those deaths were investigated, the results of the investigations and the measures taken to prevent similar cases from occurring in the future. Please indicate whether relatives of the deceased persons received compensation in any of the cases.

¹⁵ CAT/C/ISR/CO/5/Add.1, paras. 14–22.

¹⁶ CCPR/C/ISR/CO/4, para. 20.

Articles 12–13

29. In the light of the Committee’s previous concluding observations (paras. 30–33 and 36–37), please indicate what concrete measures the State party has put in place to ensure that all instances of torture, ill-treatment and excessive use of force are promptly, effectively and impartially investigated.¹⁷ Please provide statistical data, disaggregated by sex, age, ethnic origin or nationality and place of detention, on complaints of acts of torture, ill-treatment and excessive use of force recorded during the reporting period. Please include information on investigations, disciplinary and criminal proceedings, convictions and the disciplinary or criminal sanctions applied.¹⁸ Please provide updated information on measures taken to ensure that officials suspected of having committed acts of torture or ill-treatment are immediately suspended from duty for the duration of the investigation. Please also include examples of relevant cases and/or judicial decisions.

30. Please comment on the information before the Committee according to which interrogation techniques used by the Israel Security Agency include, among others, beatings, sleep deprivation, stress positions, sexual harassment, intimidation, threats of various kinds against detainees and their families, and other methods of physical and psychological pressure. In this connection, please also comment on the compatibility with the Convention of the decision of 26 November 2018 by the High Court of Justice on the “enhanced interrogation” of Firas Tbeish in September 2012 by members of the Israel Security Agency, and the December 2017 decision by the High Court of Justice exempting security agents from criminal investigation despite their undisputed use of coercive “pressure techniques” against Assad Abu Ghosh.¹⁹

31. With regard to the Committee’s previous concluding observations (paras. 28–29), please comment on recurrent allegations of torture and ill-treatment of Palestinian minors in interrogation and detention centres, settlements and temporary military headquarters in the State party.²⁰ Please include information on investigations, disciplinary and criminal proceedings, convictions and the disciplinary or criminal sanctions applied.

32. Further to the Committee’s previous concluding observations (paras. 32–33), please indicate what measures the State party has put in place to fully investigate and address all allegations of excessive use of force, including lethal force, by the State party’s security forces, in particular the Israel Defence Forces, during law enforcement and military operations against Palestinian civilians, especially in the West Bank, including East Jerusalem, and the access-restricted areas of the Gaza Strip, in the context of demonstrations, night raids, house searches and the enforcement of the sea blockade.²¹ Please include statistical data, disaggregated by the age, sex, and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of excessive use of force, including lethal force, since the consideration of the previous periodic report.²² Please also provide detailed information on the outcome of the investigations and on disciplinary or criminal proceedings concerning the military operations during the large-scale civilian protests at the Gaza fence that began on 30 March 2018, which have resulted in numerous casualties;²³ and concerning the

¹⁷ A/HRC/38/15, paras. 118.66–118.67 and 118.72.

¹⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR), “Zeid urges Israel to respect the human rights of detainees”, 24 May 2017.

¹⁹ OHCHR, “UN expert alarmed at Israeli Supreme Court’s ‘license to torture’ ruling”, 20 February 2018.

²⁰ CCPR/C/ISR/CO/4, para. 15; and A/HRC/38/15, paras. 118.160, 118.196, 118.199 and 119.4.

²¹ Human Rights Council resolution S-28/1; General Assembly resolution ES-10/20; CCPR/C/ISR/CO/4, para. 13; and A/HRC/38/15, paras. 118.154–118.155.

²² A/HRC/38/15, para. 118.85.

²³ See OHCHR, “Committee on the Elimination of Racial Discrimination: prevention of racial discrimination, including early warning and urgent action procedures – statement: Israel”, 8 May 2018 (available at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/ISR/INT_CERD_STA_ISR_8680_E.pdf); and OHCHR, “Special session of the Human Rights Council on the deteriorating human rights situation in the Occupied Palestinian Territory, including East Jerusalem”, statement by the United Nations High Commissioner for Human Rights, 18 May 2018.

security forces' response to demonstrations, clashes and violence between December 2017 and February 2018 in the West Bank, including East Jerusalem, following the announcement by the Government of the United States of America on 6 December 2017 that it would recognize Jerusalem as the capital of Israel. Please also comment on concerns regarding the allegedly disproportionate use of tear gas in response to clashes during operations by the security forces, as well as for crowd control purposes in the Occupied Palestinian Territory, including in refugee camps and densely populated residential areas.

33. Please indicate whether the State party plans to set up an independent and impartial body to investigate allegations of acts of torture, ill-treatment and excessive use of force by law enforcement and security officials and prison personnel.²⁴ Please also provide information on the measures taken to establish effective complaint mechanisms for persons deprived of their liberty, including minors.²⁵

34. With reference to the previous concluding observations (paras. 20–21), and the State party's follow-up replies,²⁶ please provide information on the number of cases reported by prison medical personnel as potential instances of torture or ill-treatment during the period under review. Has the State party taken steps to transfer the responsibility for all types of health care of persons deprived of liberty to the Ministry of Health in order to ensure that medical staff can operate fully independently of the custodial authorities?

Article 14

35. In the light of the Committee's previous concluding observations (paras. 48–49), please provide information on redress and compensation measures, including means of rehabilitation, ordered by the courts and actually provided to the victims of torture or their families during the period under review. This 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 provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation, provided to victims of torture and ill-treatment, and the material, human and budgetary resources allocated for their effective functioning. Please include information on the interministerial pilot mapping project established to examine the needs and circumstances of approximately 100 victims of torture camps in Sinai seeking asylum.

Article 15

36. With regard to the Committee's previous concluding observations (paras. 34–35), please provide information on the specific measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture and ill-treatment. Please also provide information on all cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment. In this regard, please comment on the decision of 19 June 2018 by Lod District Court in the case of the *State of Israel v. Ben Uleaeil and other*, and the decision of the High Court of Justice of 12 December 2017 in the case of *Abu Ghosh v. Attorney General*.

Article 16

37. In the light of the Committee's previous concluding observations (paras. 38–39), please provide information on the measures taken to prevent and punish acts of violence by settlers of the State party against Palestinians in the West Bank, including East Jerusalem.²⁷

38. With reference to the previous concluding observations (paras. 40–41), please indicate the measures taken by the State party to put an end to the policy of punitive demolition of houses.²⁸

²⁴ CCPR/C/ISR/CO/4, para. 15.

²⁵ Ibid., paras. 15 and 19.

²⁶ CAT/C/ISR/CO/5/Add.1, para. 10.

²⁷ CCPR/C/ISR/CO/4, para. 16.

²⁸ Ibid., para. 9; CEDAW/C/ISR/CO/6, paras. 32–33; and A/HRC/38/15, paras. 118.73 and 118.177–118.179.

39. Please provide information on specific steps that the State party is taking to lift the ongoing blockade of Gaza and address its impact on the civilian population. In the light, in particular, of the current humanitarian crisis in Gaza, what measures is the State party taking to ensure that persons in need of medical assistance outside Gaza are able to exit and receive the necessary health care and services in a timely fashion? Please provide information on measures taken by the State party, including adequate training for relevant law enforcement and military personnel, to ensure that security checks at checkpoints are conducted in a humane and respectful manner, in accordance with the Convention.

40. With reference to the previous concluding observations (paras. 42–43), please provide updated information on the measures taken by the State party to return the bodies of deceased Palestinians that have not yet been returned to their relatives. Please also provide details on recent jurisprudence and the amendments of 7 March 2018 to the Counter-Terrorism Law, which give the police powers to set conditions and restrictions regarding the burial and funerals of persons who are killed by the police or security forces while allegedly attempting to carry out attacks, unless their relatives agree to preconditions or funeral arrangements.

41. Please provide information on the measures taken to protect journalists, members of civil society organizations and human rights defenders and to punish the perpetrators of attacks, acts of violence, including torture and ill-treatment, and intimidation against them.²⁹

Other issues

42. With regard to the Committee's previous concluding observations (para. 53), please clarify whether the State party has reconsidered its position regarding the possibility of making the declarations under article 21 and 22 of the Convention. Has the State party considered withdrawing its reservation to article 20 of the Convention? Please indicate whether the State party envisages ratifying the Optional Protocol to the Convention.³⁰

43. Please provide updated information on the measures taken by the State party to respond to threats of terrorism, including the adoption in 2016 of the Counter-Terrorism Law and its subsequent amendment on 7 March 2018. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them.³¹ 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 anti-terrorism 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

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

²⁹ CEDAW/C/ISR/CO/6, paras. 38–39; and A/HRC/38/15, paras. 118.91–118.100, 118.125, 118.171 and 119.1.

³⁰ A/HRC/38/15, paras. 118.10–118.15.

³¹ CCPR/C/ISR/CO/4, para. 11.