



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

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Committee against Torture

List of issues in relation to the third periodic report of Cuba*

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/CUB/CO/2, para. 32), the Committee requested the State party to provide follow-up information in response to the Committee's recommendations related to the right of all persons deprived of their liberty to communicate with family members and a lawyer (para. 10 (c)); the establishment of a central register of cases of torture and ill-treatment (para. 16 (b)); psychiatric institutions (para. 19); and gender-based violence (para. 21). With reference to the information provided in the State party's third periodic report (CAT/C/CUB/3), the Committee finds that the recommendations contained in paragraphs 10 (c) and 16 (b) of the previous concluding observations have not yet been implemented and that the recommendations made in paragraphs 19 and 21 of the previous concluding observations have been only partially implemented.

Articles 1 and 4

2. With reference to paragraphs 5 to 11, 44 to 48, 119 and 120 of the periodic report, please provide updated information on the outcome of the studies conducted in connection with the amendment and updating of the Criminal Code and, in particular, the legislative measures taken to classify torture as a criminal offence in accordance with article 1 of the Convention.¹ Please indicate the measures taken by the State party to ensure that such crimes are punishable by the appropriate penalties which take into account their grave nature, in accordance with the provisions of article 4 (2) of the Convention.²

Article 2³

3. With reference to paragraphs 12 to 33 and 121 to 133 of the periodic report, please provide updated information on the measures adopted by the State party to ensure that all detainees, in practice, are afforded all the fundamental legal safeguards from the very outset of the deprivation of liberty, in particular the right to be informed of the reasons for their arrest and the nature of the charges against them, to receive prompt legal assistance, to

* Adopted by the Committee at its sixty-eighth session (11 November–6 December 2019).

¹ A/HRC/39/16, para. 24.59.

² CAT/C/CUB/Q/2, para. 7.

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.



notify a person of their choice, and to request an independent medical examination by a doctor of their choice and to receive such an examination, irrespective of any medical examination performed by the authorities.⁴ Please indicate the measures taken to ensure that police officers respect fundamental legal safeguards. In that regard, please provide information on any disciplinary measures taken since the consideration of the previous periodic report against law enforcement personnel who did not immediately allow persons deprived of their liberty to benefit from these safeguards. Please also explain how the State party guarantees, in practice, the right of detainees to challenge the legality or necessity of their detention.⁵

4. With regard to paragraphs 226 to 237 of the periodic report, please provide detailed information on the measures taken during the period under review to ensure the independence of the judiciary and the legal profession.⁶ Please indicate the requirements and conditions that must be fulfilled by the members of the National Organization of Collective Law Practices in order to exercise their function and represent clients in legal proceedings. Please also indicate whether lawyers are authorized to practise independently, and explain the steps that must be taken to formally register an association of lawyers.⁷

5. Please describe any measures that have been taken to establish an independent national human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).⁸

6. With reference to paragraphs 255 to 265 of the periodic report, please provide detailed information on the legislative or other measures taken during the period under review to combat all forms of violence against women, especially those cases involving actions or omissions by State authorities or other entities which engage the international responsibility of the State party under the Convention.⁹ Please also provide updated information on the protection and support services available to victims of all forms of violence against women involving actions or omissions by State party authorities. Please include statistics, disaggregated by age and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of gender-based violence since the consideration of the previous periodic report. Please provide updated information on the measures taken to strengthen training programmes aimed at raising awareness among law enforcement officials about domestic and sexual violence, and to expand public awareness-raising campaigns concerning all forms of violence against women.¹⁰

7. Please provide updated information, disaggregated by sex, age and ethnic origin or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of human trafficking since the consideration of the previous periodic report. Please also provide information on:

(a) Any new legislation or measure that has been adopted to prevent and combat trafficking in persons;¹¹

(b) The measures adopted to ensure that victims of trafficking have access to protection measures, as well as to effective remedies and reparation;¹²

(c) The measures taken to ensure that non-custodial accommodation is provided for potential victims of trafficking, with full access to appropriate medical and psychological support, while identification processes are carried out;

⁴ CED/C/CUB/CO/1, paras. 25–28; A/HRC/39/16, paras. 24.114, 24.120 and 24.123.

⁵ CAT/C/CUB/CO/2, para. 8.

⁶ CAT/C/CUB/CO/2, para. 18; CED/C/CUB/CO/1, paras. 17 and 18; A/HRC/39/16, paras. 24.150–152.

⁷ A/HRC/WGAD/2017/64, paras. 45, 51 and 69.

⁸ CAT/C/CUB/CO/2, para. 25; CERD/C/CUB/CO/19–21, paras. 11 and 12; A/HRC/39/16, paras. 24.67–73.

⁹ CEDAW/C/CUB/CO/7-8, paras. 24 and 25; A/HRC/39/16, paras. 24.302–305 and 24.307–309.

¹⁰ CAT/C/CUB/CO/2, para. 21.

¹¹ CEDAW/C/CUB/CO/7-8, paras. 26 and 27; CERD/C/CUB/CO/19-21, paras. 29 and 30; A/HRC/39/16, paras. 24.211, 24.212, 24.214–224 and 24.228–231.

¹² A/HRC/39/16, paras. 24.213, 24.221, 24.226 and 24.227.

(d) The signature of agreements with the countries concerned to prevent and combat trafficking in persons.

Article 3

8. With reference to paragraphs 34 to 43 and 134 to 144 of the periodic report, please provide information on any legislative or other measures taken during the period under review to ensure that no person is returned to a country where he or she might be in danger of being subjected to torture.¹³ In particular, please provide a detailed description of the legislative changes introduced by Decree-Law No. 302 of 11 October 2012, amending Act No. 1312 (the Migration Act) of 20 September 1976.

9. With reference to the Committee's previous concluding observations (CAT/C/CUB/CO/2, para. 9), please provide updated information on the measures taken by the State party to establish identification and referral mechanisms for persons in need of international protection who might be deprived of their liberty. Please explain how the State party guarantees, in practice, the effectiveness of these mechanisms and the provision of appropriate training for migration officials and other security personnel. Please also indicate whether all persons subject to an order of expulsion, "re-embarkation", return or extradition are informed about their right to seek asylum and to appeal a decision authorizing an expulsion, and whether the appeal has suspensive effect. Please explain how the State party ensures that asylum seekers have access to free legal counsel and interpretation during asylum proceedings.

10. Please provide updated information on 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 be tortured if returned to their country of origin. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the Committee's consideration of the previous report. Please provide details on the grounds on which they were sent back, including a list of the countries to which they were returned. Please indicate whether the State party has put in place mechanisms to monitor the situation of vulnerable individuals and groups in receiving countries after their deportation.

11. Please indicate how many refoulements, extraditions and expulsions have been carried out by the State party during the reporting period on the basis of its acceptance of diplomatic assurances or the equivalent thereof, and the number of cases in which the State party has offered such diplomatic assurances or guarantees. Please also indicate what arrangements for subsequent monitoring have been made in such cases.

Articles 5 to 9

12. With regard to paragraphs 49 to 53 of the periodic report, please provide information on the legislative and other measures taken during the period under review to implement article 5 of the Convention. Please indicate whether acts of torture are considered universal crimes under national law, wherever they occur and whatever the nationality of the perpetrator or victim.

13. With reference to paragraph 69 of the periodic report, please inform the Committee of any extradition agreements concluded with other States parties and specify whether the offences referred to in article 4 of the Convention are included as extraditable offences in such agreements.

14. Please also clarify what mutual legal assistance treaties or agreements 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 for torture or ill-treatment. Please provide examples.

¹³ See also CED/C/CUB/CO/1, paras. 23 and 24.

Article 10

15. With reference to paragraphs 74 to 77 and 270 to 282 of the periodic report, please provide detailed information on training programmes on human rights and the prohibition of torture developed by the State party to ensure that all public servants, especially members of the security forces and the armed forces, prison officers and justice officials, are well versed in the provisions of the Convention and the prohibition of torture and are fully aware that violations will not be tolerated and will be investigated, and that perpetrators will be prosecuted. Please indicate the number, institutions and percentage of public servants that have benefited from such training programmes. Please also clarify whether the State party has developed a methodology to assess the effectiveness and impact of training programmes in reducing the incidence of torture and ill-treatment and, if so, please provide information on that methodology.¹⁴

16. Please provide updated information on training programmes designed to teach judges, prosecutors, forensic doctors and medical personnel who deal with detainees how to detect and document the physical and psychological after-effects of torture. Please indicate whether such programmes include specific training with regard to the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).¹⁵

Article 11

17. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on interrogation rules, instructions, methods and practices or arrangements for custody, especially those adopted or amended since the consideration of the previous periodic report. Please also indicate the frequency with which these are reviewed.

18. With reference to paragraphs 145 to 174 of the State party's report, please provide updated information on the measures taken to improve prison facilities and reduce overcrowding,¹⁶ especially any measures aimed at ensuring that pretrial detention is not excessively prolonged and at promoting the use of non-custodial alternatives to imprisonment before and after trial.¹⁷ Please explain the concrete steps the State party has taken to prevent indefinite prolongation of the examination of the preliminary case file.¹⁸ Please describe the measures adopted during the period under review aimed at ending the use of administrative detention on the basis of vague, subjective and imprecise criminal concepts such as pre-criminal social dangerousness.¹⁹ Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners, and the location and occupancy rate of all places of detention.

19. Please also provide information about the steps taken to ensure that sufficient resources are allocated to provide inmates with an adequate diet and medical care.²⁰ Please comment on reports of poor hygiene and sanitary conditions and limited access to drinking water in the State party's prisons.

20. With reference to paragraph 169 of the periodic report, please provide information on the measures adopted to eliminate any unjustified restrictions on visits by family, close friends or lawyers of persons deprived of their liberty.²¹ Please also provide information on the measures taken by the State party to ensure that its law and practice regarding solitary confinement are consistent with international standards.²²

21. Please provide information on inter-prisoner violence, in particular any cases involving possible negligence on the part of prison officials and members of the security

¹⁴ CAT/CUB/CO/2, para. 23 (b).

¹⁵ Ibid., paras. 22 and 23 (c).

¹⁶ A/HRC/39/16, paras. 24.124, 24.127, 24.129 and 24.130.

¹⁷ CAT/C/CUB/CO/2, paras. 10 (a) and 11 (a); A/HRC/39/16, para. 24.126.

¹⁸ CAT/C/CUB/CO/2, para. 11 (b).

¹⁹ Ibid., para 12; A/HRC/39/16, paras. 24.175 and 24.178.

²⁰ CAT/C/CUB/CO/2, para 10 (b).

²¹ Ibid., para. 10 (c).

²² Ibid., para. 10 (d).

forces, and on the number and outcome of complaints made in this regard. Please describe any preventive measures that have been taken.

22. Regarding paragraphs 208 to 211 of the periodic report, please indicate the number of detainees who went on hunger strike in the period under review and provide information on their state of health and whether they were force-fed.²³

23. Please provide statistical data on the number of deaths in custody during the period under review, disaggregated by place of detention, sex, age, ethnic origin or nationality of the deceased and cause of death. Please describe how these deaths were investigated, the outcome of the investigations and the measures adopted to prevent similar situations in future. Please indicate whether, in any of the cases, the relatives of the deceased received compensation.²⁴ In particular, please provide details on the investigations into the cases of Alejandro Pupo Echemendía, who died in police custody at Placetas, Villa Clara, on 9 August 2018, and Reidel García Otero, who died on 23 January 2018 in the Valle Grande prison allegedly as a result of a lack of medical assistance.

24. Regarding paragraphs 80 to 83 of the periodic report, please indicate the number and nature of the visits conducted during the period under review by the Attorney-General's Office or by other agencies responsible for the monitoring and inspection of places of detention, and provide information on the content of the records kept and decisions issued by the Attorney-General's Office and the related follow-up.²⁵ Please indicate what measures have been taken to establish an independent and systematic monitoring mechanism for all detention facilities.²⁶ Please also indicate whether the State party has considered ratifying the Optional Protocol to the Convention against Torture with a view to establishing a system of regular unannounced visits by national and international monitors, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.²⁷ Please indicate whether all human rights non-governmental organizations who ask to visit the country's prisons are granted access.²⁸

25. Please also provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities. Please indicate what the situation is with respect to alternative forms of treatment, such as community-based rehabilitation services and other outpatient treatment programmes.

26. Please indicate whether the State party has considered abolishing the death penalty and ratifying the International Covenant on Civil and Political Rights and its Second Optional Protocol, aiming at the abolition of the death penalty.²⁹

Articles 12 and 13

27. With reference to paragraphs 174 and 223 to 225 of the periodic report, please provide updated statistics, disaggregated by sex, age, ethnic origin or nationality and place of detention, on complaints of acts of torture or ill-treatment and excessive use of force filed during the period under review. Please provide information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions imposed.³⁰ Please provide examples of relevant cases and judicial decisions. Please indicate whether the State party has considered creating a centralized, publicly accessible register of complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment, as recommended by the Committee in its concluding observations.³¹

²³ Ibid., para 15.

²⁴ Ibid.

²⁵ Ibid., para. 13; CED/C/CUB/CO/1, paras. 29 and 30.

²⁶ Ibid.; A/HRC/39/16, para. 24.118.

²⁷ CAT/C/CUB/CO/2, para. 13.

²⁸ A/HRC/39/16, para. 24.133.

²⁹ CAT/C/CUB/CO/2, para. 14; A/HRC/39/16, paras. 24.17, 24.23–26, 24.135 and 24.137–140.

³⁰ CAT/C/CUB/CO/2, para. 17; CERD/C/CUB/CO/19-21, paras. 31 and 32.

³¹ CAT/C/CUB/CO/2, para. 16 (b).

28. With reference to paragraph 221 of the periodic report, please indicate the measures adopted by the State party to guarantee the independence of complaints mechanisms in the country's prisons.³²

Article 14

29. With reference to paragraphs 105 to 110 and 283 to 287, 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 since the consideration of the State party's previous report. The information should include the number of requests for compensation that have been made, the number of requests granted, and the amounts ordered and actually provided in each case.³³

30. With reference to paragraphs 238 to 241 of the periodic report, please provide information on the redress and compensation measures ordered by the courts and actually provided to the families of the 26 patients who died from hypothermia in the Havana Psychiatric Hospital in January 2010.³⁴

31. Please also provide information about ongoing reparation programmes, including treatment for trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

32. With reference to paragraphs 111 to 114, please provide information on the specific measures adopted to ensure, in practice, respect for the principle of the inadmissibility of evidence obtained through torture. Please provide examples of cases that have been dismissed by the courts due to the introduction of evidence or testimony obtained through torture or ill-treatment during the period under review.³⁵

Article 16

33. With regard to paragraphs 242 to 254 of the periodic report, please comment on allegations of harassment, assault, arbitrary detention and imprisonment of human rights defenders and journalists who try to document abuses.³⁶ Please also comment on reports that State party officials have prevented human rights defenders and civil society representatives from travelling abroad to attend international forums, including meetings organized by the United Nations.³⁷ Please provide detailed information on the measures adopted to protect human rights defenders and other civil society representatives at risk, investigate the crimes against them and punish the perpetrators of acts of violence and intimidation directed at them.³⁸

34. Please comment on reports of degrading treatment by the State party authorities directed at doctors providing compulsory medical services in health-care missions overseas.

35. Please provide information on the measures taken to investigate and prosecute alleged incidents of ill-treatment of army conscripts by fellow soldiers during the period under review. Please also provide data on non-combat deaths recorded in the military during the reporting period and on their causes. Please indicate whether, in any of the cases, relatives of the deceased were awarded compensation.

Other issues

36. Please provide updated information on the measures adopted by the State party in response to threats of terrorism. Please indicate whether those measures have affected

³² Ibid., para. 16.

³³ Ibid., para. 24.

³⁴ Ibid., para. 19.

³⁵ Ibid., para. 22.

³⁶ CERD/C/CUB/CO/19-21, paras. 13 and 14; A/HRC/39/16, paras. 24.112, 24.117, 24.120, 24.167, 24.171, 24.181, 24.184, 24.196, 24.209 and 210.

³⁷ A/HRC/39/41, paras. 34 and 35, and annex I, paras. 19–26.

³⁸ CAT/C/CUB/CO/2, para. 20.

human rights safeguards in law and practice and, if so, in what manner. Please also describe the way in which the State party has ensured that these 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; how many persons have been convicted under counter-terrorism legislation; what legal safeguards and remedies are available, in practice, to persons subjected to counter-terrorism measures; and whether there have been any complaints of non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

37. With reference to the previous concluding observations (CAT/C/CUB/CO/2, para. 28), please indicate whether the State party is considering making the declarations under articles 21 and 22 of the Convention.
