



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

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Committee against Torture

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**Consideration of reports submitted by States parties
under article 19 of the Convention**

**Replies of Cuba to the list of issues in relation to its third
periodic report***

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* The present document is being issued without formal editing.



Replies to the list of issues (CAT/C/CUB/Q/3)

A. Reply to paragraph 2 of the list of issues

1. Article 51 of the new Constitution establishes that no one shall be subjected to enforced disappearance, torture or cruel, inhuman or degrading treatment or punishment. In accordance with this constitutional provision, legislation is being drafted to guarantee the regulatory and material modifications prescribed by the Convention, including to the Criminal Code. One of the amendments being considered is the explicit definition of the crime of torture. According to the legislative schedule approved by the Cuban parliament, the draft Criminal Code is due to be presented in July 2021.

B. Reply to paragraph 3 of the list of issues

2. In Cuba, the due process guarantees of all persons are recognized, protected and respected, without discrimination of any kind, in accordance with international standards in this field, which are constitutionally recognized in articles 94 and 95 of the new Constitution, the Criminal Code, the Criminal Procedure Act and other complementary provisions.

3. Article 96 of the Constitution states that anyone illegally deprived of liberty has the right, either directly or through a third party, to initiate a habeas corpus procedure before a competent court, in accordance with the requirements established by law.

4. Between January 2016 and December 2019, the courts processed 94 habeas corpus proceedings, of which 83 were declared inadmissible, 6 resulted in orders for the immediate release of the detainees in question, and 5 were either dropped by the applicants or rejected outright by the court because it was clear that there were no legal grounds for release. In all the proceedings, the application of procedural guarantees was ensured and the principles of due process were observed. In all of the proceedings that were declared inadmissible, it was shown that there were grounds for keeping the detainees in pretrial detention.

5. Article 43 of the principal regulations governing the processing of detainees in police stations stipulates that every detainee is to undergo a medical examination upon arrival in the cell block.

6. Article 44 provides that detainees with injuries may be admitted to the cell block only if they are in possession of a medical certificate and if the reasons for the injury have been determined.

7. Article 45 establishes that any detainee who claims to be or can clearly be seen to be unwell or who requires any form of medical treatment and who cannot be cared for in the police unit must immediately be transferred to the nearest or a designated medical centre.

8. At the time of arrest, a record is to be drawn up immediately which states the time, date and reason for the arrest, as well as any other particulars of interest. This record is to be signed by the arresting official and the arrested person, as set out in the Criminal Procedure Act.

9. In accordance with the Act, and at the request of the detainee or his or her family members, the police or the authority that has the detainee in custody is required to report the arrest and the place where the detainee is being held and to facilitate communication with his or her family members within the time limits and in the manner established by law.

10. This information can be provided in person if the family member presents him or herself at the place where the detainee is being held, by telephone or, if it is not possible to locate the family member, arrangements are made through the head of sector of the detainee's place of residence to locate the family member and comply with this requirement. The same applies when the detainee is transferred from one place of detention to another. After 24 hours of detention, the detainee has the right to receive visits from family members.

11. If a detainee is found or is known to have suffered injuries, the person responsible for having inflicted them will face the appropriate criminal charges, as provided for in

articles 272 to 274 of the Criminal Code, which define the offence of bodily harm and the related penalties. The severity of the applicable penalty will depend on the gravity of the act and the consequences suffered by the victim.

12. Where appropriate, administrative liability is also incurred in such cases.

13. When, in the course of proceedings, reference is made to the presence of injuries, the accused, his or her legal representative or the prosecutor may challenge the relevant documentary evidence in the event of an inaccuracy or omission. All medical examinations carried out on the basis of an injury are subsequently analysed by the Institute of Forensic Medicine, which is part of the Ministry of Public Health, in order to determine the gravity of the injury.

14. In cases where officials or law enforcement agents may have had a hand in the detainee's injuries, there are procedures in place for setting up committees to investigate the matter and for reporting the case to the prosecution service. The prosecution service determines whether the event warrants the application of administrative measures against the parties involved or whether criminal proceedings should be initiated. If special medical procedures are required to determine the cause of the detainee's injuries, the Institute of Forensic Medicine is called upon to issue an opinion on the matter.

15. The right of a detainee to request a medical examination by a physician and to see the resulting medical report is provided for by law as part of the accused person's right to a defence.

16. A police officer conducting an arrest is obliged to inform the individual concerned of the grounds for the arrest and of his or her rights. The prosecution service is responsible for monitoring the criminal investigation and guaranteeing the legality of the process during the investigation or pretrial phase. In respect of detainees specifically, this is done, *inter alia*, through the prosecutor's mandatory interview with the detainee, in accordance with the internal rules of the prosecution service, during which his or her state of health is checked and it is ascertained whether he or she has been informed of the reasons for the arrest, the possibility of informing family members about the arrest and the right to appoint a defence counsel, and any other circumstance related to the person's detention and rights.

17. Legislation on criminal procedure provides that, once the accused's identity has been determined and recorded, he or she is informed, through the statement of charges, of what he or she is accused of and by whom and of the charges against him or her. The accused is also informed that he or she has the right to give or refuse to give a statement and, if he or she agrees to do so, to testify when and as often as he or she wishes.

18. Under Resolution No. 34 of 2019 of the Attorney General's Office, which regulates the actions to be taken by the prosecutor in imposing and modifying the precautionary measure of pretrial detention, a detailed study of the investigative actions carried out is required in order to verify that a criminal act has been committed and to ascertain the degree of danger and social impact, the personality of the accused, and that there appear to be sufficient initial grounds to consider him or her responsible.

19. This resolution establishes the prosecutor's interview with the accused as a means of directly assessing the latter's characteristics and other elements that will allow an accurate and individualized analysis of the case. If, during the interview, the prosecutor identifies suspected violations of the law that were committed against the detainee, or that took place during the arrest, he or she shall report these to the Ministry of the Interior or the military prosecutor for investigation and determination of administrative and criminal responsibility, as appropriate.

20. National legislation governing the procedures of the prison system and the actions of prison officials sets out additional rights for inmates, preserving universally recognized guarantees and protecting both Cuban and foreign citizens. These legal provisions establish various kinds of penalties for public officials who abuse their authority by mistreating, or allowing others to mistreat, accused persons, convicted prisoners or remand prisoners.

21. All individuals sent to a prison facility following a ruling by a court or competent authority, whether to await trial or sentencing or to serve a sentence, are informed of their rights on arrival by the prison authority and are guaranteed the right to a defence throughout the proceedings.

22. Officials and authorities that, in the exercise of their functions, violate the established guarantees and limits are held criminally and administratively liable and are required to restore compliance with the law.

C. Reply to paragraph 4 of the list of issues

23. The independence of the judiciary is guaranteed primarily by the Constitution. Articles 147 to 155 of the Constitution establish that the function of administering justice derives from the people and is performed on the people's behalf by the People's Supreme Court and the other courts established by law. The courts constitute a system of State organs structured to be functionally independent from any other organ.

24. Article 148 defines the courts as a system of State organs, structured to be functionally independent from any other organ. The Supreme People's Court is the highest judicial authority and its decisions are final. Through its Governing Council it can propose laws and issue regulations.

25. The independence of judges in the administration of justice is an overarching principle of the national legal system and is enshrined in article 150 of the Constitution, which states that judges dispense justice independently in the exercise of their functions and owe allegiance only to the law. They have security of tenure as long as there are no legal grounds for them to be relieved of their duties.

26. In order to practise law in Cuba, an individual must have passed all the basic subjects of the bachelor's degree in law and also passed the State exam or thesis. Lawyers must be graduates of a Cuban law school.

27. There are no independent associations of lawyers in Cuba. Under Decree-Law No. 81 of June 1984, the National Organization of Collective Law Practices is the only organization whose members are authorized to practise law in Cuba. On an exceptional basis, however, lawyers who are not members of this organization may provide representation and conduct their own cases or those of family members, as provided for in article 4 of the aforementioned decree-law.

28. Lawyers are free to represent clients; the only limits are those established by law.

D. Reply to paragraph 5 of the list of issues

29. There is no single model for the establishment of a national human rights institution, nor is there any obligation to create one. Cuba has a comprehensive national system for the promotion and protection of human rights. There has been sufficient evidence to show that the system works; its results are tangible and much better than those of some of the countries that have a national human rights institution. As part of the process of updating the Cuban economic and social development model, measures have been adopted and others are under consideration to continue strengthening the legal and institutional framework that guarantees the effective promotion, protection and realization of all human rights for all.

E. Reply to paragraph 6 of the list of issues

30. Article 43 of the Constitution establishes equal rights and responsibilities for women and men in the economic, political, cultural, labour, social, family and other spheres. The State ensures that both women and men are offered the same opportunities and possibilities. It also affords women protection from gender-based violence.

31. Article 85 of the Constitution provides that domestic violence, in any form, is damaging to the persons involved, families and society and that it is punishable by law.

32. Judges, prosecutors, police officers, health and education personnel and journalists, among others, have received training on different forms of violence and on support for potential victims.

33. Hundreds of lawyers have taken postgraduate courses on gender and the law, violence, sexuality and masculinity; a diploma course on mediation, gender and the family has been offered; and several universities have introduced an optional undergraduate module on gender and the law. The Law School of the University of Havana added a gender curriculum in 2015.

34. The International Conference on Women, Gender and the Law, organized by the National Union of Jurists of Cuba, is held every other year. The 2014, 2016 and 2018 editions were attended by approximately 150 professionals – from the law and other social sciences – and law students from 12 countries. Members and former members of the Committee on the Elimination of Discrimination against Women have participated in these conferences. At the conference in 2016, the United Nations System in Cuba awarded the UNiTE prize for commitment to equality and combating gender-based violence to the National Union of Jurists' project on gender and the law and guaranteeing gender equality.

35. Prosecutors responsible for handling judicial proceedings, those who deal with citizens' complaints and those who work on the protection of minors have received training on gender issues, including from the National Sex Education Centre, which has helped to improve their skills with a view to guaranteeing respect for the rights of women and girls. These actions are being taken in accordance with the cooperation agreement concluded between the Attorney General's Office and the Federation of Cuban Women.

36. Eighteen courses on gender, the law and violence were run at the Judicial Training School between 2013 and 2017, with the participation of judges from all levels of the court system nationwide. The Supreme People's Court has participated in all the events on gender and the law organized by the National Union of Jurists.

37. Hundreds of journalists, scriptwriters, artists and media directors have received training on gender and equality issues from experts from the Federation of Cuban Women, the University of Havana, the women's studies departments of higher education centres throughout the country and other national institutions.

38. Women victims of violence are supported in a number of ways. They are afforded protection by law enforcement agencies, which are the guarantors of public safety. In addition, the social workers of the Ministry of Labour and Social Security and social and community organizations, acting separately or together, support the protective measures required to create a safe environment for victims and ensure that the appropriate measures are taken in respect of offenders.

39. The Federation of Cuban Women also has women's and family counselling centres in each municipality, whose teams of professionals, made up of psychologists, psychiatrists, doctors, teachers, lawyers and others, provide assistance to victims, work with offenders and train local leaders to deal with problems and help solve and eradicate them.

40. With regard to temporary shelters, it must be recognized that the country's complex housing situation does not allow for the creation of shelters for victims. However, their safety is guaranteed as a result of the control measures imposed on perpetrators, either through community pressure or the influence of government institutions and representatives of civil society.

F. Reply to paragraph 7 of the list of issues

41. From 2012 to May 2019, 102 cases with characteristics typical of human trafficking were prosecuted. A total of 123 victims were identified (60 girls, 55 women, 2 boys and 6 men), all of whom were Cuban. The penalties imposed range from 3 to 30 years' imprisonment, depending on the seriousness of the acts and the level of involvement of the perpetrators. Since 2013, an annual report on the prevention and combating of human trafficking and the protection of victims has been published.

G. Reply to paragraph 7 (a) of the list of issues

42. There are a number of legal provisions in force to deal with trafficking in persons and associated conduct such as procuring, pornography and child prostitution, in keeping

with the spirit of the United Nations Convention against Transnational Organized Crime (Palermo Convention), its Protocols and other international instruments in force in Cuba. These include:

(a) The Constitution of the Republic, which recognizes the right to work (article 64) and prohibits the work of children and adolescents (article 66); the State's functions include guaranteeing equality in the enjoyment and exercise of individual rights;

(b) The Criminal Code, which defines several crimes related to conduct that may be directly linked to human trafficking. These include procuring and trafficking in persons (arts. 302.1–5), corruption of minors (arts. 310.1–5, 311, 312.1 and 2, 313.1 and 314); sale and trafficking of minors (arts. 316.1–4), rape (art. 298.1–4), violent pederasty (arts. 299.1 and 2), sexual abuse (arts. 300.1, 300.1–4 and 301.1 and 2), sexual assault (art. 303), statutory rape (art. 305) and other acts contrary to the normal development of the minor (art. 315);

(c) Decree-Law No. 232/2003, which allows persons involved in the above-mentioned crimes to be dispossessed of their property. Decree-Law No. 149/1994, although it does not specifically address these crimes, also allows for the confiscation of property from persons who unlawfully enrich themselves;

(d) The Migration Act, modified by Decree-Law No. 302, which protects children and adolescents during the process of obtaining passports and leaving the country (arts. 23 (g) and 25 (g));

(e) The Family Code (arts. 99–116) and Decree-Law No. 76 of 1984, which regulate the process for the adoption of children and adolescents, in full compliance with the Convention on the Rights of the Child;

(f) The Labour Code and its regulations, which regulate the fundamental principles of labour law, prohibit child labour and provide special protection for young people aged between 15 and 18. They regulate the right to wages without discrimination of any kind, to daily and weekly rest and to paid annual leave, to social security protection in accordance with the applicable legislation, and to health and safety at work, as well as the right to bring actions before the competent bodies, authorities and courts for the recognition and enforcement of the labour rights enshrined in law. Together, these guarantees help to prevent manifestations of trafficking in persons for the purpose of labour exploitation;

(g) The Social Security Act, which guarantees adequate protection for workers, their families and the general public through the social security system, which comprises a general scheme, a social assistance scheme and special schemes;

(h) Decree-Law No. 357 of 2018 on personal violations in the exercise of self-employment, which establishes measures and provides for the cancellation of the authorization to carry out the activity in the event that persons are employed who are not registered as hired workers, who have not concluded an employment contract or equivalent document, or who do not comply with its clauses, in accordance with the provisions of the Labour Code;

(i) Resolution No. 46 of 2015 of the Ministry of Public Health, on the working methods of the National Transplant Organization, which provides the legal framework for the authorization of transplants and empowers doctors to remove organs and tissues for these purposes, which, although not specific to human trafficking, may contribute to this and other crimes;

(j) Resolutions No. 857 and No. 979 of 2015 of the Ministry of Public Health, which approve the regulations for the donation and transplantation of organs and tissue by living donors;

(k) Ministry of Public Health Resolution No. 223 of 2014, which guarantees legal protection for transplant coordination services and patients by defining organizational standards. It recognizes the activity of organ donation as part of the intrahospital care process and defines the functions of the transplant coordination services, *inter alia*.

43. One of the amendments to the Criminal Code being considered is the introduction of an explicit definition of the crime of trafficking in persons. As has already been mentioned,

according to the legislative schedule approved by the parliament, the draft Criminal Code is due to be presented in July 2021.

H. Reply to paragraph 7 (b) and (c) of the list of issues

44. The Directorate of Family Welfare and Jurisdictional Matters of the Attorney General's Office provides support to persons who have been the victims of crime or violence, especially children and adolescents. In coordination with the minors' families and the relevant authorities in each case, the Attorney General's Office monitors, follows up and provides the necessary support to all minors who have been harmed by the crime of corruption of minors or who have experienced elements of the crime of trafficking in persons.

45. The Attorney General's Office communicates with and provides follow-up and support to all victims of crimes associated with human trafficking. For example, the 25 victims mentioned in the 2018 annual report were interviewed by the prosecutors responsible for the protection of family rights. The parents or legal representatives of the eight minors mentioned in the report were also contacted.

46. The Attorney General's Office, the Ministry of Labour and Social Security and the Ministry of Public Health took steps to ensure that two women victims of human trafficking were offered jobs when they needed them. They also coordinated to ensure that six victims received psychological support, while three requested and received guidance on legal matters.

47. On the basis of their needs and concerns, three of the victims are taking training courses and nine are in work, which is helping them to reintegrate into society.

48. All the minors have completed their studies and are living a normal life. The only child victim of the crime of corruption of minors with elements of forced labour is studying at a vocational school and receiving the full support of his family and community and follow-up from the Attorney General's Office to ensure his social protection.

49. Prosecutors systematically visit social welfare institutions for children without family care to evaluate respect for and protection of children's rights. In the event of any violations of the law, they are authorized to issue decisions that must be complied with promptly.

50. Child and adolescent victims of these crimes receive special treatment from the moment they are identified by the police or other units, and they are supported by officers of the Directorate for the Care of Minors of the Ministry of the Interior and other specialized bodies of the Ministry, as well as by officials of the Institute of Forensic Medicine, where necessary.

51. The Directorate for the Care of Minors ensures specialized follow-up in coordination with the child and adolescent psychiatric services of the paediatric hospitals and community mental health centres of the national health system and specialized child and adolescent psychology and psychiatry consultations.

I. Reply to paragraph 7 (d) of the list of issues

52. At the time of writing, Cuba is a signatory to 11 extradition treaties and 25 mutual legal assistance agreements, 16 of which provide for extradition.

53. Since the end of 2011, the Attorney General's Office has been redefining its bilateral cooperation links with counterpart agencies in other countries. To date, 20 agreements, conventions or memorandums have been signed with the Bolivarian Republic of Venezuela, Brazil, Nicaragua, Belarus, the Russian Federation, China, Viet Nam, the Plurinational State of Bolivia, Mozambique, Angola, Ecuador, Panama, the Dominican Republic, Portugal, Spain, Greece, the Democratic People's Republic of Korea, Laos, Hungary and Kazakhstan. At present, agreements are being prepared with Mexico, Jamaica and Italy.

54. The Ministry of the Interior has two model agreements to promote cooperation with its foreign counterparts in the area of combating transnational crime and protecting children

and adolescents against sale, prostitution, pornography, trafficking in persons and other forms of sexual abuse.

55. In 2018, a memorandum of understanding was signed for cooperation between the Ministry of the Interior of the Republic of Cuba and the Royal Canadian Mounted Police for the protection of children and adolescents against sale, prostitution, use in pornography, trafficking and other forms of sexual abuse, which aims to consolidate cooperation between the police services of the two countries.

J. Reply to paragraphs 8, 9, 10 and 11 of the list of issues

56. Decree-Law No. 302 introduced the following key amendments:

57. It abolished the requirement of an exit permit for Cubans residing in Cuba with a valid passport.

58. A valid passport, together with the necessary visa, is the only requirement to leave the country.

(a) It abolished the requirement of a letter of invitation;

(b) It provided for the updating of passports obtained before the measures were put into effect on 14 January 2013;

(c) It established the cases in which Cuban citizens residing in the country cannot obtain a passport;

(d) Regardless of the visa they hold, all Cuban residents are allowed to leave Cuba temporarily;

(e) Cubans residing in Cuba can leave the country for up to 24 months without being considered emigrants or residents abroad;

(f) A Cuban citizen is considered to have emigrated when he or she travels abroad for private matters and decides to remain abroad without interruption for a period of more than 24 months, without requesting an extension of his or her stay or residence abroad, or when he or she moves abroad without complying with current migration regulations;

(g) Cuban residents may renew or extend their passports at Cuban consulates during their stay abroad;

(h) Exit restrictions were established for all persons who are in the national territory (art. 25, *Official Gazette*, p. 1372);

(i) The grounds for being refused entry into the country were also established;

(j) Foreigners who are temporary or permanent residents or who have bought property in the country may leave and enter with their valid passport and their foreigner's identity card. Temporary residents may stay abroad for up to six months and permanent residents for up to one year without losing their residency.

59. Treatment of asylum seekers and refugees is based on the humanitarian tradition and solidarity of the Cuban people and on respect for the basic principles of refugee protection, particularly that of non-refoulement. Cuban policy in this area has constitutional status, as reflected in article 17 of the Constitution, which deals specifically with the right to asylum. The protection of refugees, asylum seekers and stateless persons is guaranteed in Cuba.

60. In order to determine whether to expel, return or extradite a person, numerous elements are analysed, including: the person's country of origin, the person's situation before leaving that country, the person's allegations and/or the dangers he or she might face if expelled, extradited, transferred or returned, the persistence of serious and flagrant violations of human rights or international humanitarian law and the person's willingness to be transferred.

61. Those who are expelled from the country are not forced to return to their country of origin or any other country where they claim to be persecuted or where their lives are in danger, which reduces the risk that they may be subjected to torture. Cuba and the Office of

the United Nations High Commissioner for Refugees (UNHCR) coordinate and work closely on this issue.

62. The expulsion of foreign nationals can be determined in two ways. The first is by means of an accessory penalty to the criminal penalty imposed by the courts. In such cases, the defendant may challenge this measure through the appeals process, if the penalty was imposed by a municipal court, or in cassation, if the penalty was imposed by a provincial court. Such appeals have suspensive effect on the judgment, which cannot be enforced until it becomes final.

63. The second way is through an administrative procedure of the Ministry of Justice. The decision of the Minister of Justice ordering the expulsion of a foreign national may be challenged before the relevant Provincial People's Court, with suspensive effect (article 664 of the Civil, Administrative, Labour and Economic Procedure Act).

64. In turn, the decision of the Provincial People's Court may be challenged by means of an appeal in cassation (article 665 of the Civil, Administrative, Labour and Economic Procedure Act). As a last resort, an application for review may be filed in respect of the final decision issued by the bodies of the administrative court (article 665 of the Civil, Administrative, Labour and Economic Procedure Act).

65. In addition, a decision rejecting a request for extradition may be appealed before the next highest court, which shall rule after having heard the prosecutor.

66. A decision rejecting a request for extradition may be appealed within three days before the next highest court, which shall rule after having heard the prosecutor.

67. Orders of return or "re-embarkation" cannot be appealed. Decisions to transfer persons serving sentences cannot be appealed either, as the transfer can only be ordered with the consent of the person concerned.

68. During the period under review, no cases involving applications for asylum in Cuba were registered.

69. Since 2012, 10 people have been extradited: 2 to Spain for murder and money-laundering; 3 to Italy for criminal association, misinvoicing and non-existent operations, fraud and damage, kidnapping and violent robbery; 1 to Belgium for violent robbery; 1 to Romania for human trafficking; 1 to Slovakia for insurance fraud and profit laundering; 1 to Greece for growing cannabis; and 1 to Finland for aggravated ill-treatment, drug trafficking, harm, violent robbery, attempted murder, threats and resistance.

70. Between 2012 and 2016, 16 people were expelled by the Ministry of Justice: 2 from Spain, 1 from Belgium, 1 from Guatemala, 2 from Colombia, 3 from Ghana, 1 from Lebanon, 1 from Angola, 3 from Canada and 2 from Mexico. All had previously been convicted of committing crimes in Cuba but their expulsion was ordered for humanitarian reasons before they had served their sentences. In none of these cases was there any risk that the persons might be victims of enforced disappearance, torture, cruel, inhuman or degrading treatment or serious violations of their human rights.

71. Cuba accepts and complies with the diplomatic assurances that are requested or offered in cases of extradition, expulsion or transfer.

72. For example, in the case of the notorious terrorist Luis Posada Carriles and three other associated terrorists, Cuba guaranteed that it would not apply the death penalty if the Panamanian authorities agreed to their extradition (opinion 397 of the Governing Council of the Supreme People's Court, 10 January 2001).

73. The Cuban authorities do not take the "security" of a given State for granted; in all cases they assess the risk faced by the person and on that basis make their decisions regarding transfer, expulsion and extradition.

74. When such requests are received, all elements of the case are evaluated, contact is established with the authorities of the country in question and decisions are made on that basis. In the process, special attention is paid to the risk that the person might be subjected to enforced disappearance, torture or other cruel, inhuman or degrading treatment.

75. If the crime for which extradition is being requested is punishable by death, Cuba seeks assurances that the death penalty will not be applied. If the requesting State does not

provide such assurances, Cuba does not proceed with the extradition. Transfers are only carried out if the individual in question agrees. Once the individual has been transferred, the receiving country cannot take any action with respect to that person without the authorization of the transferring State.

K. Reply to paragraph 12 of the list of issues

76. Cuban criminal law applies to all Cubans and stateless persons residing in Cuba who commit an offence abroad, whether they are present in Cuba or have been extradited.

77. Cuban criminal law also applies to foreign nationals and stateless persons not residing in Cuba who have committed an offence abroad if they are present in Cuba and have not been extradited, regardless of whether they reside in the territory of the State in which the offence was committed or in any other State, provided that the act is also punishable in the place where it was committed. This latter requirement does not apply if the act constitutes an offence against the fundamental political or economic interests of Cuba, or against humanity, human dignity or public health, or is prosecutable under international treaties.

L. Reply to paragraphs 13 and 14 of the list of issues

78. Cuba has signed 25 legal assistance agreements with various States (16 of which provide for extradition), 11 extradition treaties, 24 agreements on the transfer of convicted persons, 10 on the enforcement of criminal sentences and 6 on legal cooperation. In addition, Cuban legislation allows for international criminal assistance on the basis of the principle of reciprocity between States.

79. During the period under review, the Ministry of Justice carried out 97 international criminal assistance procedures, none of which were associated with acts of torture, with the following States: Mexico (36), Colombia (21), Spain (2), Costa Rica (2), El Salvador (1), Brazil (12), France (6), Peru (3), Ecuador (3), Croatia (1), Chile (1), Ukraine (1), the Bolivarian Republic of Venezuela (1), the Russian Federation (1), Poland (1), Namibia (1), Algeria (1), China (1), Honduras (1), Panama (2) and Hungary (1).

M. Reply to paragraph 15 of the list of issues

80. From 2016 to 2019, the Attorney General's Office ran 38 training activities on human rights issues, including the Convention.

81. Training was provided to 848 prosecutors (who made up 46 per cent of participants), including military prosecutors, 30 assistant prosecutors, 10 specialists from the Ministry of the Interior (heads of section and department of the investigative and national police bodies) and 30 specialists from prison medical services. Work was done to provide prosecutors with the necessary knowledge and tools to enable them to effectively assess legality in the exercise of their functions.

82. Twenty-three prosecutors participated in international events, in Cuba and abroad, or courses taught by foreign experts.

83. Before starting in service, all members of the security forces and prison officials are trained at the prison system's specialized training institute, where they study programmes and subjects that cover the necessary knowledge and skills, including about the Convention.

84. Senior officers are trained at the University of the Ministry of the Interior, where programmes include knowledge of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). These officers are also required to observe the code of ethics and the disciplinary rules, which explicitly include the prohibitions referred to in article 2 of the Convention against Torture.

N. Reply to paragraph 16 of the list of issues

85. From 2016 to 2019, 530 prosecutors participated in the postgraduate diploma training programme for prosecutors. Specialists from the Ministry of Public Health, the Institute of Forensic Medicine and the medical services of the Ministry of the Interior contributed to the modules on the international legal instruments to which Cuba is a party, including the Convention against Torture and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

86. The activities organized allowed prosecutors to acquire knowledge and tools that facilitate the identification of violations of the rules and procedures established for the treatment of prisoners and associated with physical and psychological abuse during detention.

87. The training programmes for medical personnel in the prison system come under the family doctor and nurse programme, which was officially established by the Ministry of Public Health and takes account of international legal regulations on human rights, in particular the provisions of the Convention, and is continually being improved.

O. Reply to paragraph 17 of the list of issues

88. A reply will be provided at a later stage.

P. Reply to paragraph 18 of the list of issues

89. Between 2012 and 2019, more than 110,000,000 pesos was invested in the implementation of programmes to renovate and refurbish prisons, as part of the master investment plan initiated in 2007 for detention facilities, involving the renovation or creation of common-use areas (visiting rooms, conjugal quarters, kitchens and dining rooms), waterproofing of roofs and installation of solar heaters. Electrical, water and sanitation systems were also upgraded and new technologies were introduced.

90. Prisons operate at 81 per cent of their capacity. Segregation by gender, age and legal status is guaranteed.

91. The average length of judicial proceedings in Cuba is much shorter than in other countries, including some highly developed ones, where defendants can wait years for sentencing.

92. The law enforcement authorities have continued to strengthen their structures and operations to ensure the rational and proper use of pretrial detention and guarantee that judicial proceedings are conducted promptly and under the conditions provided for by law.

93. Between 2016 and 2019, the number of precautionary measures of pretrial detention imposed by prosecutors decreased by 11 percentage points. The use of non-custodial measures increased from 19 per cent in 2016 to 30 per cent in 2019. Steps were taken to effectively evaluate and modify placements in pretrial detention.

94. Under the Attorney General's Resolution No. 1 of 2015, chief prosecutors have control over the deadlines for the examination of the preliminary case files so as to guarantee the prompt evaluation of the legality of proceedings and extensions of the preliminary phase and to avoid delays in processing. They take the steps and issue the instructions necessary to ensure compliance with the provisions of article 105 of the Criminal Procedure Act.

95. This resolution also provided for the establishment of an information system for the daily monitoring of the time taken by prosecutors to process and dispatch preliminary case files.

96. Extensions for the processing of preliminary case files are only authorized for extremely complex cases. Between 2016 and 2019, the Attorney General approved a period of more than 180 days for 155 trials – 278 fewer cases compared to the period between

2012 and 2015 – which shows the State’s desire to guarantee legal security for citizens through proceedings that are not unduly delayed.

97. By law, the courts may, while the sentence is being served, substitute a prison sentence of up to 5 years with one of the subsidiary penalties provided for in the law, and may order the conditional release of a convicted prisoner, having assessed his or her behaviour in detention and concluded that the purpose of the punishment and the term of the sentence have been met.

98. The periodic report provides extensive data on the use of alternatives to deprivation of liberty.

99. Articles 72 et seq. of the Criminal Code establish the concept of “danger to society”, which applies when a person is in an exceptional situation and violates the rules of social coexistence.

100. When a person is declared a danger to society, the rules of due process are guaranteed, including the right to a defence, the presence of independent judges and the collection of sufficient evidence before initiating this procedure.

101. No criminal penalties are imposed on persons declared to be a danger to society. The law provides for re-education, therapeutic and surveillance measures, the essential purpose of which is to rehabilitate the individual by changing his or her behaviour. In 2019, the number of persons declared a “pre-criminal danger to society” decreased by 3 percentage points compared to 2018.

102. Under no circumstances is this classification applied for reasons other than those set out in the Criminal Code.

103. As at the end of 2019, women, ranging in age from 30 to 60, made up 5 per cent of the prison population, and 375 prisoners were foreign nationals.

Q. Reply to paragraph 19 of the list of issues

104. Inmates are guaranteed unrestricted access to primary and specialized medical and dental care that is free and of good quality. Medical records are kept for all inmates. Upon presentation of a medical certificate, inmates with an illness are given a diet adapted to their condition. All inmates are provided with personal hygiene necessities, underwear and a uniform free of charge.

105. In Cuba, prisons are subject to continuous and rigorous monitoring, carried out by the Attorney General’s Office and the Ministry of the Interior, among other institutions. Medical and dental care and living and sanitation conditions in the facilities are monitored.

106. The Prison System Regulations provide for adequate living conditions in places of detention.

107. Prison facilities have been inspected with the participation of prosecutors, psychologists, auditors, specialists from the provincial directorates of public health and specialists in comprehensive general medicine, psychiatry, dermatology, hygiene and epidemiology, the control of sexually transmitted infections, tuberculosis, nutrition and dietetics, among others.

108. In 2019, a total of 3,762 inmates were interviewed during inspection visits, medical records were examined and prison medical units, observation and admission rooms and kitchen-dining rooms were visited. The Attorney General made the relevant recommendations on the basis of these inspections.

109. All detention areas have drinking water and properly covered tanks, which are used both for personal consumption and to maintain the hygiene, sanitary and cleanliness standards of the facilities.

R. Reply to paragraph 20 of the list of issues

110. The Prison System Regulations recognize the right of inmates to receive a family visit upon admission or after being transferred from another prison, to meet with their

lawyers and receive legal assistance, to receive individual or collective religious support, family visits, conjugal visits and visits from friends who have a positive influence on them, and consular visits in the case of foreigners and authorized Cubans residing abroad, upon request from diplomatic headquarters. These rights are guaranteed.

111. While serving their sentences, prisoners live collectively.

112. In accordance with rules 9 to 16 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, disciplinary cells are used on an exceptional basis in the event of serious disciplinary offences. These cells meet the standard dimensions and have ventilation, natural light and sanitary facilities with the required privacy.

113. The implementation of this disciplinary measure requires a certificate or report from the prison doctor, who visits the inmate daily while he or she is in solitary confinement and informs the prison authorities of his or her state of physical and mental health and the hygiene conditions in the cell. If the doctor considers that for health reasons it is advisable to suspend the solitary confinement, he or she suggests this to the head of the prison or centre, who shall immediately take the appropriate decision.

114. Family members are informed if this measure is applied. In addition, as part of the prison inspections carried out by the Attorney General's Office, the conditions in which inmates are exceptionally kept in solitary confinement are checked and, in the event of violations of the relevant provisions, the Attorney General takes action to restore legality. The Attorney General may interview the inmate at any time during the period of solitary confinement.

S. Reply to paragraph 21 of the list of issues

115. The Cuban prison system considers violent acts between inmates to be fights, assault and violent pederasty. If an incident of this type occurs and it is established that one of the persons involved has suffered an injury, a complaint is filed with the police unit to pursue criminal charges, in accordance with articles 272, 273 and 274 of the Criminal Code, and disciplinary measures are imposed, in accordance with prison security procedures.

116. As a preventive measure, prisoners are placed in different groups and such incidents are recorded in the automated system to avoid a reoccurrence. If the prisoner chooses to inform the prison authorities of any enemies he or she may have on admission or in the course of serving a sentence, distancing measures can be applied. Educational and legal talks are also given.

117. On average, 200 complaints are made annually in connection with such incidents.

118. Prisons are subject to the strictest control of the execution of their functions, both by the State apparatus itself and by the organs of people's power and the public.

119. Violations committed by agents or officials of these institutions are severely punished, based on the seriousness of the offence and in strict application of the Criminal Code and the corresponding regulations.

T. Reply to paragraph 22 of the list of issues

120. Between 2012 and 2019, an average of 700 prisoners went on hunger strike each year. Of these, more than 50 per cent gave up in the first five days. All of them are in good health. These prisoners are never force fed. Discussions are held with family members who usually help to convince the prisoners to give up their hunger strike. However, if necessary, they will be fed, on the basis of informed consent, according to established rules aimed at preserving life.

U. Reply to paragraph 23 of the list of issues

121. There are regulatory provisions setting out measures to prevent deaths in detention facilities. Medical treatment must be provided to any detainee who claims to be sick, as

well as to anyone who clearly appears to need treatment even if he or she does not request it. Stringent control measures are put in place to prevent detainees from harming themselves.

122. If, in spite of the above measures, an event of this nature occurs, aid and treatment are immediately provided and the circumstances that gave rise to the event are duly recorded and documented.

123. When a death occurs in a detention facility or prison, a forensic medical committee must be set up to investigate the cause. In cases of suicide, an autopsy is carried out under the supervision of a prosecutor and with the participation of an investigating judge, the forensic doctor and the prison authorities. Family members, who are actively involved in the process, are informed of the results of the autopsy.

124. Heart disease is the primary cause of death, mainly acute myocardial infarction.

125. Between 2016 and 2019, the Military Prosecutor's Office investigated eight complaints filed in relation to the death of persons deprived of liberty, all of them male. One was over 21 years old and the rest were over 40 years old; five were being held in prisons and three in other centres.

126. As a result of the investigations, breaches were noted in three cases and disciplinary action was taken against three staff members.

V. Reply to paragraph 24 of the list of issues

127. In their role of monitoring compliance with the law, prosecutors carried out 64,683 inspection visits from 2016 to 2019, 54 per cent to prisons and 46 per cent to detention facilities. Of these visits, 3,911 involved the participation of military prosecutors and specialists in health, education, labour, psychology, and auditing.

128. During the inspections, 254,705 prisoners and detainees were interviewed and 87,074 legal files in the prison system were examined, which made it possible to identify irregularities and breaches and intervene in the legal situation of detainees, their benefits and the resolution of pending legal proceedings.

129. As a result, violations of legality, the causes and conditions that gave rise to them and those responsible were identified. The Attorney General's Office issued a series of resolutions, reports on causes and conditions and documents requesting disciplinary measures, of which 74 per cent were applied, in accordance with the established terms and procedures.

130. Legality was restored in 92 per cent of cases during that period, as there were external causes associated mainly with investment in infrastructure works and financial resources.

131. Issues relating to the fundamental rights and guarantees of persons deprived of their liberty, medical care, living conditions, employment, school and vocational training programmes, conjugal visits, the granting of benefits and legality of detention, among others, were checked.

132. Cuba has not considered it necessary to assume obligations with procedures and organs of supranational jurisdiction for the processing of individual communications; nor does it seek the assistance of international investigations to ensure that persons residing in its territory are afforded the fullest protection and enjoyment of the rights and remedies provided for in international human rights instruments. The appropriate use of the remedies established under national law has made it possible to avert any violation in Cuba of the provisions set forth in the Convention and other international human rights instruments.

W. Reply to paragraph 25 of the list of issues

133. In Cuba nobody is deprived of their liberty in psychiatric hospitals and other institutions for persons with disabilities.

X. Reply to paragraph 26 of the list of issues

134. Cuba is opposed to the application of the death penalty and is in favour of abolishing it once the right conditions for doing so are in place. It understands and respects the arguments of the international movement that advocates the abolition of the death penalty or a moratorium on its use. No one is currently facing the death penalty in Cuba. The death penalty has not been applied in Cuba since 2003.

135. The Cuban people are confident that the day will come when the conditions for abolishing capital punishment will exist, not only because of their ethical and moral convictions, but also because of their deep sense of justice and humanism. However, such a measure would have to be linked to the cessation of the policy of aggression that the Government of the United States has practised and continues to practise against Cuba, so that Cuba can, in a climate of peace, move forward in its economic, political and social development, with full respect for its sovereignty and the very existence of the Cuban nation.

136. A decision as to whether to ratify the International Covenant on Civil and Political Rights will be taken when the conditions are in place for actions in this area not to be subject to targeting and/or political manipulation. Cuba will continue to comply, as it has done so far, with the spirit and letter of this and other human rights instruments, in keeping with its practice of observing and respecting all human rights.

Y. Reply to paragraph 27 of the list of issues

137. Between 2016 and 2019, the Military Prosecutor's Office investigated 152 complaints related to physical ill-treatment by internal security officers. In 30 per cent of cases, the complaints were found to have been justified, and 37 disciplinary and 3 administrative measures were applied.

138. Of the victims, 147 were male and 5 female; 61 per cent were under 40 years old and 38 per cent were older. Ninety-seven percent of the victims were male and 57 per cent were of mixed race.

Z. Reply to paragraph 28 of the list of issues

139. One of the functions of the Attorney General's Office is to deal with complaints submitted by citizens concerning alleged violations of their rights. There are prosecutors to deal specifically with complaints in each municipality.

140. To strengthen this work, the Attorney General's Office set up alternative channels – a dedicated telephone number, an online portal, the postal service and social networks – through which the general public can submit their concerns and/or complaints and receive advice on issues related to the protection of their rights.

141. The Attorney General's Office has a duty to process, investigate and individually respond to the reports, complaints and claims submitted by citizens, including persons deprived of their liberty, in accordance with legal procedures. In cases in which violations of the law are identified, the Office issues a binding resolution for the restoration of legality. Depending on the gravity of the acts committed, those responsible for these violations may face criminal charges.

142. Other bodies and mechanisms also deal with citizens' complaints and requests, such as the public service offices of the Presidency of the Republic attached to each of the bodies of the central State administration; the secretariat of the Council of Ministers; the municipal and provincial governments; the permanent structures of the National Assembly of People's Power and the Council of State's public service mechanisms.

143. In practice, this system has proven to be effective and responsive to complaints and reports of alleged rights violations.

144. From 2016 to 2019, the Attorney General's Office provided services to 680,772 citizens and received 10,083 complaints, petitions and claims from inmates or their families, other persons or institutions, which were investigated under the established legal terms. Six

per cent of the cases were justified and 97 per cent of complainants received a personal response.

AA. Reply to paragraph 29 of the list of issues

145. The information provided in the periodic report responds to this question. There are no victims of torture in Cuba.

AB. Reply to paragraph 30 of the list of issues

146. This issue will be addressed at a later stage.

AC. Reply to paragraph 31 of the list of issues

147. In Cuba, the right to health is accorded to all persons by the Constitution and is guaranteed through the facilities of the national public health system, which are also available in police stations and prisons; care can be provided to persons deprived of their liberty in these facilities or in those of the Ministry of Public Health.

148. If a detainee is found or is known to have suffered injuries, the person responsible for having inflicted them will face the appropriate criminal charges, as provided for in articles 272 to 274 of the Criminal Code, which define the offence of bodily harm and the related penalties. The severity of the applicable penalty will depend on the gravity of the act and the consequences suffered by the victim, and any damages shall be dealt with through civil proceedings.

149. In the places of detention listed in the Prison System Regulations, primary health care is the first level of assistance provided to persons deprived of their liberty. It is provided in accordance with the principles of biopsychosocial care and the objectives of promotion, prevention, early diagnosis and rehabilitation and is guaranteed in the provincial polyclinics for prisoners, medical units, clinics and nursing stations located in prisons and in the special units for prisoners living with HIV/AIDS.

AD. Reply to paragraph 32 of the list of issues

150. Article 94 (c) of the Constitution states that every person, as a guarantee of legal security, enjoys due process in both the judicial and administrative spheres and, consequently, has rights such as the right to provide relevant evidence and to request the exclusion of evidence obtained in violation of the law.

151. Oral trial proceedings are the cornerstone of the Cuban criminal justice system. Evidence obtained during the investigative or pretrial phase must be presented during these proceedings, which, given their significance, are open to the public.

152. This is the main way of guaranteeing that, in practice, acts of torture or ill-treatment are not used in order to obtain a piece of evidence that will subsequently have to be validated and assessed in open court, examined by the judges and presented to the parties during the proceedings.

153. Likewise, in criminal proceedings, in keeping with the adversarial principle, the parties have the opportunity to refute, question and challenge the evidence presented by the opposing party. There have been no cases in which evidence or testimony has been dismissed because it was obtained by means of torture or ill-treatment.

154. The Criminal Procedure Act includes several provisions that guarantee that statements cannot be obtained from defendants or witnesses through the use of violence, coercion or force; any testimony obtained in that way is invalid as evidence and shall be dismissed by the courts.

155. Article 161 establishes the right of the accused not to incriminate him or herself and to make or refrain from making a statement; article 166 provides that no violence or coercion of any kind shall be used against persons to force them to make a statement, and

any statement obtained in breach of this provision shall be null and void, without prejudice to the declaration of criminal responsibility.

156. With regard to the testimony of witnesses, as another form of evidence, article 183 states that in no case shall any coercion, deception, promise or artifice be used to force or induce the witness to testify in a particular way.

AE. Reply to paragraph 33 of the list of issues

157. In Cuba there are no raids, arbitrary arrests, detentions or extrajudicial executions, acts of harassment or intimidation. Nor are there any reprisals against human rights defenders.

158. In the exercise of their functions, the authorities do not arbitrarily infringe on the freedom of travel of Cuban citizens. In Cuba, as in many other countries where the rule of law prevails, the way in which these freedoms are exercised, their limits, and the mechanisms, channels and resources available to citizens to report violations of their rights and obtain due protection are determined by law. Current migration legislation determines the grounds on which the competent authorities may limit a person's right to leave the country; this power is exercised without arbitrariness, in accordance with the law and in compliance with established guarantees.

159. The authorities and internal security forces carry out their work in strict compliance with the law, adhering to the broad guarantees established by law, and dedicate their efforts to preserving public peace and security and maintaining public order.

160. Arrests and police checks are conducted in accordance with criminal procedure and due process guarantees. The procedures and circumstances that warrant arrest are established by law, as are the terms under which the detainee should be subject to precautionary measures or criminal proceedings or released.

161. The decision as to whether to continue the criminal process is evaluated in each case by the competent authorities, fulfilling all the guarantees recognized by law, and is based on the application of a rational, objective, preventive and individualized criminal policy.

162. It is regrettable that an attempt is being made to portray anti-social people and others punished for committing common crimes as human rights defenders. These people do not deserve that noble qualification, since their activities are not aimed at promoting the enjoyment of human rights by Cubans, but at achieving a change of regime in the country, as part of an agenda of subversion financed from abroad.

163. Their activities, as well as the financial and logistical support they receive from abroad, violate articles 4 and 20 of the 1998 Declaration on Human Rights Defenders, as they attempt to violate the right of the Cuban people to self-determination, disregarding the purposes and principles of the Charter of the United Nations and international law.

AF. Reply to paragraph 34 of the list of issues

164. Allegations of degrading treatment of Cuban health workers by State authorities are totally false and unfounded. These alleged reports are part of a spurious campaign by the Government of the United States against the humanitarian work carried out as part of Cuban international medical cooperation. The statements of the Cuban Ministry of Foreign Affairs of 29 August and 5 December 2019 detail the actions taken by the United States Government to hinder Cuban medical cooperation.

165. Cuban health-care workers do not provide compulsory medical services, as is mistakenly claimed in the question, but do so on a strictly voluntary basis. They are not put under any pressure and no reprisals are taken against those who do not wish to participate; participation is based entirely on the principle of the willingness of the volunteer. To give just one example, when volunteers were called upon in 2014 to help combat the Ebola virus in Africa, more than 15,000 Cuban professionals volunteered to join the contingent that participated in that campaign, which was limited to a maximum of 300 people.

166. No one is obliged to remain on a medical cooperation mission, nor is there any coercion or pressure of any kind to do so. If, during their mission, volunteers wish to return to Cuba, their return by air is facilitated immediately and the costs are covered by the Cuban Government.

167. More than 1,855 million patients have been treated in 164 countries by more than 407,419 Cuban health professionals since the first brigade was sent in 1963. This is an example of South-South cooperation and contributes to progress towards achieving universal health coverage.

AG. Reply to paragraph 35 of the list of issues

168. This issue will be addressed at a later stage.

AH. Reply to paragraph 36 of the list of issues

169. This issue will be addressed at a later stage.

AI. Reply to paragraph 37 of the list of issues

170. Cuba continually reviews the optional provisions with which it has not yet agreed to be bound, even after the ratification of any legally binding international instrument. This is the case with article 22 of the Convention.

171. The consensus that has prevailed among national bodies is not to recognize the jurisdiction of supranational entities in relation to matters that can be dealt with effectively through available national remedies.
