



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

Distr.: General  
9 June 2022  
English  
Original: Spanish

## Committee against Torture

### Concluding observations on the third periodic report of Cuba\*

1. The Committee against Torture considered the third periodic report of Cuba<sup>1</sup> at its 1881st and 1893rd meetings,<sup>2</sup> held on 21 and 29 April 2022, and adopted the present concluding observations at its 1904th meeting, held on 9 May 2022.

#### A. Introduction

2. The Committee welcomes the submission of the periodic report and the State party's replies<sup>3</sup> to the list of issues.<sup>4</sup> It regrets, however, that the report was submitted more than two years late.

3. The Committee appreciates the dialogue held with the State party's delegation, and the additional information and explanations provided, although some of the questions posed to the delegation went unanswered.

4. Recalling its obligations under the Convention, the Committee takes note of the State party's arguments concerning the consequences of the unilateral measures affecting its sovereignty, independence and economic and social development.

#### B. Positive aspects

5. The Committee welcomes the State party's accession, on 20 June 2013, to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

6. It also welcomes the State party's initiatives to revise its legislation in areas relevant to the Convention, including:

(a) The Constitution, ratified by popular referendum on 24 February 2019 and proclaimed on 10 April 2019;

(b) The Criminal Procedure Act (No. 143/2021), published on 7 December 2021, intended to strengthen due process guarantees.

7. The Committee further welcomes the State party's efforts to amend its policies and procedures in order to afford greater human rights protection and to apply the Convention, in particular:

\* Adopted by the Committee at its seventy-third session (19 April–13 May 2022).

<sup>1</sup> [CAT/C/CUB/3](#).

<sup>2</sup> [CAT/C/SR.1881](#) and [CAT/C/SR.1893](#).

<sup>3</sup> [CAT/C/CUB/RQ/3](#).

<sup>4</sup> [CAT/C/CUB/Q/3](#).



(a) The introduction of an automated information system to register persons deprived of their liberty in the facilities of the Ministry of the Interior;

(b) The adoption on 8 March 2021 of the national programme for the advancement of women and on 9 December 2021 of the comprehensive strategy on prevention and support in relation to gender-based and family violence;

(c) The adoption on 2 August 2017 of the National Plan of Action to Prevent and Combat Trafficking in Persons and Protect Victims (2017–2020).

8. The Committee welcomes the submission of the updated common core document forming part of the reports of States parties.<sup>5</sup>

## C. Principal subjects of concern and recommendations

### Pending follow-up issues from the previous reporting cycle

9. In its previous concluding observations,<sup>6</sup> the Committee requested the State party to provide information on the follow-up given to several recommendations whose implementation it considered a matter of priority. These recommendations related to the right of all persons deprived of their liberty to communicate with family members and legal representatives (para. 10 (c)); the establishment of a central register of complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment (para. 16 (b)); psychiatric institutions (para. 19); and gender-based violence (para. 21). The Committee regrets that, although the rapporteur for follow-up to concluding observations sent a reminder to the State party on 3 July 2013, it received no response from the State party under the procedure for follow-up to concluding observations. In the light of the information provided in the State party's third periodic report, the Committee is of the view that the recommendations contained in paragraphs 10 (c), 16 (b), 19 and 21 have been only partially implemented (see paras. 18 (c) and (d), 32, 36, and 7 (b) and 44 of the present document).

### Definition and criminalization of torture

10. While welcoming the prohibition of torture and cruel, inhuman or degrading treatment or punishment under article 51 of the Constitution, the Committee regrets to have to reiterate the concern, expressed in its previous concluding observations, that torture is still not codified as a specific offence.<sup>7</sup> The Committee notes that there is a draft Criminal Code that would make torture an offence. According to the information available to the Committee, the current wording of the criminal offence set forth in article 368.1 of the draft would not cover acts of torture other than those inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. With regard to other offences similar to torture in the State party's legislation, the Committee once again draws the State party's attention to its general comment No. 2 (2007) on the implementation of article 2, which underscores the preventive effect of having the crime of torture defined as an offence in its own right (para. 11) (arts. 1 and 4).

**11. Recalling its previous recommendations, the Committee urges the State party to criminalize torture in accordance with article 1 of the Convention and to make it punishable by appropriate penalties which take into account its grave nature, as provided for in article 4 (2). The State party should also ensure that the offence of torture cannot be time-barred and is excluded from amnesties.**

### National human rights institution

12. While taking note of the information provided by the State party in its periodic report and during the dialogue, according to which Cuba has a comprehensive national system for the protection of human rights, the Committee regrets that a national human rights institution

---

<sup>5</sup> [HRI/CORE/CUB/2016](#).

<sup>6</sup> [CAT/C/CUB/CO/2](#), para. 32.

<sup>7</sup> [A/53/44](#), para. 118 (a), [A/53/44/Corr.1](#) and [CAT/C/CUB/2](#), para. 7.

has not yet been established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

**13. The Committee invites the State party to consider establishing an independent national human rights institution, in accordance with the Paris Principles, with a mandate that includes the promotion and protection of the rights enshrined in the Convention.**

#### **Independence of the justice system and the role of lawyers**

14. While taking note of the constitutional provisions on the independence of the judiciary (arts. 147–155), the Committee is concerned that the Attorney General’s Office is subordinate to the President of the Republic, as established in article 157 of the Constitution. It regrets that the State party has not provided sufficient information on the terms of appointment of judges and the grounds for their removal. In addition, the Committee is concerned about restrictions on the independent practice of law, since only members of the National Organization of Collective Law Practices may practise in the State party, although on an exceptional basis lawyers who are not members may provide representation and conduct their own cases or those of family members. The Committee is particularly concerned at reports questioning the autonomy of the National Organization of Collective Law Practices, whose decisions on the admission or exclusion of members can be appealed only to the Minister of Justice, whose decision is final (arts. 4 and 29 of Decree-Law No. 81 on the Practice of Law and the National Organization of Collective Law Practices) (arts. 2 (1), 12 and 13).

**15. The State party should ensure the full independence, impartiality and effectiveness of the Attorney General’s Office and the judiciary, including by ensuring that the appointment of judges conforms to the relevant international standards, including the Basic Principles on the Independence of the Judiciary. It should also ensure respect for the right to freedom of association and to the independent practice of law, in accordance with the Basic Principles on the Role of Lawyers.**

#### **Military jurisdiction**

16. The Committee notes with concern that, under article 92 of the Military Criminal Procedure Act (No. 147/2021), military courts are competent to prosecute and establish the liability of defendants and civilly liable third parties in criminal proceedings arising from the commission of punishable acts in which the accused is a member of the military, and to hear criminal proceedings in connection with acts committed in military zones, regardless of the civilian status of the persons concerned. While noting that military courts have the power to decline jurisdiction in favour of the ordinary courts, the Committee considers that military courts do not provide the guarantees of independence and impartiality required by the Convention (art. 2 (1)).

**17. The State party should introduce the necessary legislative amendments to remove the jurisdiction of the military courts over civilians and ensure that the ordinary courts alone have jurisdiction over cases involving serious violations of human rights, including acts of torture, committed against civilians.**

#### **Fundamental legal safeguards**

18. While noting the provisions of article 95 of the Constitution and of the Criminal Procedure Act, the Committee remains concerned about consistent reports that the procedural safeguards established in Cuban legislation are not applied effectively in practice, particularly in the case of persons allegedly deprived of their liberty on political grounds. Despite the explanations provided by the delegation, which denied that arbitrary detentions had occurred in the State party during the period under review, the Committee is concerned at:

(a) Complaints received regarding cases of short-term detention without a court order and regarding the denial of habeas corpus;

(b) The lack of clarity in the provisions of the Criminal Procedure Act regarding the moment from which time in detention is counted; and the provisions of articles 342 (1)

and 343 of the Act, which respectively authorize the police to detain a person for up to 24 hours without judicial oversight and authorize any person to make an arrest;

(c) The fact that detainees only have access to a lawyer once formal charges have been laid (Criminal Procedure Act, art. 129);

(d) Information from various sources, including opinions of the Working Group on Arbitrary Detention,<sup>8</sup> pointing to cases of alleged ill-treatment of detainees by the police and to the difficulties detainees face in obtaining prompt access to a lawyer and to an independent medical examination, in notifying a family member or another person of their choice that they have been detained, and in challenging the lawfulness of their detention;

(e) The lack of available information on disciplinary measures taken during the period under review against law enforcement personnel who did not immediately allow persons deprived of their liberty to benefit from fundamental legal guarantees (arts. 2 and 16).

**19. The State party should ensure that all persons who are arrested are afforded, by law and in practice, all fundamental legal safeguards against torture from the very outset of their deprivation of liberty, including the rights to be assisted by a lawyer without delay, particularly during the investigation and interrogation stages; to request and receive an independent medical examination; to be informed of their rights, the reason for their arrest and the charges against them; to be registered at the place of detention; to immediately notify a family member or any other person of their choice of their detention and whereabouts; to be brought before a judge without delay; and to have effective remedies for challenging the lawfulness of their detention. The State party should also ensure that officials who do not allow persons deprived of their liberty to benefit from these fundamental safeguards are punished.**

#### **Right of asylum and statelessness**

20. The Committee notes that the State party continues to afford de facto temporary protection to persons identified as refugees by the Office of the United Nations High Commissioner for Refugees (UNHCR) and permits them to remain in the country while their resettlement is arranged. It also notes that these persons are still unable to obtain a work permit, although they do have access to health services and education. The Committee takes note of the migration legislation in force since 2013 and the provisions of article 723 of the Criminal Procedure Act regarding extradition. The Committee is concerned about the lack of remedies to challenge return or “re-embarkation”, and the repatriation of Haitian immigrants (art. 3).

**21. The Committee recommends that the State party:**

(a) **Ensure that, by law and in practice, no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal and foreseeable risk of being subjected to torture or ill-treatment; and ensure compliance with procedural safeguards against refoulement;**

(b) **Consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;**

(c) **Step up efforts to facilitate the integration of refugees into local communities in collaboration with UNHCR, and guarantee their access to basic rights and services, including the right to work.**

#### **Conditions of detention**

22. The Committee takes note of the measures taken by the State party to improve detention conditions and reduce occupancy levels in prisons, including the application of non-custodial alternatives, early-release arrangements and investment in infrastructure. According to information provided by the State party, prisons are at 81 per cent of their capacity, but there are no up-to-date official statistics on the prison population. During the

<sup>8</sup> Opinions No. 12/2017, No. 55/2017, No. 64/2017, No. 63/2019 and No. 13/2021.

dialogue, it was stated that between 2017 and 2021 the Attorney General's Office conducted 39,160 inspections of prisons and detention facilities. However, the Committee remains seriously concerned about reports of inadequate conditions of detention, as in the case of La Condesa prison in Mayabeque. Of particular concern are reports of overcrowding, unsanitary conditions and lack of ventilation, deficient medical care, malnutrition and insufficient drinking water and medicine; reports of a large number of hunger strikes; and allegations of the systematic ill-treatment and torture of inmates, including physical and verbal abuse, unjustified restrictions on visiting, transfers to prisons far from the prisoner's family and prolonged solitary confinement (arts. 11 and 16).<sup>9</sup>

23. **The Committee urges the State party to:**

(a) **Continue to improve detention conditions, in particular by applying non-custodial measures. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Allocate the necessary resources to continue prison renovation and rehabilitation programmes, ensure inmates' access to proper meals, drinking water and medical and health care, and improve hygiene and sanitation conditions in detention centres;**

(c) **Bring its legislation and practice on solitary confinement into line with international standards, particularly rules 43 to 46 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).**

(d) **Ensure that an investigation is opened whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed, and investigate arbitrary or unjustified restrictions of the rights of detainees.**

#### **Pretrial detention**

24. The Committee is concerned at reports of prolonged pretrial detention, especially in the case of persons who have allegedly been deprived of their liberty on political grounds, despite the exceptional nature of this precautionary measure (Criminal Procedure Act, art. 356). While taking note of the information provided by the State party that about 12 per cent of prisoners are being held in pretrial detention and that improvements have been made in the monitoring of processing by prosecutors of preliminary case files and in the registration of persons deprived of their liberty in the facilities of the Ministry of the Interior, the Committee regrets the lack of disaggregated statistical data on the number of persons deprived of liberty, including those held in pretrial detention, and the lack of transparency of the prison system (arts. 2, 11 and 16).

25. **The Committee recommends that the State party take the necessary measures to ensure that pretrial detention is used only exceptionally, for the shortest possible time and for no longer than the period prescribed by law. The State should also maintain an up-to-date register of persons deprived of liberty, disaggregated by name, sex, age, ethnicity or nationality, disability status, procedural status and place of detention.**

#### **Posing a danger to society, official warnings, preventive security measures and sedition**

26. The Committee regrets that the Criminal Code retains criminal offences based on subjective concepts such as "posing a danger to society" (arts. 72–74) – a concept used to justify official warnings (art. 75) and the punishment of individuals for their alleged propensity to commit a crime – and the offence of sedition (art. 100), which criminalizes a wide range of behaviours, including those that disturb public order. The Committee reiterates its previous concern that persons deemed to be "a danger to society" are subjected to rehabilitative, therapeutic and supervisory measures that can entail internment in specialized

<sup>9</sup> Inter-American Commission on Human Rights, *The Situation of Human Rights in Cuba* (OEA/Ser.L/V/II. Doc. 2) (2020), paras. 371–382.

labour, educational, care, psychiatric or detoxification institutions for a period of between 1 and 4 years, and again regrets that it has received no information about conditions of internment in these institutions.<sup>10</sup> The Committee is particularly concerned that therapeutic measures are imposed on persons with psychosocial or intellectual disabilities who are declared to be a “danger to society” (art. 79) without the application of procedural guarantees such as the periodic review of the necessity and proportionality of the measures and without available remedies to challenge them. The Committee notes that the proposed Criminal Code would eliminate the procedures for declaring a person who has committed no crime to be a danger to society and the related security measures, but maintains the therapeutic measures and official warnings (arts. 2, 11 and 16).

**27. The Committee reiterates its previous recommendation<sup>11</sup> for the State party to amend the aforementioned provisions of the Criminal Code with a view to ending detention on the basis of subjective, vague and imprecise criminal concepts such as posing a danger to society without having committed a criminal act and sedition.**

#### **Independent monitoring of places of detention**

28. The Committee takes note of the information provided by the State party indicating that judges and prosecutors, as well as some non-State actors, have access to prisons and other detention facilities. According to the State party, between 2012 and 2019, prosecutors conducted 105,113 such inspections.<sup>12</sup> However, the Committee notes with concern the absence of a dedicated independent mechanism to conduct periodic visits to all places where persons may be deprived of their liberty (arts. 11 and 12).

**29. The Committee recalls its previous recommendations<sup>13</sup> and urges the State party to:**

(a) **Establish a dedicated independent mechanism that can make regular unannounced visits to any place where persons are deprived of their liberty and follow up on the outcome of this monitoring;**

(b) **Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with a view to establishing a system of regular unannounced visits in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.**

#### **Deaths in custody**

30. The Committee regrets that the State party has not provided comprehensive statistical data on deaths in custody during the period under review. According to the information included in the periodic report, heart disease is the primary cause of death among the prison population. During the reporting period, the State party recorded an average of about 100 deaths in custody per year, without determining that the authorities were responsible for any of them, and without the autopsies finding any signs of physical violence.<sup>14</sup> The State party indicated that, between 2016 and 2019, the Military Prosecutor’s Office investigated eight complaints filed in relation to deaths of persons deprived of liberty and that, as a result of those investigations, breaches were noted in three cases and unspecified disciplinary action was taken against three staff members.<sup>15</sup> The Committee also regrets that the State party has not provided the requested information on the deaths of Alejandro Pupo Echemendía, who reportedly died in police custody at Placetas, Villa Clara, and Reidel García Otero, an inmate of Valle Grande prison (arts. 2, 11, 14 and 16).

<sup>10</sup> CAT/C/CUB/CO/2, para. 12.

<sup>11</sup> Ibid.

<sup>12</sup> CAT/C/CUB/3, para. 184, and CAT/C/CUB/RQ/3, para. 127.

<sup>13</sup> A/53/44, para. 118 (d), A/53/44/Corr.1 and CAT/C/CUB/CO/2, para. 13.

<sup>14</sup> CAT/C/CUB/3, paras. 202–204.

<sup>15</sup> CAT/C/CUB/RQ/3, paras. 125–126.

31. **The State party should:**

(a) **Ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, duly taking into account the Minnesota Protocol on the Investigation of Potentially Unlawful Death;**

(b) **Investigate any possible responsibility of public officials for deaths in custody and, where appropriate, duly punish those responsible and provide fair and adequate compensation to family members;**

(c) **Compile and publish detailed information on deaths in custody and their causes;**

(d) **Strengthen measures to improve the quality of medical and health care provided to persons deprived of liberty, review the effectiveness of strategies and programmes for the prevention of suicide and inter-prisoner violence, and evaluate the existing programmes for the prevention, detection and treatment of chronic, degenerative and infectious diseases in prisons.**

**Complaint, investigation and redress mechanism**

32. The Committee regrets that the State party has not yet established an independent mechanism to receive and investigate complaints of torture and ill-treatment. According to information provided by the State party during the dialogue, in the period 2017–2021, the Attorney General’s Office received 11,151 complaints from persons deprived of liberty and their family members, of which only 7 per cent had a favourable outcome for the complainants. Between 2012 and 2019, the Military Prosecutor’s Office investigated 2,076 complaints of alleged ill-treatment by internal security officers, resulting in the application of 293 disciplinary measures, 37 criminal penalties and 3 administrative measures.<sup>16</sup> The Committee was therefore struck by the delegation’s assertion during the dialogue that no cases of torture had been recorded during the period under review. Moreover, the Committee is concerned at the low number of sanctions imposed for ill-treatment and the State party’s failure to provide detailed information in this regard (arts. 2, 12, 13, 14 and 16).

33. **The Committee reiterates its previous recommendations<sup>17</sup> and urges the State party to:**

(a) **Establish a dedicated, independent mechanism for receiving complaints of torture and ill-treatment, ensure that all such acts are investigated promptly and impartially, punish those responsible appropriately and provide full redress for victims, including adequate compensation and rehabilitation;**

(b) **Ensure that, in cases of alleged torture or ill-treatment, suspects are suspended from duty immediately for the duration of the investigation, particularly when there is any risk that they might otherwise be in a position to repeat the alleged act or to obstruct the investigation, or when there is a risk of reprisals;**

(c) **Ensure that complainants and witnesses of torture receive the necessary protection and assistance;**

(d) **Set up a centralized public register of complaints, investigations, prosecutions, penalties and convictions in relation to cases of torture and ill-treatment.**

**Coerced confessions**

34. The Committee takes note of the constitutional safeguards related to oral trial proceedings and the provisions of the Criminal Procedure Act establishing the inadmissibility of evidence obtained through torture, as well as the information provided by the State party indicating that, during the period under review, no cases were dismissed because the evidence or testimonies submitted had been obtained through torture. However, the Committee is concerned about consistent reports of the use of coercive methods during questioning, in

<sup>16</sup> CAT/C/CUB/3, para. 174, and CAT/C/CUB/RQ/3, para. 137.

<sup>17</sup> A/53/44, para. 118 (b) and (g), A/53/44/Corr.1 and CAT/C/CUB/CO/2, para. 16.

particular physical aggression, prolonged incommunicado detention, solitary confinement, exposure to sudden temperature changes, and threats (arts. 2, 11, 15 and 16).

**35. The State party should:**

(a) **Take immediate steps to put an end to coercive practices during questioning, including aggression, prolonged incommunicado detention, solitary confinement, exposure to sudden temperature changes, and threats;**

(b) **Adopt all necessary measures to ensure that any statements obtained through torture are not admitted in evidence in practice, except against persons accused of committing torture, as evidence that the statement was made;**

(c) **Ensure that, when it is alleged that a statement has been obtained through torture, the allegation is investigated immediately and the burden of proof falls not on the victim but on the State;**

(d) **Expand training programmes for judges and prosecutors in order to provide them with the skills needed to detect and investigate all complaints of torture and ill-treatment effectively, using non-coercive interrogation techniques.**

**Psychiatric institutions**

36. According to the information provided by the State party, nobody is deprived of their liberty in psychiatric hospitals in the country. However, the Committee notes with concern the continued failure to seek the informed consent of persons with intellectual or psychosocial disabilities for their treatment and the absence of legal safeguards concerning involuntary hospitalization and involuntary medical treatment in psychiatric institutions. The Committee also regrets not having received the requested information on the measures of redress granted in relation to the 26 deaths that occurred in the Havana Psychiatric Hospital in 2010, although it takes note of the information provided by the State party concerning the sanctions imposed on those responsible, including sentences of between 5 and 15 years' imprisonment (art. 16).

**37. The State party should ensure respect for legal safeguards to prevent torture and ill-treatment in psychiatric institutions, including access to a complaints mechanism and an independent and effective judicial review. It should also ensure that mental health services in the community are adequately funded.**

**Death penalty**

38. The Committee notes that there has been a de facto moratorium on the death penalty since the last recorded execution in 2003 and that, according to the State party, no one is currently facing the death penalty. However, the Committee regrets that legislation still provides for capital punishment, which may be applied for common crimes and broad categories of State security-related offences. According to information provided by the State party, the draft Criminal Code under preparation would provide for the abolition of the death penalty for four common crimes (arts. 2 and 16).

**39. The Committee invites the State party to consider declaring a formal moratorium on the death penalty, with a view to its future abolition.**

**Human rights defenders, journalists and artists**

40. The Committee reiterates its concern at United Nations reports<sup>18</sup> documenting cases of harassment, attacks, arbitrary arrests, imprisonment and reprisals against human rights

<sup>18</sup> CERD/C/CUB/CO/19-21, para. 13, A/HRC/39/41, paras. 34–35 and annex (paras. 19–26), and Working Group on Arbitrary Detention, opinions No. 66/2018, No. 4/2020, No. 50/2020, No. 65/2020, No. 41/2021 and No. 63/2021. See also Office of the United Nations High Commissioner for Human Rights, “Cuba: Rights of human rights defenders must be upheld, says UN expert”, press release, 11 March 2021; “Press briefing note on Yemen, Cambodia, Cuba, Nicaragua and Montenegro”, 11 May 2018; and “UN human rights chief urges Cuba to halt harassment of civil society activists”, press release, 15 December 2015. Further, see Inter-American Commission on Human Rights, *The Situation of Human Rights in Cuba*, (OEA/Ser.L/V/II. Doc. 2), paras. 172–194.



defenders, journalists and artists, especially those considered to be political opponents.<sup>19</sup> While noting that the State party rejects these allegations, the Committee remains alarmed by reports of arbitrary detention for short periods of time, restrictions on freedom of movement, surveillance operations for the purpose of intimidation, physical aggression, “acts of repudiation” outside the homes or places of work or study of political opponents, forced exile and other acts of intimidation and harassment allegedly committed by officers of the National Revolutionary Police and State security officers. The Committee regrets that the State party has not provided information on investigations and prosecutions in connection with such complaints (arts. 2, 12, 13 and 16).

**41. The Committee reiterates its previous recommendations<sup>20</sup> and urges the State party to:**

**(a) Adopt the necessary measures to prevent and put an end to the arbitrary detention, harassment, intimidation, threatening and discrediting of human rights defenders, journalists, artists and their families;**

**(b) Ensure that acts of harassment, repression and intimidation are duly investigated and the perpetrators punished;**

**(c) Ensure that all persons are protected from the intimidation and violence to which they might be exposed as a result of their activities or the exercise of their freedoms of opinion, expression and movement and their rights of association and peaceful assembly;**

**(d) Establish an independent national mechanism for the protection of human rights defenders, journalists and other civil society actors.**

#### **Events of 11 July 2021**

42. The Committee expresses its concern at United Nations reports of alleged arbitrary arrests, excessive use of force and ill-treatment during the social protests of 11 July 2021,<sup>21</sup> although it notes that the State party rejects these allegations. The Committee is also concerned at acts of repression reportedly committed against human rights defenders, artists and journalists. The reports document ill-treatment such as beatings, insults, threats of a sexual nature, full body searches, solitary confinement in dark cells, use of pepper spray, exposure to high temperatures in police vehicles and abandonment in remote areas. The Committee is further concerned about reports of summary trials without guarantees of due process, restrictions on mobility, limitations of Internet access, and “acts of repudiation”. The Committee regrets that the State party has provided insufficient information on investigations and prosecutions linked to abuses committed in this context (arts. 2, 12, 13, 14 and 16).

**43. The State party should:**

**(a) Investigate promptly, independently and comprehensively the acts of ill-treatment and excessive use of force that occurred during the social protests of 11 July 2021, prosecute and, where appropriate, punish the persons responsible and ensure that the victims receive adequate and comprehensive reparations;**

**(b) Establish protocols regulating the conduct of law enforcement officials during social protests, in conformity with international standards for the protection of human rights.**

<sup>19</sup> The reports mention the following organizations: Damas de Blanco (Ladies in White), Unión Patriótica de Cuba, Movimiento San Isidro and Colectivo del 27N.

<sup>20</sup> A/53/44, para. 114, A/53/44/Corr.1 and CAT/C/CUB/CO/2, para. 20.

<sup>21</sup> See Office of the United Nations High Commissioner for Human Rights, “Cuba: Bachelet urges dialogue, calls for release of detained protesters”, statement, 16 July 2021. See also Inter-American Commission on Human Rights, “IACHR and special rapporteurs express concern over reports of arbitrary detentions, incommunicado detention, lack of legal defense, and other violations of due process during the July 11 protests in Cuba”, press release, 12 August 2021.

**Gender-based violence**

44. While appreciating the information provided by the State party on the courses on gender-based violence run by the Judicial Training School, the existence of women's and family counselling centres in each municipality and the publication of an annual national report on the prevention and combating of trafficking, the Committee notes with concern the persistence of gender-based violence, weaknesses in the complaints mechanism and the insufficient number of shelters. The Committee is also concerned about the lack of specific legislation on gender-based violence and the leniency of the penalties for sexual assault set forth in the Criminal Code. However, it notes that the draft Criminal Code would treat gender-based violence as an aggravating circumstance in the commission of offences. The Committee is further concerned about the absence of disaggregated statistical data on gender-based violence in all its forms (arts. 2, 14 and 16).

**45. The State party should:**

(a) **Ensure that all cases of gender-based violence, especially those involving actions or omissions by the authorities which engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims receive comprehensive redress;**

(b) **Enhance the capacity of protection and support services for women experiencing violence by providing infrastructure, equipment and specialized personnel and drawing up an adequate budget;**

(c) **Consider enacting a comprehensive law on gender-based violence and ensure that all forms of violence against women are appropriately punished;**

(d) **Strengthen mandatory gender-based violence training for police, prosecutors and judges, and public awareness campaigns and their evaluation;**

(e) **Maintain statistics, disaggregated by age and ethnic origin or nationality of the victim, on complaints, investigations, prosecutions, convictions and sentences relating to gender-based violence.**

**Training**

46. While noting the information provided by the State party that training on human rights and the Convention is provided to judges, prosecutors, Ministry of the Interior personnel responsible for the processing and care of detainees, and related medical personnel, the Committee is concerned that little information is available on the scope and impact of such programmes and that insufficient information has been provided on training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) (art. 10).

**47. The State party should:**

(a) **Ensure that all public servants, especially members of the security forces and the armed forces, prison officers and justice officials, receive mandatory training on the Convention and the absolute prohibition of torture, and that all medical professionals and other relevant public officials receive training on the Istanbul Protocol;**

(b) **Develop and implement measures to assess the effectiveness of training programmes provided to law enforcement and other public officials on the Convention;**

(c) **Ensure that rules and instructions regarding the prohibition of torture are issued during the training of all personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.**

**Follow-up procedure**

48. **The Committee requests the State party to provide, by 13 May 2023, information on follow-up to the Committee's recommendations on the independent monitoring of**

places of detention; human rights defenders, journalists and artists; and the events of 11 July 2021 (see paras. 29 (a) and (b), 41 (a) and 43 (a) above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

### **Other issues**

49. The Committee encourages the State party to consider making the declarations under article 22 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction.

50. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee of its efforts to disseminate them.

51. The Committee requests the State party to submit its next periodic report, which will be its fourth, by 13 May 2026. For that purpose, the Committee invites the State party to accept, by 13 May 2024, the simplified reporting procedure consisting in the transmittal, by the Committee to the State party, of a list of issues prior to the submission of the report. The State party's replies to that list of issues will constitute its fourth periodic report under article 19 of the Convention.

---