



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

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Committee against Torture

**Information received from the Democratic
Republic of the Congo on follow-up to the
concluding observations on its second periodic
report***

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* The present document is being issued without formal editing.



Introduction

1. The Committee against Torture considered the second periodic report of the Democratic Republic of the Congo on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/COD/2) at its 1722nd and 1725th meetings, held on 24 and 25 April 2019, and adopted concluding observations thereon (CAT/C/COD/CO/2) at its 1745th meeting, held on 9 May 2019.
2. In these concluding observations, the Committee requested the Democratic Republic of the Congo to provide, by 17 May 2020, information on follow-up to the recommendations contained in paragraphs 13 (c), 25, 33 (a) and (c), and 35 (a).
3. In response to this request, the Democratic Republic of the Congo has the honour to transmit herewith follow-up information on the above-mentioned paragraphs.

Follow-up information relating to paragraph 13 (c) of the concluding observations

4. In general, State officials respect legal guarantees and scrupulously keep registers in places of detention.
5. Article 17 of the Constitution states: “Individual liberty is guaranteed. Liberty is the rule, detention the exception. No one may be prosecuted, arrested, detained or convicted other than by law and in the form prescribed by law.” Furthermore, article 18 of the Constitution provides that: “All arrested persons must be informed immediately of the reasons for their arrest and of any charges brought against them in a language that they understand. They must immediately be informed of their rights. Persons held in custody have the right to make immediate contact with their family or counsel. Custody may not exceed 48 hours. On expiry of that period, the person in custody must be released or placed at the disposal of the competent judicial authority. The treatment accorded to all detainees must guarantee their life, physical and mental health and dignity.”
6. In practice, the entity designated the national mechanism for the prevention of torture, established pursuant to Ministerial Decree No. 002/CAB/MIN/DH/2019 of 7 November 2019, and the National Human Rights Commission, systematically verify the content of the registers and ensure that they are properly kept. Military judges also regularly inspect punishment cells under Directive No. AG/0793/10 of 23 June 2010 of the Chief Justice of the High Military Court. Article 3 of Decree No. 129 of 22 August 1984, on the establishment of a joint inspection commission responsible for overseeing the activities of criminal investigation officers attached to the ordinary courts, provides that the commission is to conduct monthly inspections of various punishment cells and offices of the criminal investigation police to make sure that the relevant registers are being kept in accordance with articles 138, 139 and 140 of Ordinance No. 78-289 on the powers of the criminal investigation officials attached to the ordinary courts.
7. Regarding punishment, article 6 of the above-mentioned Decree provides that the chief prosecutor must transmit a copy of the report to the Department of Justice (now the Ministry of Justice) and to the Attorney General of the Republic (now the chief prosecutor of the Court of Cassation). He or she must also transmit to the same persons the decisions taken by the commission on requests submitted by criminal investigation officers, in accordance with article 15 of Ordinance No. 78-289 of 3 July 1978.
8. The joint visits to prisons and other places of detention in Kinshasa and the provinces carried out by representatives of the Ministry of Human Rights and the United Nations Joint Human Rights Office in the Democratic Republic of the Congo take place in this context.
9. However, there are still major challenges to be overcome. For example, it is necessary to provide military judges with vehicles to allow them to travel to places of detention.

Follow-up information relating to paragraph 25 of the concluding observations

10. The National Committee for the Prevention of Torture has been established within the Ministry of Human Rights, pursuant to Ministerial Decree No. 002/CAB/MIN/DH 2019 of 7 November 2019.
11. Its powers include:
- Collecting data on serious human rights violations by interviewing victims and witnesses.
 - Taking concrete steps to prevent torture in all its forms.
 - Making regular visits to places of deprivation of liberty (prisons, punishment cells, police stations, etc.).
 - Ensuring that the curricula of training programmes for civilian, military and other personnel involved in judicial investigations cover the prohibition of the use of torture against persons who are being questioned in police custody and arrested, detained or imprisoned persons.
 - Drafting ad hoc reports for the attention of the Minister for Human Rights, who is authorized to refer cases for action by the judicial authorities.
12. The National Committee's budget is funded by the public treasury.

Follow-up information relating to paragraph 33 (a) of the concluding observations

13. In the Democratic Republic of the Congo, cases of sexual violence brought to the attention of the judicial authorities are generally investigated and, where appropriate, alleged perpetrators, whether civilian or military, are prosecuted and convicted by the competent courts, regardless of social status or other considerations.

Follow-up information relating to paragraph 33 (c) of the concluding observations

14. In cooperation with partners, the Government organizes capacity-building training for judges on the subject of combating sexual violence. This is taking place as part of the priority action plan related to the National Policy on Justice Sector Reform 2018–2022, whose implementation requires the support of the National Judicial Training Institute.

Follow-up information relating to paragraph 35 (a) of the concluding observations

15. One of the aims of the Child Protection Act (Act No. 09/001 of 10 January 2009) is to guarantee children's right to benefit from administrative, social, judicial, educational, health-care and other measures designed to protect them from any form of abandonment, neglect, exploitation or physical, moral, psychological or sexual assault.

16. The main laws enacted to put an end to all forms of sexual violence are Act No. 06/018 of 20 July 2006, amending and supplementing the Decree of 30 January 1940 on the Criminal Code, and Act No. 06/019 of 20 July 2006, amending and supplementing the Decree of 6 August 1959 on the Code of Criminal Procedure.

17. Regarding children in particular, the Child Protection Act (Act No. 09/001 of 10 January 2009) demonstrates the Government's firm commitment to the effective protection of children from sexual abuse.

18. Act No. 06/018 of 20 July 2006, amending and supplementing the Decree of 30 January 1940 on the Criminal Code, is broad in scope in that it covers a wide variety of vulnerable groups (women, persons with disabilities, older persons and displaced persons).

19. The aggravating circumstances applicable to cases involving children are set out in the following articles:

- Article 167: “Anyone who commits indecent assault without violence, deception, personal threats or through an intermediary against a child under the age of 18 shall be liable to 6 months’ to 5 years’ imprisonment.”
- Article 168: “Anyone who commits indecent assault with violence, deception, personal threats or through an intermediary against a child under the age of 18 shall be liable to 5 to 15 years’ imprisonment. If the assault is committed against or using persons under the age of 10, the prison term shall be between 5 and 20 years.”

20. In practice, as indicated in the follow-up information relating to paragraph 33 (a), cases of sexual violence against minors are generally investigated and prosecuted, and may result in the imposition of criminal penalties.

21. There is a preliminary draft decree on the establishment of a public entity to be known as the National Fund for Victims of Serious Human Rights Violations, which will be responsible for the prompt provision of reparation to victims.

22. As regards medical and psychological care for victims, various hospitals in Kinshasa and the provinces, such as Saint Joseph Hospital in Limete, Roi Baudouin Hospital in Masina and the Ngaliema Clinic are often tasked with providing such services.

23. Moreover, Panzi Hospital in Bukavu, South Kivu, which is run by the 2018 Nobel Peace Prize laureate Dr. Mukwege, offers services with support from partners, in addition to training delivered by the Panzi Foundation to medical staff from the east of the country in order to provide them with the skills necessary to address this scourge once they return to their respective places of work.
