



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

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Committee against Torture

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List of issues prior to the submission of the third periodic report of Uruguay (CAT/C/URY/3)*

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

1. With reference to the Committee's previous recommendations¹ (paras. 91 (b) and 93), please indicate what specific steps have been made to amend the Criminal Code to include the definition of torture as an autonomous crime, in line with articles 1 and 4 of the Convention. Specifically identify the national law(s) that criminalize torture in accordance with these provisions and describe the applicable penalties for committing this offence.

2. Referring to the Committee's previous recommendations (para. 94) to improve measures taken to prevent the torture of persons deprived of their liberty and to strengthen protection in prisons, have any specific legal steps been taken to plan and implement a fundamental and comprehensive reform of the criminal justice and penitentiary system, as recommended by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment after his visit to the country in 2009? Please describe these steps in detail. Provide an update on the two commissions set up to do the groundwork for the reform of the Criminal Code and of the Code of Criminal Procedure. Have bills to that effect been passed in Parliament? If so, what is the substance of these bills, and if not, what

*The present list of issues was adopted by the Committee at its forty-fourth session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

¹ Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol A/52/44, paras. 81-94.

has caused the delay? Have amendments been made in the Code of Criminal Procedure to allow for a greater role of victims in judicial proceedings?

Article 2²

3. Please provide specific information on any legal measures taken to reform the juvenile justice system and the “alarming” situation of juveniles in detention. What specific measures are being taken to abandon the punitive approach in favour of a rehabilitative approach? Since the adoption of the Code on Childhood and Adolescence in 2004, has the specialized judicial system introduced after its adoption made deprivation of liberty, including preventive detention, a measure of last resort and for the shortest period possible? What legal safeguards protect the rights of juvenile detainees, have these safeguards been respected, and if not, why? Please describe in detail the structure developed by the “Implementation System for Measures for Juvenile Offenders” and the “Programme for Measures for the Non Deprivation of Liberty on a Communitarian Basis.” Please provide information regarding the situation of adolescents who turn 18 while in custody. Are they sent to other centres of detention and is psychological support provided with regard to the change? What specific measures have been taken to ensure that work opportunities, educational and vocational training, or subsequent social and educational re-integration, meaningful activities, including sports, and/or other rehabilitative activities are available to detained juveniles? Please discuss how the plans for reforming the juvenile justice system adopt and implement a modern approach to juvenile crime prevention, rehabilitation and reintegration of offenders into society. What is the role of the Uruguayan Institute for Adolescents and Children (INAU) in this regard?

4. What concrete legal steps have been undertaken to create a Ministry of Justice? Has the State party taken specific legal measures to create a separate authority for prisons, independent from the Ministry of the Interior, so that those who arrest and investigate crimes would no longer be under the same ministry as those who administer prisons and act as prison guards, and that police officers who lack any specific training would not be working with prisoners? If so, please describe these measures in detail.

5. What is the current status of the National Human Rights Institution (NHRI) established by Law No. 18446 in January 2009 (INDDHH), which also comprises the National Preventive Mechanism under the Optional Protocol to the Convention against Torture? Does it comply with the Paris Principles? Has the five-member Directive Council been elected by the Special Commission of Parliament? What are the financial and human resources provided to the institution? Has the National Preventive Mechanism been established and activated to date? If not, please provide detailed information on the measures taken to activate this institution.

6. How do the Parliamentary Commissioner on Penitentiaries, the Observer Committee for Adolescents Deprived of their Liberty and the Inspector General for Psychopaths

² The issues raised under article 2 could imply also different articles of the Convention, including but not limited to article 16. As general comment No. 2, paragraph 3, states "the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter “ill-treatment”) under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture....In practice, the definitional threshold between ill-treatment and torture is often not clear." See further Chapter V of the same general comment.

coordinate their work with the NHRI? Who reports to whom; which institution ensures follow-up to reports and how are their findings taken into account? Has the mandate of the Parliamentary Commissioner on Penitentiaries established by Law No. 17684 in 2003 been broadened to include all places of detention and not only visits to adult detainees? Has the access of the Observer Committee regarding to places of detention of minors improved and does it have a programme of work concerning visits, including to police stations? Has its most recent report been sent to the Uruguayan Institute for Adolescents and Children (INAU)? Please provide information about the number of complaints, investigations and prosecution with regard to alleged practices received by the Parliamentary Commissioner on Penitentiaries, the Observer Committee for Adolescents Deprived of their Liberty and the Inspector General for Psychopaths, outlining their outcome.

7. With reference the Committee's previous recommendations (paras. 91 (c) and 93), please provide information about the State party's compliance with article 2, paragraph 3, regarding the fact that orders from superiors never can be invoked as a justification of torture, and indicate whether this is covered by a specific legal provision.

8. Please provide information on any legislative or administrative measures taken to ensure that all detained persons, including juveniles, are informed of the reasons for their detention and of their rights while in custody from the moment of their detention, including their rights to contact their family members, to prompt access to medical examination by an independent doctor upon entry to and departure from any national prison, access to a lawyer and to receive independent and free legal aid if they cannot afford private counsel, and in the case of foreigners, to meet with a representative of their State of origin, and to have their detention promptly registered in the computer system registries in police stations. Please detail specific actions taken to guarantee that these rights are respected in practice. What steps have been taken to ensure that data in registries in police stations are harmonized and streamlined, as recommended by the Special Rapporteur on the question of torture?

9. Given that Government figures from July 2009 indicate that only 35 per cent of persons in detention had been sentenced:

(a) Have steps been taken towards enacting legislation stipulating the maximum duration of pretrial detention, which can allegedly last several years? If so, please describe the status of this legislation;

(b) Have any other measures, such as reforms to increase the efficiency of the judiciary, been taken to reduce the high proportion of unsentenced detainees in the State party's prisons and detention centres?

(c) Please indicate which measures have been taken to separate pretrial and convicted detainees and to enhance the principles of the presumption of innocence and the use of deprivation of liberty as a last resort;

(d) Has recourse to pretrial detention been limited, has there been a corresponding increase in the use of non-custodial measures, and has the use of custodial measures respected the criteria of necessity and proportionality? Has the application of non-custodial measures of punishment, in particular for juveniles, been enhanced? Have additional persons not accused of committing serious crimes been granted provisional liberties such as house arrest and parole?

(e) Please provide disaggregated information by age, sex, ethnic origin and offence with regard to the numbers of persons held in pretrial detention and the duration of pretrial detention;

(f) Please provide information on any structural or practical changes to the prison system since Law No. 17897 on the Humanization and Modernization of the Prison System was promulgated in March 2005.

10. Given the 10 per cent increase in domestic violence since 2008, what measures have been taken by the State party to enhance precautionary measures and enforcement procedures and prevent the re-victimization of women filing complaints? Please provide detailed information on the number of complaints, investigations, prosecutions, convictions and sentencing relating to domestic violence. Please explain why the National Plan against Domestic Violence, which was to be implemented in the period 2004 to 2010, is still in its initial phases of development. How does the State party plan to expedite the implementation of this plan? Have any shelters for victims of domestic violence been established? If so, where are they located, what is their capacity, and what services do they provide?

11. Please provide detailed information on the number of complaints, investigations, prosecutions, convictions and sentencing for trafficking in persons. Describe the mechanisms in place for identifying victims and perpetrators of trafficking. How are public officials trained to manage such cases? What services are available to victims of trafficking, and how are victims connected to these services? If possible, provide statistical information on the number of victims currently receiving services.

12. Please provide information about whether sufficient and effective measures have been introduced to implement the National Plan for the Eradication of Commercial and Non-Commercial Sexual Exploitation. Have appropriate reintegration measures been taken in favour of children living and working in the street? Please provide detailed information on the number of complaints, investigations, prosecutions, convictions and sentencing relating to the above.

Article 3

13. How does the State party ensure that its obligations under article 3 of the Convention are always fulfilled? After the adoption of the Refugee Status Act, Law 18076, in 2006, the Convention on the Resettlement of Refugees, Law 18382, in 2008 and of the Migration Act in 2008, please outline the legal safeguards available to protect the human rights of migrants and refugees, and indicate whether these rights have been respected in practice. Specifically provide citations to the national law(s) that codify the principle of non-refoulement. Please indicate whether the existing laws and regulations allow migrants and asylum-seekers their right to a remedy in case they face deportation. Have internal regulations been adopted to facilitate the effective implementation of the refugee and migration laws?

14. Has training on refugee protection been provided to relevant governmental officials and agencies, especially those working in border areas? Which training has been provided, which officials receive training, and how many persons have been trained to date? What has been the outcome?

15. Please provide data, disaggregated by age, sex, and nationality, on:

(a) The number of asylum requests registered and approved;

(b) The number of applicants whose requests were granted because they had been tortured or might be tortured if they were returned to their country of origin;

(c) The number of forcible deportations (indicate how many of them involved rejected asylum-seekers) and the countries to which these persons were expelled.

16. Has the State party refused to expel, return or extradite any person on grounds that he/she would be in danger of being tortured? Please provide detailed information on these cases, including which States were involved.

Articles 5, 6, 7 and 8

17. Please identify any national laws codifying the State party's universal jurisdiction over the crime of torture and/or explain how this jurisdiction is exercised directly under the authority of the Convention. Please provide detailed information on how the State party has exercised its universal jurisdiction over persons responsible for acts of torture, wherever they occurred and regardless of the nationality of the perpetrator or victim, and provide specific examples of texts of any decisions on the subject.

18. What provision of national law guarantees the right of a detained foreign national to communicate with a representative of the State of which he is a national? Please delineate the notification and communication procedure established by the State party in accordance with article 6 and identify cases in which it has been implemented. What other legal safeguards are in place to protect the rights of detained foreign nationals?

19. Please indicate whether Uruguayan courts have the power to bring proceedings against foreigners present in Uruguay who are suspected of committing acts of torture abroad. Has the State party rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result? Has the State party cooperated with or assisted any other States in investigating and prosecuting acts of torture? Please provide information on the status and outcome of such proceedings.

Article 10

20. Do training and education materials provided to law enforcement, military, medical, and other public officials make explicit the absolute prohibition against torture? How is this principle communicated, and how is the officials' understanding of this principle assessed?

21. Have any steps been taken to modernize the judicial system and train judges in order to expedite the administration of justice? Please describe the measures taken in detail. Please provide information regarding the alleged differences in sentencing of minors for the same offence in Montevideo as opposed to other parts of the country, with minors in other parts of the country usually receiving harsher sentences that can result in abusive use of detention. Please provide information about judges who have a specialization in rights of juveniles and what measures, at the university and/or other levels, are being taken to train judges in other parts of the country. According to article 87 of the Code on Childhood and Adolescence of 2004, judges should visit children in detention every three months. Do these visits take place regularly and if not is there a specific procedure for follow-up of the judges' visits every three months by at least visits of social workers? Please provide information on what happens to children and adolescents deprived of their liberty during the judicial recess which lasts from December until the end of February of each year, in particular those who have gone beyond the legal maximum of 60 days or preventive detention.

22. Please provide information on the training provided to interrogation officials and police officers serving as prison guards as well as to social workers, including those assigned to juvenile detention facilities. What training has been provided, has it been both theoretical and practical, to how many persons, and what are their outcomes? Have these officials been made aware that all other rights apart from deprivation of liberty must in principle be respected in prison? Please indicate the results of this training are evaluated and assessed. Please indicate which measures have been taken specifically to improve the training and subsequent coordination of work of staff working with children and

adolescents deprived of their liberty. How has the problem of frequent turnover of staff been dealt with?

23. Please provide information about any plans or actions taken to create a more rehabilitative penal system by reforming the training and education programmes of prison officials. How do training programmes educate officials to rehabilitate and resocialize detained individuals, particularly juveniles?

24. Please indicate if there are programmes to train medical personnel on recognizing and treating physical and psychological injuries resulting from torture or cruel, inhuman, or degrading treatment. Is the “Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” (the Istanbul Protocol) part of this training? How many persons have received such training, how are they assessed, and what are their outcomes?

25. Please indicate whether training has been provided to police officers and members of the judiciary to receive, investigate, and adjudicate properly complaints of social violence, and in particular violence against women and children? Which training has been provided, to how many persons, and what is its outcome? Have specific awareness-raising and capacity-building activities for the judiciary and law enforcement officials about the need to impose precautionary measures, issue orders to protect the physical and mental integrity of the victim and to establish shelters for female victims of violence been carried out within the Framework of the National Plan Against Domestic Violence to be implemented between 2004 and 2010?

Article 11

26. Since the Government itself in 2005 declared the prison situation a “state of humanitarian emergency” with severe overcrowding resulting in large-scale human rights violations, what has been done by the State party to improve the situation? Has the preliminary plan to alleviate overcrowding in prisons requested by the President and approved by the Council of Ministers on 13 April 2009 been implemented? Have new prisons and detention facilities been built to alleviate overcrowding since the Government accelerated and amplified existing plans to ease the prison system’s chronic overcrowding and doubled the budget allocation for prison improvements? If so, detail the name, location, capacity, and operating status of each new facility.

27. Please describe specific measures taken to provide adequate food, water, sanitation, and medical care to detained individuals in police stations, prisons, and juvenile detention centres. How has the increased budget been allocated to address these concerns?

28. Has the “Las Latas” section composed of steel modules in the Libertad Penitentiary and Modules 2-4 of the COMCAR detention centre, renowned for “appalling” and “subhuman” conditions been closed, as recommended by the Special Rapporteur on the question of torture, and if not, what are the specific reasons for the delay? Have plans been made to replace prison personnel who are police officers as well as other types of staff who have committed abuses against and ill-treated detainees? Has the SER centre been closed and the Colonia Berro detention centre been relocated following the adoption of Resolution No. 1866/008 of 9 July 2008, Act No. 23 of the Uruguayan Institute for Adolescents and Children (INAU), and if not when will this take place?

29. Describe the specific reforms implemented to improve the conditions for female detainees. What actions have been taken to reduce the severe overcrowding in some women’s prisons, such as that in Montevideo? What has the State party done to disseminate information about Law No. 17897, whereby women in the last trimester of pregnancy and during the first three months of breastfeeding may be placed under house arrest? What action has been taken to implement this law? How many such cases have there been?

30. Please indicate whether the State party systematically reviews interrogation rules, instructions, methods and practices, as well as arrangements for the custody and treatment of persons subject to any form of arrest, detention, or imprisonment. Please provide information about any revisions in police procedures and penitentiary regulations to bring them in line with international human rights standards, such as the recently adopted Police Procedures Act 18315, which gives a wide margin of discretion to police officers and may amount to legalizing abusive and arbitrary practices?

31. What specific measures have authorities taken to reduce the discrimination and disparate treatment of indigenous and minority detainees that stems from the separation and categorization of prisoners according to their social and economic status? What measures have been taken to eliminate this practice of separation and categorization? Please provide information on the percentage of the prison population which is of indigenous or Afro-Uruguayan origin.

32. What has that State party done to facilitate visitation in prisons by family members of detainees? What steps have been taken to adopt alternative, less intrusive inspections of visitors? Have measures been taken to facilitate access of family members of detainees who do not live in the vicinity of detention centres, and who could provide them with additional food and other necessities?

33. What has the State party done specifically to remedy the chronic understaffing and lack of economic resources in prisons? What resources have been allocated to address the low salaries that require prison guards to take second jobs, the high incidence of absenteeism because a large number of staff are on sick leave, and the lack of formal training of social workers before they start working in prisons?

34. What has the State party done specifically to remedy the strict detention regime, lack of opportunities for rehabilitation and reinsertion into society, and lack of educational and recreational activities, including with regard to detained minors, which lead to higher criminality and result in a high rate of recidivism which currently stands at 60 per cent? Has a scientific study been carried out on how the punitive penitentiary policy and the lack of an alternative concept, the introduction of new crimes into national legislation with longer sentences, and chronic overcrowding affect the rate of recidivism? If so, what are the results of this study?

Articles 12 and 13

35. What concrete recent measures have been taken to stop impunity for human rights violations committed during the civilian-military dictatorship? Please provide detailed information on the number of complaints received by the State party concerning allegations of torture, cruel, inhuman, and degrading treatment, and disappearances under this regime. Please update the Committee as to the status of investigations, prosecutions, convictions, and sentences pertaining to these complaints.

36. Please discuss the State party's progress in repealing Act 15848 on the Expiry of the Punitive Claims of the State. Given that executive and legislative bodies have accepted the unconstitutionality of this law, has a referendum been held to amend the Constitution so as to annul the Act? If so, with what results, and if not, when will the referendum take place?

37. What measures is the State party taking to guarantee that neither the police, social workers, nor any other type of penitentiary personnel torture detainees or subject them to individual or collective cruel, inhuman or degrading treatment, including that of detained minors and that those who commit such crimes are brought to justice? Please describe the procedures for monitoring such personnel and for reporting and investigating complaints of these offences.

38. Please provide detailed information on measures taken by the State party to ensure that victims of torture and ill-treatment are not dissuaded from lodging a complaint for fear of reprisals. What specific safeguards are in place to protect complainants from reprisal, and how does the State party ensure these safeguards are enforced? Are there any specific mechanisms for minors to file complaints and any measures in place for the protection of minors who have filed complaints? Please provide specific measures relating to lawyers in such cases.

39. Please provide detailed statistical data, disaggregated by prisons, detention centres, crimes, gender, age and ethnicity, on the number of complaints relating to torture and ill-treatment allegedly committed by law enforcement officials, police and social workers and on related investigations, prosecutions, convictions and criminal, administrative and disciplinary sanctions applied in each case, and as compared to the number of complaints. Please provide statistics on the hotline for complaints of police abuse operated by the Directorate of Internal Affairs of the Ministry of the Interior.

40. Has the State party taken any measures with regard to the Head of the Penitentiary System who strongly defended the conditions of detention described as inhuman by the Special Rapporteur on the question of torture during his visit and who stated that “prisoners held under such conditions were the worst criminals who deserved no better treatment,” which is in contravention of international standards? What specific measures have been taken following reprisals after the visits of the Parliamentary Commissioner? Has the State party taken into consideration and implemented the recommendations of the Special Rapporteur on torture?

41. Please provide information on what has been done to (a) improve conditions, and/or (b) investigate, prosecute and sanction prison staff who ill-treated detainees, in the prisons and detention centres cited specifically in the Special Rapporteur’s report, and especially with regard to police stations.

42. Please provide detailed information about the investigation of deaths in custody, including those resulting from inter-prisoner violence, and the administrative and judicial action taken in their wake.

Article 14

43. Please provide information on rehabilitation and compensation measures provided to victims of torture and ill-treatment, or their families, including to the family members of victims of the civilian-military dictatorship. This information should include the number of requests made, the number granted, the types and amounts of compensation and rehabilitation ordered and the compensation and rehabilitation actually provided in each case. Please also include information on other avenues for rehabilitation and compensation available to victims and their families when the accountable party cannot provide it.

44. Please provide information on a case-by-case basis of rehabilitation and compensation provided to detainees who have been incapacitated while in detention or who received injuries with visible and lasting traces for lack of medical attention, both during the civilian-military dictatorship and currently.

Article 15

45. What procedures are in place to ensure that statements obtained under torture are not admissible as evidence? Please identify where this principle and these procedures are codified in the national law and provide information on any case where evidence has been held inadmissible for this reason. Are there any specific mechanisms and safeguards to protect children and adolescents in this respect?

Article 16

46. What specific legal measures have been taken to eradicate the ill-treatment of detainees, particularly juvenile detainees? Please detail measures relating to:

- (a) Beatings and other ill-treatment by police of juveniles and other detainees in police stations after their medical examinations were performed upon arrest;
- (b) The prevention of wanton acts of humiliation, provocation and punishment of detainees, including juveniles, by prison guards and social workers;
- (c) Any improvement in the quality of medical services since the Ministry of Health took responsibility for providing them;
- (d) Forced injections of sedatives administered to detainees, including juveniles;
- (e) The establishment of drug-substitute programmes in juvenile detention facilities by medical staff specializing in the treatment of minors;
- (f) Allegations of corruption, including the alleged bringing of narcotics into prisons by penitentiary personnel.

47. What is the role of the Observer Committee for Adolescents Deprived of their Liberty in addressing the above-mentioned concerns? Please provide detailed information on the number of complaints, investigations, prosecutions, convictions and sentencing relating to these types of ill-treatment.

48. Please detail the State party's progress in implementing and enforcing its laws against child labour and in eradicating this practice from both the formal and informal sectors. Does the State party have a national plan to address this issue? If so, describe the strategies adopted under this plan and the means for evaluating the plan's effectiveness.

Other issues

49. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these anti-terrorism measures have affected human rights safeguards in law and practice and how it has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training given to law enforcement officers; the number and types of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

50. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report, including any relevant jurisprudential decisions.

51. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

52. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 1996, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.
