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

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Committee against Torture

Concluding observations on the initial report of Viet Nam*

1. The Committee against Torture considered the initial report of Viet Nam (CAT/C/VNM/1) at its 1685th and 1688th meetings, held on 14 and 15 November 2018 (see CAT/C/SR.1685 and SR.1688), and adopted the present concluding observations at its 1708th meeting (see CAT/C/SR.1708), held on 29 November 2018.

A. Introduction

2. The Committee welcomes the dialogue with the State party's delegation and the oral and written replies provided to the concerns raised by the Committee.

B. Positive aspects

3. The Committee welcomes the State party's accession to and ratification of the following international instruments:

(a) The Convention on the Prevention and Punishment of the Crime of Genocide, on 11 August 1950;

(b) The Slavery Convention, on 14 August 1956;

(c) The Geneva Conventions relating to the protection of victims of international armed conflicts, on 28 June 1957;

(d) The Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts, on 19 October 1981;

(e) The Convention on the Elimination of All Forms of Discrimination against Women, on 17 February 1982;

(f) The International Convention on the Elimination of All Forms of Racial Discrimination, on 9 June 1982;

(g) The International Covenant on Civil and Political Rights and the first Optional Protocol thereto, on 24 September 1982;

(h) The International Covenant on Economic, Social and Cultural Rights, on 24 September 1982;

(i) The Convention on the Rights of the Child, on 28 February 1990;

(j) The Worst Forms of Child Labour Convention, 1999 (No. 182), on 19 December 2000;

* Adopted by the Committee at its sixty-fifth session (12 November–7 December 2018).

(k) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 20 December 2001;

(l) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 20 December 2001;

(m) The United Nations Convention against Corruption, on 19 August 2009;

(n) The United Nations Convention against Transnational Organized Crime, on 8 June 2012;

(o) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 8 June 2012;

(p) The Convention on the Rights of Persons with Disabilities, on 5 February 2015.

4. The Committee also welcomes the State party's initiatives to revise its legislation in areas of relevance to the Convention, including the adoption of:

(a) The Law on Human Trafficking, which explicitly prohibits forced labour and sexual exploitation, in 2011;

(b) The amendment to the Law on Vietnamese Nationality, which facilitates the acquisition of Vietnamese nationality by refugees and stateless persons, in 2014;

(c) The amendment to the Law on Enforcement of Custody and Temporary Detention, which provides, inter alia, for the right to family visits and legal assistance, in particular during police investigations, in 2015;

(d) The amendment to the Law on Legal Aid, which expanded the list of beneficiaries of legal aid, in 2017;

(e) Amendments to the Criminal Code and the Criminal Procedure Code that, inter alia, provide for the right to access to counsel at all stages of criminal proceedings, broaden eligibility for free legal counsel and introduce video and audio recording for interrogations of accused persons by investigation authorities on official premises, in 2015, with entry into force on 1 January 2018.

5. The Committee also welcomes the initiatives of the State party to amend its policies, programmes and administrative measures to give effect to the Convention, including:

(a) The National Action Plan on Human Trafficking (2011–2015);

(b) The project on the popularization by the Ministry of Justice of the Convention and the organization of training courses for staff in charge of the dissemination of laws and education related to human rights in general, and the right not to be subjected to torture in particular, in 2015;

(c) The establishment of family and juvenile tribunals in Ho Chi Minh City and in Dong Thap Province under the 2014 Law on the Organization of People's Courts (arts. 30, 38 and 45), in 2016;

(d) The dissemination, by the Ministry of Information and Communication, of information on the Convention at workshops and conferences organized by the Ministry of Foreign Affairs in 2014 and by the Ministry of Public Security in 2016.

C. Principal subjects of concern and recommendations

Definition and criminalization of torture in national legislation

6. While noting that the right not to be subjected to torture and other offences, such as inflicting corporal punishment and obtaining testimony by duress, that amount to torture is enshrined in the Constitution and other domestic laws, the Committee is concerned that the State party's criminal legislation, and in particular the amended Criminal Code, do not criminalize torture in a separate provision specifically prohibiting this crime. It is also

concerned at the absence of a definition of torture in national legislation. In addition, the Committee is concerned at reports that committing acts of torture at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, as outlined in article 1 of the Convention, is not covered adequately in the laws of the State party (arts. 1–2 and 4).

7. **The State party should:**

(a) **Amend national legislation, including the 2015 Criminal Code, in order to introduce and explicitly criminalize acts of torture;**

(b) **Introduce a definition of torture that includes all the elements set out in article 1 of the Convention. In that regard, the Committee draws attention to its general comment No. 2 (2007) on the implementation of article 2 in which it states that serious discrepancies between the Convention's definition and that incorporated into domestic law create actual or potential loopholes for impunity (para. 9).**

Punishment for the crime of torture and impunity

8. While taking note that article 9 of the 2015 Criminal Code provides for up to 3 years of imprisonment for less serious crimes, up to 7 years for serious crimes, up to 15 years for very serious crimes and up to 20 years, life imprisonment or death for extremely serious crimes, the Committee is concerned that these punishments cover torture offences as well as general offences and that the definitions of torture offences are contained in different articles and are vague. It is also concerned that article 373 of the Criminal Code on "use of torture" states that "any person who, in the course of proceedings, trial, or implementation of measures including mandatory attendance at a correctional institution or rehabilitation centre, uses torture or brutally treats or insults another person in any shape or form shall face a penalty of 6–36 months of imprisonment", without aggravating circumstances. This means that a person committing acts of torture in correctional and rehabilitation institutions can receive a sentence of as little as six months of imprisonment (arts. 1–2 and 4).

9. **The State party should:**

(a) **Ensure that both the crime of torture and the attempt to commit such a crime are punishable with appropriate penalties that are commensurate with the gravity of their nature, as set out in article 4 (2) of the Convention, regardless of whether there are aggravating circumstances;**

(b) **Provide information to the Committee as to whether the entry into force on 1 January 2018 of amendments to the Criminal Code has resulted in an increase in the number of prosecutions brought in cases of torture and whether further amendments to the Criminal Code are envisaged in order to provide a simpler and clearer basis for the prosecution of torture.**

Statute of limitations for the crime of torture

10. The Committee is concerned that less serious crimes have a statute of limitations of 5 years while extremely serious crimes have a statute of limitations of 20 years, and that these categories may encompass acts of torture, which may result in impunity for acts of torture and be in violation of the Convention (arts. 1–2 and 4).

11. **The State party should amend the Criminal Code in order to ensure that there is no statute of limitations for the crime of torture and that all acts of torture may be prosecuted and punished independently of the time that has passed since the crime was committed. The law should also be amended so that the granting of amnesty and pardon is inadmissible when torture offences are concerned.**

Superior orders and complicity in acts of torture

12. The Committee is concerned:

(a) That the Law on the People's Public Security Forces, the Law on Viet Nam People's Army Officers and the Law on Cadres and Civil Servants stipulate that officers have the responsibility to strictly implement the directions, directives and orders of their

superiors and bear no responsibility for the consequences of the execution of such orders, but must promptly report to their immediate superiors or the higher authority of those issuing the order if they have grounds to believe that such orders are unlawful;

(b) That the Criminal Code stipulates that an accomplice, who is defined as an organizer, perpetrator, instigator or abettor, "shall not take responsibility for unjustified force used by the perpetrator" and that a person who is complicit in acts of torture or who participates in offences characterized as torture and related offences will be held criminally responsible for his or her crime on the basis of the nature and degree of participation, which may amount to the person who ordered the torture not being prosecuted.

13. **The State party should:**

(a) **Ensure that the principle of the absolute prohibition of torture is incorporated in its legislation and is strictly applied in practice, in accordance with article 2 (2) of the Convention;**

(b) **Ensure that national legislation specifically covers complicity in acts of torture that provides for criminal responsibility to be established on the basis of the nature and degree of participation in acts of torture, including with regard to the organizer, instigator or abettor, including in cases when the persons concerned are not public officials but acting by or at the instigation of such officials, with their consent or acquiescence;**

(c) **Ensure that the principle of command or superior responsibility for acts of torture committed by subordinates is recognized in domestic laws;**

(d) **Ensure that subordinates who refuse to obey orders that violate the Convention are protected from reprisal and retaliation by superior officers, including by establishing a specific protection mechanism;**

(e) **Ensure that all persons found guilty of committing acts of torture are subjected to criminal prosecution, and not only disciplinary measures, commensurate with the gravity of the crime committed;**

(f) **Ensure, in keeping with article 2 (3) of the Convention, that an order from a superior officer may not be invoked to justify torture, and guarantee in practice the right of all law enforcement officials, military personnel and civil servants to refuse to execute, as subordinates, an order from their superior officers that would result in a violation of the Convention.**

Allegations of torture and ill-treatment

14. The Committee is seriously concerned at:

(a) Allegations of the widespread use of torture and ill-treatment, in particular in police stations but also in other places where persons are deprived of their liberty;

(b) Reports that in the overwhelming majority of reported cases of torture the acts are committed in police stations, with the aim of extracting confessions or information to be used in criminal proceedings, and sometimes result in the death in custody of the suspects only a few hours after apprehension;

(c) Reports that medical doctors have participated in the physical abuse of detained persons in order to force them to confess or have denied them medical care;

(d) The low number of investigations and prosecutions of cases of torture and ill-treatment, with only 10 cases of torture brought before domestic courts between 2010 and 2015;

(e) Reports of reprisals against victims or their relatives when they complain about acts of torture (arts. 2, 12–13 and 16).

15. **The State party should:**

(a) **Acknowledge and publicly and unequivocally condemn at the highest level all acts of torture and ill-treatment of any persons deprived of their liberty;**

(b) **Ensure that investigations are systematically carried out, that perpetrators are prosecuted and convicted in accordance with the gravity of their acts, in keeping with article 4 of the Convention, and that victims are afforded appropriate redress;**

(c) **Establish an independent mechanism to exercise oversight over the police and other relevant authorities so that there is no institutional or hierarchical connection between the investigators and the alleged perpetrators, and ensure that all persons under investigation for having committed acts of torture or ill-treatment are immediately suspended from their duties and remain so throughout the investigation, while ensuring that the principle of the presumption of innocence is observed;**

(d) **Prosecute and punish medical doctors who participate in the physical abuse of detained persons or who deny medical care to detained persons;**

(e) **Ensure that medical doctors receive mandatory training on the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment;**

(f) **Establish a database on the number of investigations, prosecutions, convictions, sanctions and compensation granted to victims of torture and members of their families, and report those figures to the Committee in its next report.**

Fundamental legal safeguards

16. While noting that the amendments to the Criminal Procedure Code have resulted in improvements regarding the rights of persons deprived of their liberty, such as the introduction of the principle of the presumption of innocence and the rights to remain silent, to have access to legal counsel and to present evidence independently from the Government, the Committee is concerned at reports that detained persons do not enjoy all fundamental legal safeguards in practice. This includes the rights of detained persons to be informed of the reasons for the arrest or detention; to contact family members or other persons of their choice about their detention; to request and receive a medical examination by an independent doctor; to have prompt access to legal counsel or legal aid; and to have the detention recorded in a register. In that context, the Committee is gravely concerned that persons accused of offences relating to national security are not afforded in practice legal safeguards, such as the right to legal counsel and to contact their families, which amounts to incommunicado detention (art. 2).

17. **The State party should:**

(a) **Guarantee that all detained persons are afforded, in law and in practice, all fundamental legal safeguards from the very outset of their deprivation of liberty, including the right to be informed immediately of the charges against them, to have prompt access to a lawyer or to free legal aid during all proceedings, to notify a relative or another person of their choice about their detention or arrest, to request and receive a medical examination from an independent doctor, including by a doctor of their choice upon request, and to have their deprivation of liberty recorded in registers at all stages;**

(b) **Establish a central detention register for all persons at all stages of their deprivation of liberty, including transfers to different facilities, and inform the Committee of the type of information recorded and the specific measures taken to ensure accurate record-keeping, as an important safeguard against incommunicado detention and enforced disappearance;**

(c) **Monitor the compliance by all public officials with the fundamental legal safeguards for detained persons and investigate, prosecute and penalize any failure on the part of officials to comply with those safeguards;**

(d) **Provide information on the number of complaints received regarding failure to respect fundamental legal safeguards and on the outcome of such complaints since the entry into force of the amended Criminal Procedure Code.**

Direct application of the Convention by domestic courts

18. While noting that in case of conflict between domestic legislation, except for the Constitution, and an international treaty to which Viet Nam is a party, the international treaty is to be applied, the Committee is concerned that, in the absence of implementing legislation, the Convention is not a treaty that can be directly applied by the domestic courts (arts. 2, 4 and 12).

19. **The State party should:**

(a) **Amend its legislation in order to ensure the full and direct applicability of the relevant provisions of the Convention in national legislation so that it can be invoked in national courts;**

(b) **Widely disseminate the Convention in the State party to all officials concerned, in all official and other relevant languages.**

Excessive use of force, and deaths in custody

20. The Committee is concerned at:

(a) Reports that deaths in custody in facilities run by the police are prevalent in the State party. It is concerned in particular about the 14 documented cases of death in custody in the period 2010–2014 due to police violence, the 4 cases of unexplained death in police custody and the 9 cases of death in custody allegedly attributed either to suicide or illness despite visible signs or proof of torture and ill-treatment and about reports that the actual number of such cases may be much higher. As an illustration, a minor, 17-year-old Do Dang Du, reportedly died in custody on 5 February 2015 as a result of severe injuries to the head and body while in police custody in Chuong My district, Hanoi, for a "less serious" offence, following an attack by three of his teenage cellmates who were allegedly instructed to carry out the assault;

(b) The reported excessive use of force by the police, including severe ill-treatment and humiliation, during the dispersal of demonstrations in June 2018 (arts. 2, 10–14 and 16).

21. **The State party should:**

(a) **Ensure that all alleged cases of death in custody and complaints of excessive use of force, both in institutions and on the street, are promptly, effectively and impartially investigated by an independent mechanism with no institutional or hierarchical connection between the investigators and the alleged perpetrators;**

(b) **Ensure that alleged perpetrators of torture and ill-treatment and deaths in custody are immediately suspended from duty for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the alleged acts, and that, if found guilty, the perpetrators are punished in a manner that is commensurate with the gravity of their acts;**

(c) **Elucidate the death in police custody of Do Dang Du and inform the Committee about the outcome;**

(d) **Take preventive measures, including the establishment of an oversight mechanism, to ensure that when police officers use force they respect the principles of necessity and proportionality required by the situation and that they receive mandatory training on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

(e) **Establish an independent police complaints commission to address complaints from citizens against the police;**

(f) **Ensure that redress and rehabilitation, including medical and psychological assistance, are provided to all victims of torture and ill-treatment and that redress is provided to the families of the deceased;**

(g) **Collect and provide to the Committee comprehensive statistical information at the national level on the number of deaths in custody, disaggregated by place of deprivation of liberty, sex, age, ethnicity or nationality of the deceased and the cause of death, and on the outcomes of investigations of such deaths during the period under review, including any redress provided to relatives.**

Disproportionate detention of members of religious and ethnic communities

22. The Committee is concerned:

(a) At the reported disproportionate number of detentions and the high number of deaths in custody of members of ethnic and religious minorities, in particular those living in remote areas of the country, as a result of torture and ill-treatment in police stations and other places of deprivation of liberty;

(b) At the treatment of persons associated with minority religious or ethnic communities and their subsequent suspicious deaths in custody, including:

(i) Nguyen Huu Tan, a Buddhist who was detained and whom the police alleged had committed suicide while in custody. No independent investigation of the death was carried out and the detainee's family was subjected to reprisals from the local police after complaining to the authorities;

(ii) Ma Seo Sung, a Hmong Christian who was arrested and detained by the police and allegedly committed suicide by hanging and whose family also received threats of reprisals;

(iii) Pastor Ksor Xiem of the Montagnard Evangelical Church, who died of injuries sustained in police custody;

(iv) Y Ku Knul, a Montagnard Christian who died while under arrest and whose body showed signs of electric shocks;

(c) About the situation of the leaders of the Unified Buddhist Church of Viet Nam, such as Thich Quang Do, who is allegedly under house arrest in a monastery (arts. 1, 2, 11–14 and 16).

23. **The State party should:**

(a) **Ensure that the treatment of members of religious and ethnic communities by public officials or other persons acting in an official capacity is not based on discrimination of any kind in contravention of the Convention;**

(b) **Ensure that all alleged cases of torture and ill-treatment by law enforcement officials, deaths in custody and complaints of excessive use of force are promptly, effectively and impartially investigated, that alleged perpetrators are immediately suspended from duty for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the alleged acts, and that, if found guilty, the perpetrators are punished with sentences commensurate with the gravity of their crime;**

(c) **Elucidate the deaths in police custody of the Buddhist Nguyen Huu Tan, the Hmong Christian Ma Seo Sung, pastor Ksor Xiem of the Montagnard Evangelical Church and the Montagnard Christian Y Ku Knul and inform the Committee about the outcome;**

(d) **Provide updated information regarding the situation of Thich Quang Do, a leader of the Unified Buddhist Church of Viet Nam.**

Pretrial detention

24. The Committee is concerned about the frequent and prolonged use of pretrial detention. It is also concerned that while the time limit for temporary pretrial detention of suspects for investigation is not to exceed two months, three months and four months for, respectively, less serious, serious, and very serious and extremely serious offences, these periods can be extended and suspects held in pretrial detention, in particular those accused

of national security infringements, may in practice be held incommunicado and for much longer periods. The Committee is seriously concerned that the Criminal Procedure Code does not provide for appeal of pretrial detention decisions nor allows for their legality to be reviewed by a court of law (arts. 2, 11 and 16).

25. **The State party should:**

(a) **Take all necessary measures to ensure that pretrial detention is closely monitored so that it does not become a systematic and widespread practice, is not arbitrary prolonged and in cases allegedly involving national security does not result in incommunicado detention;**

(b) **Amend the Criminal Procedure Code in order to provide the possibility to appeal pretrial detention decisions and for pretrial detention decisions to be reviewed by a court of law;**

(c) **Monitor the use of pretrial detention and ensure that pretrial detainees are held separately from convicts, that juveniles are not held with adults and that such detention is used only as a measure of last resort;**

(d) **Promote alternatives to pretrial detention, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).**

Administrative detention

26. The Committee is concerned that persons considered as a threat to security, social order or public safety but who are not subject to penal liability may be detained administratively, without trial, in administrative detention facilities, including compulsory education facilities, reformatory schools, social protection centres and compulsory detoxification centres. It is particularly concerned at reports that fundamental legal safeguards such as access to legal counsel and notification of family members do not apply to these detainees and that they do not have the same conditions of detention as other persons deprived of their liberty, and that in some of these institutions prisoners are obligated to work many hours. The Committee is also concerned that persons in such facilities can be held without a trial for several years, in conditions which may amount to incommunicado detention (arts. 2, 11 and 16).

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

(a) **Provide information on the number and type of facilities and institutions where persons are held in administrative detention without trial and on the number and profile of those detained;**

(b) **Ensure that persons in administrative detention enjoy fundamental legal safeguards, such as access to a lawyer or legal aid and the right to notify their family about their detention, and that their conditions of detention and treatment are not inferior to those of other persons deprived of their liberty;**

(c) **Introduce a judicial, and not only administrative, process for placing people in such institutions and ensure that administrative detention is not used as a surrogate for ordinary criminal detention;**

(d) **Ensure that all persons held in administrative detention have the right to appeal their placement in administrative detention institutions.**

Inadmissibility of statements made as a result of torture

28. While noting the recent changes in legislation, the Committee is gravely concerned at reports of the widespread practice of torture and ill-treatment of persons deprived of their liberty with a view to extracting confessions and other information from them. It is also concerned at the information that, from 2010 to 2015, People's Courts had not handled any cases regarding testimony obtained by duress or the bribing or forcing of another person to give false testimony or to provide false documents. The Committee is also concerned at reports that some detained persons are forced to sign statements previously prepared by the relevant State officials and to read confessions in public and that some prosecutors and

examining judges reportedly do not investigate allegations of torture and ill-treatment. The Committee is further concerned that confessions resulting from torture of suspects have reportedly resulted in sentences that include the death penalty (arts. 2 and 15).

29. **The State party should:**

(a) **Amend national legislation, including the Code of Criminal Procedure, in order to ensure, in law and practice, that any statement resulting from torture or cruel, inhuman or degrading treatment is not invoked as evidence in court, except against the persons who carried out those acts;**

(b) **Ensure that courts dismiss in practice all cases in which evidence was obtained as a result of torture, and that prosecutors and judges investigate and prosecute all such allegations of torture and ill-treatment;**

(c) **Prosecute and punish all officials who have allowed evidence to be obtained as a result of torture and persons providing false testimony and false documents;**

(d) **Ensure that all law enforcement, investigative, judiciary and medical officials are fully aware of the Convention's provisions regarding the inadmissibility in court of coerced confessions;**

(e) **Inform the Committee about all cases that were dismissed in court during the period under review because evidence was obtained as a result of torture.**

Conditions of detention

30. The Committee is concerned about reports of:

(a) A dramatic increase in recent decades in the incarceration rate and the prison population in the State party;

(b) Material conditions in penitentiary facilities that do not meet the minimum international standards, such as the absence of adequate sanitary and hygiene facilities, insufficient lighting and ventilation, insufficient quality and quantity of food, lack of outdoor physical exercise, inadequate health care and severe overcrowding, all of which, taken together, may amount to ill-treatment or even torture, and reports that some of these conditions are maintained deliberately as an additional punishment for the inmates;

(c) The use of "security rooms" and "disciplinary rooms" where prisoners can be isolated in solitary confinement or small groups for up to three months and the reported use of corporal punishment, shackling and harsh disciplinary measures against inmates by prison officials or other prisoners who act under their instructions;

(d) Restrictions on communication between prisoners and their families and punitive transfers, including multiple transfers, of certain prisoners between detention facilities so that they are far away from their families, without informing their families about the transfers, and stealing by prison staff of food, medicine and personal items sent to prisoners by their families;

(e) Poor medical care, negligence and deliberate withholding of medical treatment by the medical staff in prisons, non-separation of healthy prisoners from those with contagious diseases and the lack of independence of doctors who are employed by the penitentiary authorities;

(f) The subjection of dissident prisoners to psychological torture and the administering of unspecified drugs and medication with adverse effects;

(g) The subjection of prisoners to labour in manufacture and agriculture as well as hazardous industries, such as the processing of cashew nuts (arts. 2, 11 and 16).

31. **The State party should:**

(a) **Urgently take all measures necessary to improve material conditions, including overcrowding, in all places of deprivation of liberty, in keeping with the**

Nelson Mandela Rules, and consider using alternatives to imprisonment in conformity with the Tokyo Rules in order to decrease the prison population;

(b) **Abolish the practice of using poor conditions of detention as an additional punishment for inmates, and ensure that death row prisoners are subjected to the same regime as other inmates;**

(c) **Establish strict rules for the use of "security rooms" and "disciplinary rooms", refrain from corporal punishment, shackling and harsh disciplinary measures and inform prison staff that they and prisoners acting under their instructions will be held accountable for committing acts of ill-treatment and torture;**

(d) **Avoid using punitive transfers to separate prisoners from their families;**

(e) **Ensure sufficient numbers and capacity of prison staff to manage penitentiary institutions;**

(f) **Ensure by means of rigorous stock management that prison staff do not steal food and personal items sent to prisoners by their families, that prisoners receive adequate medical care and medication and that prison staff do not deliberately withhold from prisoners medication sent by their families;**

(g) **Hire additional medical doctors and nurses who are competent and committed to carrying out their jobs and ensure prompt referrals and ambulances to transport prisoners to specialist health care outside detention facilities;**

(h) **Ensure that prison medical staff do not deliberately withhold medical treatment or act negligently and ensure the independence of the doctors employed by penitentiary institutions;**

(i) **Prevent prisoners from contracting infectious diseases during their imprisonment, including by separating healthy prisoners from those suffering from severe contagious diseases;**

(j) **Introduce health screening of inmates upon admission to places of detention, including ensuring the early identification of cases of ill-treatment and torture, and take steps to provide adequate treatment to persons infected with HIV/AIDS, hepatitis and tuberculosis and also to persons with psychosocial disabilities;**

(k) **Ensure that no prisoners, including dissident prisoners, are subjected to torture or the administering of unspecified drugs and medication that have adverse effects on their health.**

Prisoners on death row

32. The Committee is concerned about reports of the physical and psychological suffering that persons sentenced to the death penalty have experienced as a result of their particularly harsh conditions of detention, which may amount to torture or ill-treatment, including solitary confinement in unventilated cells, inadequate food and drink, being shackled 24 hours a day and being subjected to physical abuse, and that such prisoners often commit suicide and develop psychological disorders as a result (arts. 2, 11 and 16).

33. **The State party should take urgent measures to render the material conditions of detention of persons sentenced to death equivalent to those of other prisoners, in line with the Nelson Mandela Rules, including access to adequate food and drink and meaningful social contacts, without restraints, and to protect them against physical abuse.**

Monitoring of places of detention

34. The Committee is concerned that the State party has not established a national system to independently monitor and inspect all places of detention and receive complaints. Furthermore, the Committee is concerned at the absence of visits by international organizations, including the lack of access to prisons by the International Committee of the Red Cross (arts. 2, 11–13 and 16).

35. **The State party should:**

(a) **Consider acceding to the Optional Protocol to the Convention against Torture;**

(b) **Establish a national mechanism that independently, effectively and regularly monitors and inspects all places of detention without prior notice that is able to meet in private with detainees and receive complaints and has institutional independence. The mechanism should report publicly on its findings and be able to raise detention conditions or conduct in places of detention amounting to torture or ill-treatment with the authorities;**

(c) **Grant access to independent organizations, in particular the International Committee of the Red Cross, to all detention facilities in the country.**

Corporal punishment of children

36. The Committee is concerned that corporal punishment of children is not prohibited in the home, in alternative care and in day-care settings (arts. 2 and 16).

37. **The Committee recommends that the State party amend its legislation to expressly prohibit corporal punishment of children in all settings, including in the home and in particular in public institutions, committed through acts or omissions by State agents and others who engage the State's responsibility under the Convention. In that context, it invites the State party to include a provision on the prohibition of corporal punishment in all settings in an amendment to the Law on Children (2017).**

Expulsion, asylum and diplomatic assurances

38. The Committee is concerned that the State party does not have specific provisions in its legislation concerning the non-expulsion of persons who are to be criminally or administratively deported when there is ground to believe that the deported persons may be subjected to torture in the country of return, which may result in a violation of the Convention and the principle of non-refoulement. Furthermore, it is also concerned that the State party does not have a law addressing asylum or a system of protection for refugees. Lastly, the Committee is concerned that the State party has accepted diplomatic assurances in such cases (art. 3).

39. **The State party should:**

(a) **Enact asylum legislation and establish a functioning national asylum system that provides for fair and effective refugee status determination procedures, in line with international standards;**

(b) **Designate or establish a government agency responsible for receiving and processing claims from asylum seekers and other persons who may require international protection;**

(c) **Request the support of the Office of the United Nations High Commissioner for Refugees (UNHCR) to provide training in relation to refugee law and on refugee status determination procedures;**

(d) **Comply with its non-refoulement obligations under article 3 of the Convention by ensuring the proper assessment of persons before proceeding with their criminal or administrative expulsion or deportation in order to prevent them from returning to countries where they may risk being subjected to torture;**

(e) **Thoroughly examine the merits of each individual case for deportation, including the overall situation with regard to torture in the country concerned.**

Training and instruction

40. While taking note that discrepancies exist regarding the legal and professional capacities of public officers and that competent authorities have certain problems in managing and training cadres, the Committee is concerned at the serious absence of investigative skills and capacity of public officials given the reported prevalence and high

incidence of coerced confessions and suspicious deaths in custody. It is also concerned that specific training on the provisions of the Convention, and in particular the absolute prohibition of torture, is not part of the training of public officials such as police and law enforcement officers, investigators, judicial personnel, military officers and prison staff. In addition, the Committee is concerned that the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is not part of the mandatory training provided to medical personnel and other persons concerned in the custody, interrogation or treatment of persons subjected to any form of arrest, detention or imprisonment (art. 10).

41. **The State party should:**

(a) **Ensure that police and law enforcement officers, investigators, judicial personnel, military officers and prison staff receive training and instruction on the provisions of the Convention and in particular on the absolute prohibition of torture;**

(b) **Provide specific training to investigators on the use of non-coercive methods of investigation and interrogation that comply with international standards, so that they avoid committing acts that may amount to torture;**

(c) **Communicate to all relevant public officials that breaches of the Convention will not be tolerated and that such breaches will be investigated and perpetrators prosecuted;**

(d) **Ensure that medical personnel and other persons involved in the custody, interrogation or treatment of persons subjected to any form of arrest, detention or imprisonment receive mandatory training on the Istanbul Protocol;**

(e) **Develop and implement a methodology to assess the effectiveness and impact of any such training.**

Data collection

42. **The Committee urges the State party to establish an effective system for collecting statistical data at the national level, disaggregated by sex, age, ethnicity or nationality, location, socioeconomic and other relevant status, which should include information about complaints, investigations, prosecutions, trials and convictions in cases of torture or ill-treatment, as well as on measures of redress, particularly compensation and rehabilitation, provided to the victims or their relatives. The system should furthermore include disaggregated information on the use of the death penalty and the number of prisoners on death row, on the overall prison population, including the number of unsentenced detainees, and on trafficking in persons.**

Follow-up procedure

43. **The Committee requests the State party to provide, by 7 December 2019, information on follow-up to the Committee's recommendations on investigating all cases of excessive use of force, including cases of torture and ill-treatment by law enforcement officials and deaths in custody; on establishing a central register of detention regarding all persons at all stages of their deprivation of liberty; and on prosecuting and punishing all officials who may have allowed evidence to be obtained as a result of torture, including persons providing false testimony and false documents (see paras. 21 (a), 17 (b) and 29 (c) 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

44. **The Committee encourages the State party to consider making the declarations under articles 21 and 22 of the Convention and to consider withdrawing any declaration that limits the scope of the Convention.**

45. **The Committee invites the State party to ratify the Optional Protocol to the Convention and the core United Nations human rights treaties to which it is not yet party.**

46. **The Committee recommends that the State party issue invitations to visit the country to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders.**

47. **The State party is invited to submit its common core document, in accordance with the requirements contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN.2/Rev.6).**

48. **The Committee invites the State party to consider availing itself of the technical support, capacity-building and training offered by the Office of the United Nations High Commissioner for Human Rights and, where relevant, by UNHCR.**

49. **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 about its dissemination activities.**

50. **The Committee requests the State party to submit its next periodic report, which will be its second periodic report, by 7 December 2022. For that purpose, the Committee invites the State party to accept, by 7 December 2019, 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 second periodic report under article 19 of the Convention.**