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

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Committee against Torture

Concluding observations on Guinea in the absence of its initial report*

1. In the absence of the initial report of Guinea, the Committee considered the measures taken by the State party to protect and implement the rights recognized in the Convention, in accordance with rule 67 of its rules of procedure, at its 1222nd and 1225th meetings (CAT/C/SR.1222 and SR.1225), held on 6 and 7 May 2014. The Committee adopted the following concluding observations at its 1243rd meeting (CAT/C/SR.1243), held on 20 May 2014.

A. Introduction

2. The Committee regrets that the initial report of the State party was not submitted in 1990, which has prevented the Committee from assessing the implementation of the provisions of the Convention by the State party since its ratification of that instrument nearly 25 years ago. The Committee likewise regrets that the State party did not submit its initial report until the evening before its delegation appeared before the Committee, which did not allow the Committee to study it in time for the first day of the dialogue or to have it translated into the Committee's working languages. Nevertheless, the Committee welcomes with satisfaction the appearance of the high-level delegation and the submission of the initial report of Guinea (CAT/C/GIN/1), even though the report does not conform to the Committee's guidelines on the form and content of initial reports (CAT/C/4/Rev.3).

3. The Committee welcomes the very frank and direct dialogue that was held with the State party's high-level delegation, which presented the situation in the State party and the numerous problems there, as well as the replies made orally by the delegation to the questions raised during the meetings by Committee members.

B. Positive aspects

4. The Committee notes with satisfaction that since the ratification of the Convention on 10 October 1989, the State party has ratified or acceded to the following international instruments:

* Adopted by the Committee at its fifty-second session (28 April–23 May 2014).



- (a) The Convention on the Rights of the Child, on 13 July 1990;
 - (b) The Optional Protocol to the International Covenant on Civil and Political Rights, on 17 June 1993;
 - (c) The African Charter on the Rights and Welfare of the Child, on 27 May 1999;
 - (d) The Convention on the Prevention and Punishment of the Crime of Genocide, on 7 September 2000;
 - (e) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 7 September 2000;
 - (f) The Constitutive Act of the African Union, on 23 April 2002;
 - (g) The Rome Statute of the International Criminal Court, on 14 July 2003;
 - (h) The United Nations Convention against Transnational Organized Crime, on 9 November 2004;
 - (i) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, on 9 November 2004;
 - (j) The Convention on the Rights of Persons with Disabilities, on 8 February 2008;
 - (k) The Optional Protocol to the Convention on the Rights of Persons with Disabilities, 8 February 2008;
 - (l) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 16 November 2011.
5. The Committee also welcomes with satisfaction the legislative measures taken by the State party to give effect to the Convention, in particular:
- (a) Decree No. D289/PRG/SGG/2011 of 28 November on the establishment of the Code of Conduct for members of the military and security forces;
 - (b) Act No. L/2008/011/AN of 19 August 2008 establishing the Children's Code;
 - (c) Act No. L010/AN/2000 of 10 July 2000 on reproductive health, which prohibits female genital mutilation.
6. The Committee welcomes with satisfaction the steps taken by the State party to modify its policies, programmes and administrative procedures, including:
- (a) The establishment of a National Observatory for Democracy and Human Rights by a decree of the Prime Minister dated 12 June 2008;
 - (b) The establishment of a Ministry of Human Rights and Public Freedoms in October 2012;
 - (c) The formulation of a strategic plan to combat female genital mutilation covering the period 2012–2016;
 - (d) The establishment of a Provisional National Reconciliation Commission;
 - (e) The establishment of a Working Group on legislative reform of the Criminal Code, the Code of Criminal Procedure and the Military Justice Code;
 - (f) The establishment of the National Strategy to Combat Sexist Violence;

(g) The establishment in August 2012 of a special police unit to deal with trafficking in persons.

C. Principal subjects of concern and recommendations

Definition and criminalization of torture

7. Notwithstanding the preparation by the Legislative Reform Commission of draft revised texts of the Criminal Code, the Code of Criminal Procedure and the Military Justice Code which incorporate the definition of torture as set out in article 1 of the Convention, the Committee remains concerned at the fact that no definition of torture as such is contained anywhere in Guinea's domestic law. The Committee is also extremely concerned that such acts are not yet considered to constitute criminal offences in themselves but are criminalized only when they constitute an aggravating circumstance in the context of another criminal offence, as stipulated in article 287 of the Guinean Criminal Code (arts. 1 and 4).

The Committee urges the State party to fill all gaps in its legislation where acts of torture and ill-treatment are concerned, so that any person committing such an act, whether perpetrator or accomplice, shall be personally held responsible before the law, subject to criminal prosecution and duly punished. It therefore strongly urges the State party to ensure that the Reform Commission revises legislation with a view to making an act of torture or ill-treatment a separate criminal offence, with a view to incorporating a definition of torture that is consistent with article 1 of the Convention. Furthermore, in the light of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the Committee is of the view that "serious discrepancies between the Convention's definition and that incorporated into domestic law create actual or potential loopholes for impunity". The State party should also ensure that the penalties provided in this regard are proportional to the seriousness of the acts committed.

Absolute prohibition of torture

8. While taking note of article 6 of the Constitution, the Committee deeply regrets the absence of any specific legal provision providing for an absolute ban on torture and ill-treatment, which no exceptional circumstance of any kind, be it a state of war or the threat of war, internal political instability or any other state of emergency, can justify. It likewise regrets the absence of any provision regarding the non-applicability of the statute of limitations to the crime of torture (art. 2).

The State party should:

- (a) Establish, in law, an absolute and specific prohibition against torture and inhuman and degrading treatment;**
- (b) Establish in law the non-applicability of the statute of limitations to the crime of torture;**
- (c) Clearly and publicly reaffirm the absolute, non-derogable and intangible nature of the ban on torture.**

Generalized practice of torture

9. The Committee is deeply concerned by credible reports of acts of torture and ill-treatment practised in such places as facilities for the deprivation of liberty and especially in gendarmeries and military detention camps. The Committee is particularly concerned by credible reports provided in connection with the cases of the following persons:

Alhousseine Camara, tortured in October 2011, *Ibrahima Bah* and *Sékouta Keita*, tortured in February 2012, *Ibrahim Sow*, tortured and deceased in February 2012, *Aboubacar Soumah*, subjected to torture and deceased in August 2012, *Ballah Condé*, tortured and deceased in December 2013, and *Tafsir Sylla*, tortured and deceased in February 2014. The Committee is particularly disturbed by the fact that these acts were committed during interrogations conducted by law enforcement officers while the victims were being held in custody and in the course of preliminary investigations for the purpose of extorting confessions (including by means of the “skewer technique”) (arts. 2, 10, 11, 12, 13 and 16).

The State party should:

(a) Take immediate and effective steps to prevent and punish all acts of torture. In this connection, it should conduct thorough, independent and impartial investigations without delay into all allegations of torture and ill-treatment, including the cases of the victims mentioned in the preceding paragraph, and bring the perpetrators of these acts to justice;

(b) Train police officers and gendarmes in the absolute ban on torture and in all provisions of the Convention.

The events in Conakry Stadium

10. The Committee is extremely concerned by the events that took place on 28 September 2009 in Conakry Stadium, which the International Commission of Inquiry on Guinea has qualified as crimes against humanity (S/2009/693, annex, para. 27). Despite the establishment of a “pool of judges” tasked with investigating and prosecuting the perpetrators of these incidents, the Committee is concerned by the slow pace at which the State party is working to determine responsibility for the acts of torture, summary executions, rapes, sexual abuse, instances of sexual slavery, arrests, arbitrary detention and enforced disappearances perpetrated during those events by law enforcement officers. The Committee is particularly disturbed at the massive sexual violence committed against girls and women during these events which has seldom been prosecuted, thereby contributing to a persistent climate of impunity. The Committee is also seriously concerned at the fact that certain individuals charged by the Guinean authorities with flagrant violations of human rights committed during these events are members of the current Government, namely Colonel Pivi, Minister for Presidential Security, and Moussa Tiegboro Camara, Secretary of State for Special Services, Drug Control and Organized Crime (arts. 2, 12, 13, 14 and 16).

The State party should:

(a) Ensure, as a matter of priority, that all the human rights violations committed during the events at Conakry Stadium, particularly the cases of torture and sexual violence, are systematically investigated, and promptly and impartially prosecuted, so as to guarantee to victims that the truth will be known, and justice and reparations granted, in accordance with the Convention and the Rome Statute, which Guinea ratified in 2003;

(b) Ensure that witnesses are provided with adequate protection and financial resources under a witness protection programme;

(c) Temporarily relieve of their duties, for so long as the investigation lasts, those members of the security forces who are suspected of having committed grave violations of human rights during the events at Conakry, while ensuring that the principle of the presumption of innocence is upheld;

(d) Temporarily relieve of their duties all members of the Government accused of grave violations of human rights committed during the events at Conakry and in particular Colonel Pivi and Moussa Tiegboro Camara;

(e) **Cooperate closely with the preliminary investigation opened by the Office of the Prosecutor of the International Criminal Court with regard to these events so as to bring the perpetrators before the Court.**

Forced confessions

11. The Committee deplores the fact that no legal provision establishes the inadmissibility in courts of statements or confessions extracted under torture, except when such statements are made against a person accused of torture. The Committee is also deeply concerned that the use of torture to extract confessions is extremely widespread in police stations and gendarmerie posts as well as in military detention centres (arts. 2 and 15).

The State party should ensure that the Legislative Reform Commission lays down in legislation, without delay, a provision stipulating that confessions extracted under duress or through the use of torture shall be inadmissible as evidence in court. Accordingly, the State party should ensure that prosecutors, investigating judges and trial judges are made aware of the inadmissibility of statements obtained through the use of torture and of the obligation to open investigations when allegations of torture are brought to their attention. The State party should also ensure that detainees have prompt access to qualified medical personnel who are also trained in detecting physical and psychological evidence of torture and inhuman treatment, in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

Impunity

12. While taking note with satisfaction of the decision in the case of the *Public Prosecutor's Office v. Margis-Chef of the Gendarmerie Momo Bangoura and others*, the Committee is concerned that most acts of torture and ill-treatment are not investigated or prosecuted and go unpunished. It is also disturbed that the State party has not conducted investigations in the wake of numerous credible reports regarding acts of torture and ill-treatment that in some cases led to the deaths of detainees (arts. 12, 13 and 16).

The State party should:

(a) **Take appropriate steps to ensure that all allegations of torture or ill-treatment are investigated promptly, thoroughly and impartially by independent courts, that the perpetrators of such acts are prosecuted and, if convicted, given sentences that are proportional to the severity of the acts, and that the victims or their families receive adequate compensation and reparation;**

(b) **Investigate the cases of the individuals mentioned by the Committee and inform the Committee of the results of the investigations opened as well as of any criminal and disciplinary proceedings under way.**

Fundamental legal guarantees

13. While taking article 9 of the Constitution and articles 116 and 120 of the Code of Criminal Procedure into account, the Committee is extremely concerned to have learned that, in practice, detainees do not enjoy all fundamental guarantees from the outset of their deprivation of liberty, as the Guinean delegation in fact noted. It is likewise concerned at the fact that the maximum duration of police custody stipulated by law is often exceeded (arts. 2, 11, 12 and 16).

The State party should take all necessary steps to ensure that under the law and in practice any persons deprived of liberty enjoy, from the outset of their deprivation of

liberty, all fundamental legal guarantees as understood in the Committee's general comment No. 2, namely:

- (a) The right to be informed of the reason for their arrest in a language they understand;
- (b) The right to have access to an independent lawyer or legal assistance in the event of insufficient resources;
- (c) The right to be examined by an independent doctor, preferably of their choice;
- (d) The right to contact and to see a member of their family or the consular authorities if the person in detention is a foreigner;
- (e) The right to appear before a competent, independent and impartial court within 48 hours;
- (f) The right to an effective and prompt remedy as regards the legality of the detention.

Conditions of detention

14. The Committee takes note with concern of the information received concerning conditions of detention, which indicate a prison overpopulation rate exceeding 400 per cent. (About 1,396 persons are now held in the prison in Conakry, which has a capacity of 300.) This situation is exacerbated by the many illegal temporary detentions, such as the case described by the delegation during the dialogue concerning a temporary detention that lasted for 14 years without the detainee ever being brought before a judge. Furthermore, the Committee deplores the existence of insalubrious infrastructures, with very small living quarters and detainees occasionally being confined in containers without any light, the malnutrition and dehydration of detainees, the appalling sanitary conditions that have led to numerous deaths, and the lack of access to qualified medical personnel. It likewise deplores the fact that there is no separation of men, women and minors or of those awaiting trial and those who have been convicted within detention facilities, particularly those outside the capital, as the delegation acknowledged during the dialogue. Lastly, the Committee regrets the absence of any training of prison staff, who are generally "volunteers" who provide their services to prisoners and their families for a fee. It also notes with concern that visits are contingent on payments by families of sums of money amounting to as much as 100,000 Guinean francs, with the recurring threat that detainees may be tortured in the event that their families do not pay (arts. 2, 11, 12 and 16).

The State party should increase its efforts to improve the material conditions of detention in accordance with the relevant provisions of the Standard Minimum Rules for the Treatment of Prisoners, which are currently under review, by:

- (a) Reducing the high rate of prison overpopulation, particularly by making greater use of non-custodial measures, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), adopted by the General Assembly in resolution 45/110 of 14 December 1990;
- (b) Avoiding long periods of pretrial detention and ensuring that persons in pretrial detention are provided with fair and speedy trials;
- (c) Ensuring that minors are separated from adults and women from men, and that detainees are held separately from convicts;

(d) Taking preventive measures to avoid the spread of infectious disease caused by uncleanliness in places of detention and ensuring that detainees have prompt access to qualified medical personnel;

(e) Ensuring that prison staff are trained and that their wages are paid by the State or the penal facilities, and not by prisoners or members of their families, and taking all necessary measures to combat widespread corruption in the prison environment.

Pending its ratification of the Optional Protocol to the Convention against Torture and the implementation of the national preventive mechanism, the State party should also establish a national monitoring system for all places of detention, and cooperate with non-governmental organizations for this purpose, in particular by giving them access to facilities for the deprivation of liberty.

Secret detention facilities

15. The Committee takes note of the information provided by the delegation to the effect that there are no longer any secret detention facilities in the State party. It is nevertheless concerned at reports that some persons are still being held in unofficial detention centres, including the military prison on Kassa Island, which was supposed to have been officially closed in January 2010. The Committee is also concerned by the case of 33 persons arrested on 24 and 25 September 2013 in Conakry who were transferred and secretly detained at the Soronkony military camp for more than a week. These detainees were subjected to numerous acts of torture, and one of them died. Despite the compensation of 50 million Guinean francs paid to the victims, the Committee deplores that the application made by the Prosecutor's Office to the Dixinn Court of first instance is still awaiting the opening of judicial proceedings against the perpetrators (arts. 2, 11 and 12).

The State party should:

(a) Close, as a matter of urgency, the secret detention facilities and ensure that the persons detained there enjoy all legal guarantees, particularly as regards the right to be brought before a judge within a maximum of 48 hours after being arrested or detained, the right to consult a lawyer of their choice and the right to be examined by a doctor, preferably of their choice;

(b) Investigate and ensure that no person is detained in secret or unofficial detention facilities, prevent any type of unlawful detention on its territory and investigate any allegations relating to such incidents;

(c) Ensure that detention takes place in an official detention facility and that the identity of the detainee and the place of detention are recorded in a central register that may be consulted by the persons concerned.

Violence against women

16. The Committee is extremely concerned at reports of widespread violence affecting more than 90 per cent of women and girls. It deplores that prompt and effective investigations are conducted only rarely because of, inter alia, the difficulties that victims of sexual violence or domestic violence have in gaining access to justice and the lack of shelters where they can take refuge. The Committee is extremely concerned that articles 321 and 322 of the Criminal Code classify rape and sexual abuse, which are extremely widespread, as "immoral acts" and "indecent assault", respectively, and not as crimes against the person, particularly given the impunity that prevails in this area, whether they are committed by law enforcement officers or by private individuals (arts. 2, 12, 13 and 16).

The State party should:

(a) Step up its efforts and urgently enforce effective mechanisms to prevent and punish all forms of violence against women and girls, including by ensuring that all acts of violence are promptly, effectively and impartially investigated and prosecuted, that perpetrators, including law enforcement officers, are brought to justice and that victims are provided with redress. The State party should establish not only an effective complaints mechanism for women and girls but also a monitoring mechanism to fulfil its positive duty to prevent all forms of violence against them;

(b) Ensure that the Legislative Reform Commission categorizes rape and sexual abuse, in the legislative texts under revision, as crimes against the person and not as “immoral acts and indecent assault”, and includes in the Criminal Code the various forms of sexual violence, including marital rape and domestic violence;

(c) Launch prevention programmes for combating the stigmatization of women victims of violence, create empowerment programmes for women, set up shelters for victims, and conduct awareness-raising campaigns, since rape is still a major taboo in the country and a cause of exclusion from both the family and society.

Female genital mutilation

17. Despite the adoption of Act No. L010/AN/2000 of 10 July 2000 and articles 405 et seq. of the Children’s Code, the Committee notes with great concern the statement of the Guinean delegation that there has been no prosecution or conviction under that law to date. The Committee therefore doubly deplores the fact that, in January 2013, 96 per cent of girls and women were still subject to female genital mutilation, as indicated by the Guinean delegation during the consideration of the State party’s second periodic report to the Committee on the Rights of the Child at its sixty-second session, in 2013 (arts. 2, 12, 13, 14 and 16).

In light of the high prevalence of female genital mutilation and the ineffectiveness of the relevant laws, the Committee recommends that the State party should, with a view to eradicating this practice, adopt a holistic approach and formulate a national plan of action incorporating the following measures:

(a) Urgently strengthen measures to prevent and eliminate the practice of female genital mutilation by ensuring that its existing laws on the subject are effectively enforced in accordance with the Convention. To this end, it should facilitate the submission of complaints by victims, conduct prompt and effective investigations, prosecute those responsible and impose appropriate penalties on the guilty parties commensurate with the serious nature of their crimes;

(b) Expand national awareness-raising campaigns, in particular among families, on the harmful effects of the practice and devise programmes to offer alternative sources of income to those who perform female genital mutilation as a means of livelihood, as recommended in 2007 by the Committee on the Elimination of All Forms of Discrimination against Women at its thirty-ninth session (CEDAW/C/GIN/CO/6, para. 25);

(c) Provide adequate redress, suitable compensation, and the fullest possible rehabilitation to victims;

(d) Set up shelters for girls and women who have left their homes to avoid being subject to such practices.

In general, the State party should ensure that its customary law and practices are compatible with its human rights obligations, particularly those arising from the Convention.

Trafficking in persons

18. While noting with satisfaction the establishment in 2012 of a special unit to combat trafficking in persons, the Committee nevertheless remains very concerned by reports of internal and cross-border trafficking (in particular with Nigeria, Côte d'Ivoire, Benin and Senegal) of men, women and children for purposes of sexual exploitation, forced labour and domestic slavery. The Committee is also concerned by the lack of clarity in article 337 of the Criminal Code on the various forms of trafficking and servitude, which hampers enforcement of the law and causes legal uncertainty for the victims (arts. 2, 8, 9, 12 and 16).

The State party should:

(a) Step up its efforts to prevent and combat trafficking in persons, particularly women and children, including by implementing its anti-trafficking legislation, providing protection for victims and ensuring that they have access to the courts, to medical, social and legal services and to means of rehabilitation and reintegration;

(b) Invite the Legislative Reform Commission to amend article 337 of the Criminal Code to categorize the different forms of trafficking in persons as crimes punishable by law;

(c) Ensure adequate conditions so that victims can exercise their right to make a complaint;

(d) Conduct prompt, impartial and effective investigations into cases of trafficking and ensure that convicted individuals are given sentences commensurate with the serious nature of their crimes;

(e) Conduct national awareness-raising campaigns and provide training for law enforcement officers;

(f) Actively engage in a policy of mutual legal assistance with other countries of origin, destination or transit in the cross-border trafficking of persons.

Excessive use of force

19. The Committee is very concerned by credible reports that the national police, the national gendarmerie, the crime squad, the police special rapid intervention force, the police rapid intervention squad, the banditry control squad, the mobile intervention and security force, the Red Berets special presidential guard and the special electoral process security force, under the effective control of the State, make widespread, excessive and disproportionate use of force, particularly of firearms and knives, and carry out many acts of torture, including at peaceful political, social and student demonstrations (arts. 2, 10, 12, 13 and 16).

The State party should:

(a) Ensure that law enforcement officers receive training that emphasizes the absolute prohibition of torture, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted in Havana in 1990, and the fact that they may be held liable for excessive use of force and acts of torture;

(b) Expedite the investigation and prosecution of such cases and sanction officials found guilty of such offences with appropriate penalties.

Redress

20. The Committee is concerned that current criminal legislation does not contain any provisions guaranteeing redress for damage caused to victims of torture. Similarly, there is no legislation in place allowing redress to be sought for damage resulting from acts of torture (arts. 2, 12, 13 and 14).

The State party should:

(a) Ensure that the Reform Commission adopts legislative measures to guarantee that victims of torture and ill-treatment benefit from all forms of redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, in accordance with general comment No. 3 (2012) on the implementation of article 14 by States parties;

(b) Provide fair and adequate redress and rehabilitation to all victims of torture, violence against girls and women, trafficking in persons and prison violence;

(c) Provide fair and adequate redress to ensure the fullest possible rehabilitation for all the victims of torture and sexual violence that occurred during the events of September 2009 at Conakry Stadium;

(d) Provide information on the redress provided to the victims mentioned in paragraph 9.

The Committee draws the attention of the State party to its general comment No. 3, which clarifies the content and scope of States parties' obligations with respect to the provision of full redress to victims of torture.

Independence of the judiciary

21. The Committee is concerned at allegations regarding the exertion of pressure on and manipulation of members of the judiciary and is concerned by the lack of effective independence of the judiciary, as indicated by the delegation during the dialogue. The Committee is also concerned by the fact that the Supreme Council of Justice is chaired by the President of the Republic, which makes it appear to be dependent on the executive branch. Finally, the Committee notes with regret the inadequacy of the budget allocated to the judiciary (0.5 per cent of the national budget) to carry out its mandate; this leads to shortfalls in staff, infrastructure and the payment of judges' salaries (arts. 2 and 12).

The State party should:

(a) Take effective measures to guarantee the independence of the judiciary, in accordance with the relevant international standards, including the Basic Principles on the Independence of the Judiciary (adopted by the General Assembly in 1985), in particular the principle of guaranteed tenure;

(b) Take appropriate measures to guarantee and protect the independence of the judiciary and ensure that its operations are free from any pressure or interference from the executive;

(c) Develop training programmes for members of the judiciary on the importance of the independence of the judiciary.

State of emergency

22. The Committee is concerned by the frequent imposition of states of emergency and by restrictions on human rights that regularly give rise to violations of the Convention. It is further concerned by the promulgation of a state of emergency on 19 November 2010, during which a special unit of the Red Berets deployed throughout the country made systematic use of force against any person violating the curfew (art. 2).

The State party should limit the imposition of states of emergency to situations in which it is strictly necessary and, in such cases, ensure respect for the absolute prohibition of torture.

Juvenile justice

23. While noting the adoption by the State party of the Children's Code (under Act No. L/2008/011/AN of 19 August 2008) and in particular its articles 310, 328 and 329, which provide for juvenile courts, mediation measures and non-custodial penalties, respectively, the Committee regrets that, as the delegation confirmed during the dialogue, the legislation is not applied in practice. The Committee regrets in particular that juveniles are frequently convicted for minor offences, that mediation measures and non-custodial penalties are very rarely used in practice, that minors are not kept separate from adults in places of deprivation of liberty and that they are regularly subjected to acts of torture or inhuman and degrading treatment (arts. 2, 10 and 16).

The State party should:

(a) Ensure that mediation measures are used more frequently and that juveniles are detained only as a last resort and for the shortest period possible;

(b) Ensure that minors who are deprived of their liberty are afforded full legal safeguards from the outset and that juveniles are kept completely separate from adults, in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), adopted by the United Nations General Assembly in its resolution 40/33 of 29 November 1985, and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), adopted by the General Assembly in its resolution 45/112 of 14 December 1990.

Non-refoulement

24. The Committee regrets the absence of legislation concerning guarantees of non-refoulement of persons to countries where they face a real risk of being subjected to torture. It also regrets the lack of information and statistics on the number of asylum requests, refugees and forced expulsions (art. 3).

The State party should:

(a) Ensure that the Legislative Reform Commission introduces into the legislative texts under revision, in accordance with article 3 of the Convention, the principle of non-refoulement as well as the right to an appeal with suspensive effect against a decision of expulsion; the State party should also respect all guarantees in the context of asylum and expulsion procedures pending the outcome of appeals;

(b) Respect the principle of non-refoulement in accordance with article 3 of the Convention and the obligation to check whether there are substantial grounds for believing that the asylum seeker would be in danger of being subjected to torture or ill-treatment if expelled, in particular by systematically conducting individual interviews to evaluate the personal risk incurred by applicants.

Death penalty

25. While taking note of the decision taken in 2002 by the Government of Guinea to establish a moratorium on the death penalty, the Committee regrets that capital punishment has not been abolished and that the Criminal Code still contains frequent provision for it. The Committee also notes with great regret reports that 28 convicted prisoners are still being held on death row (arts. 2 and 16).

The State party should:

(a) **Ensure that the Legislative Reform Commission abolishes the death penalty in all legislation;**

(b) **Ensure that all persons held on death row are afforded the protection provided for under the Convention and are treated humanely;**

(c) **Ratify the Optional Protocol to the Convention and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.**

National Human Rights Commission

26. Notwithstanding the considerable effort made by the State party towards adopting a law establishing a National Human Rights Commission, the Committee regrets the length of time that the implementation process has taken (art. 2).

The State party should adopt without delay an act establishing a National Human Rights Commission and provide it with the necessary human and financial resources to enable it to fulfil its mandate in an effective and independent manner, in conformity with the Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles) (General Assembly resolution 48/134 of 20 December 1993).

Data collection

27. The Committee regrets the absence of comprehensive, disaggregated data on complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment attributed to law enforcement personnel. The Committee also regrets the lack of data on physical and sexual violence against girls and women, domestic violence, female genital mutilation, trafficking in persons, enforced disappearances, requests for asylum and cases of refoulement (arts. 2, 3, 11, 12, 13, 14 and 16).

The State party should collect and submit statistical data, disaggregated by age and sex of the victim, that would be useful in monitoring implementation of the Convention at the national level, particularly data on complaints, investigations, prosecutions and convictions related to acts of torture and ill-treatment attributed to law enforcement personnel. Statistical data should also be collected and submitted on physical and sexual violence against girls and women, domestic violence, female genital mutilation and enforced disappearances.

28. The Committee encourages the State party to consider making the declaration under article 22 of the Convention, thereby recognizing the competence of the Committee to receive and consider communications from individuals.

29. The Committee invites the State party to consider ratifying the core United Nations human rights instruments to which it is not yet a party, namely: the Optional Protocol to the Convention against Torture, which it signed on 16 September 2005, and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

30. In light of its tardy submission of the initial report, and in order to ensure proper implementation of the Committee's recommendations, the State party is requested to disseminate the report widely, along with the present concluding observations, in the appropriate languages, through official websites, the media and non-governmental organizations. The State party should also work vigorously with the civil society to launch university programmes providing awareness and training to law enforcement agents with respect to the Committee's recommendations.

31. The Committee requests the State party to submit, by 23 May 2015, information on the follow-up given to the following recommendations: (a) introduce or strengthen legal safeguards for persons held in custody; (b) conduct prompt, effective and impartial investigations; and (c) prosecute suspects and impose penalties on the perpetrators of torture or ill-treatment (see paragraphs 9, 10, 12 and 13 above). The Committee further requests additional information on the violence against girls and women mentioned in paragraphs 16 and 17, along with any pertinent statistical data.

32. The Committee invites the State party to submit its next periodic report, which will be its second, by 23 May 2018. The Committee also invites the State party to agree, by 23 May 2015, to submit that report under the optional procedure whereby the Committee sends the State party a list of issues prior to submission of its periodic report. The replies of the State party to this list of issues will constitute its second periodic report under article 19 of the Convention.
