



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

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## Committee against Torture

Forty-fifth session

1-19 November 2010

### List of issues prior to the submission of the second periodic report of Guyana (CAT/C/GUY/2)\*

**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. Please provide detailed information on whether the State party has adopted a definition of torture, integrating all the elements, in accordance with article 1 of the Convention.
2. Further to the recommendation of the Committee in the previous concluding observations (para. 6), what legislative measures has the State party taken to ensure that all acts of torture are offences under its criminal law in accordance with the definition contained in article 1 of the Convention, and that these offences are punishable by appropriate penalties which take into account their grave nature?<sup>1</sup>

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\* The present list of issues was adopted by the Committee at its forty-fifth 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 the next periodic report under article 19 of the Convention.

<sup>1</sup> Paragraph numbers refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/GUY/CO/1.

## Article 2<sup>2</sup>

3. Please provide updated information on the legal safeguards and other measures taken to guarantee that a person under arrest is immediately informed of his/her right to consult with counsel and to receive independent and free legal aid when he/she cannot afford private counsel.<sup>3</sup> Please provide information on the rights of detained persons to obtain prompt access to independent medical assistance and to notify a relative. Please also indicate whether a statement of detainee rights is available at all places of detention for consultation by detainees.

4. Please provide information on measures taken by the State party to register all persons it detains under its jurisdiction by documenting the identity of the detainee, the date, time and place of the detention, the identity of the authority that detained the person, the ground for the detention, the date and time of admission to the detention facility and the state of health of the detainee upon admission and any changes thereto, the time and place of interrogations, with the names of all interrogators present, as well as the date and time of release or transfer to another detention facility.

5. Further to the recommendation of the Committee in its previous concluding observations (para. 13), what measures have been taken to review all legal provisions which authorize certain disciplinary measures, in particular section 37 of the Prison Act of 1998 which allows for whipping, flogging and reduction of diet, with a view to abolishing those which authorize such practices in conformity with the United Nations Standard of Minimum Rules for the Treatment of Prisoners.<sup>4</sup>

6. As requested in the follow-up letter of 14 May 2010, please provide updated information on the status of the Sexual Offences draft bill – has this been passed or is there an anticipated date by which it will be passed? Please also clarify what this bill covers, including punishments for convicted persons and compensation and other services for victims.

7. Further to the recommendation of the Committee in its previous concluding observations (para. 20), please provide information on measures taken by the State party to reduce cases of domestic violence, including training of police, law enforcement personnel and health personnel, in order to investigate and deal with instances of domestic violence and to also make more effective use of the Domestic Violence Act of 1996.<sup>5</sup> Please also provide statistical data on the prevalence of violence against women, including rape and sexual harassment, and children. Statistical data should also be provided on complaints relating to violence against women and children, and on the related investigations, prosecutions, and penal sanctions as well as on any compensation provided to victims.

8. Please provide information on measures taken to combat harassment and physical violence towards LGBT persons and to promote the education of members of the police on

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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 n°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.

3 A/HRC/WG.6/8/GUY/2, para. 29.

4 CAT/C/GUY/CO/1, para. 13.

5 Ibid., para. 20.

their obligations in terms of non-discriminatory treatment towards sex workers, LGBT persons and people living with HIV.<sup>6</sup>

9. Please provide detailed information on measures taken to combat sexual abuse against children, child prostitution and sexual exploitation.<sup>7</sup>

10. Please provide detailed information on the implementation of the Combating of Trafficking in Persons Act, 2005 (Act No. 2 of 2005). Please provide statistical data on the extent of trafficking and exploitation of prostitution in the country, the number of complaints received and investigated during the reporting period, as well as the number of prosecutions and convictions under the Act.

11. Further to the recommendation of the Committee in its previous concluding observations (para. 9), please provide information on measures taken by the State party to ensure that the Guyana Police Force prevent the high number of deaths of persons in custody?<sup>8</sup> Does the State party intend to create penitentiary personnel to be specifically trained to appropriately deal with prisoners?

12. Further to the recommendation of the Committee in its previous concluding observations (para. 21), please provide information on steps taken to make the necessary appointments to the institutions for the promotion and protection of human rights. Also, please provide information on measures taken to ensure the resumption of the activities of the Office of the Ombudsman and to provide it with the human rights resources in order to allow it to carry out its mandate.<sup>9</sup>

### Article 3

13. Please provide detailed information on measures taken to respect the absolute prohibition to expel, return or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture and to fully incorporate the provisions of article 3 into the State party's domestic law.

14. Has the State party relied on diplomatic assurances? If so, please indicate what measures have been taken to ensure that they conform to the State party's obligations under article 3. Also, please provide detailed information on what the State party's requirements are for such assurances and whether there are post-return monitoring mechanisms.

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

- (a) The number of asylum requests registered and approved;
- (b) The number of asylum-seekers 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 or expulsions (please indicate how many of them involved rejected asylum-seekers), and the countries to which these persons were expelled.

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<sup>6</sup> A/HRC/WG.6/7/GUY/3, para. 8.

<sup>7</sup> A/HRC/WG.6/8/GUY/2, para. 27.

<sup>8</sup> CAT/C/GUY/CO/1, para. 9.

<sup>9</sup> Ibid., paras. 21 and 22.

## Articles 5 and 7

16. 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 and texts of any decisions on the subject.

## Article 10

17. Further to the recommendation of the Committee in its previous concluding observations (para. 10), please provide detailed information on steps taken by the State party to ensure that adequate training is provided to the medical personnel in the country regarding their obligations under the Convention and in accordance with the Istanbul Protocol of 1999, (The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). Also, please provide detailed information on training on the provisions of the Convention and the absolute prohibition of torture for all law enforcement personnel. Please indicate how the results of these trainings are evaluated.<sup>10</sup>

18. Further to the recommendation of the Committee in its previous concluding observations (para. 15 (a)), please provide information on measures taken to control the indiscriminate issuance of firearm licenses, to ensure that the circumstances under which police officers are authorized to use force and firearms are exceptional and clearly defined, and to ensure that members of the Guyana Police Force are adequately trained on the appropriate use of force and firearms in accordance with international standards, including the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (General Assembly resolution 41/149)<sup>11</sup> Please provide information on how the results of these trainings are evaluated.

19. Further to the recommendation of the Committee in its previous concluding observations (para. 10), please provide information on any efforts made by the State party to address the issue of the lack of diversity in the ethnic composition of the Guyana Police Force, in particular, about the reduced presence of persons of Indo-Guyanese origin.<sup>12</sup>

20. As requested in the follow-up letter of 14 May 2010, please provide further information on the training for police in handling cases of domestic and sexual violence, including how many officers have undergone such trainings and their frequency. Please provide information on how the results of these trainings are evaluated.

## Article 11

21. Further to the recommendation of the Committee in its previous concluding observations (para. 11), what measures have been taken by the State party to guarantee that the mandatory limits established by law are respected in practice in order to ensure that the pretrial detention is only used as an exceptional measure for a limited period of time?<sup>13</sup> Also, please provide information on whether non-custodial measures are available.

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<sup>10</sup> Ibid., para. 10..

<sup>11</sup> Ibid., paras. 7 and 15 (a).

<sup>12</sup> Ibid., para. 9.

<sup>13</sup> Ibid., para. 11.

22. Further to the recommendation of the Committee in its previous concluding observations (para. 14), what measures have been taken to ensure that children are always separated from adults while on remand and to bring the conditions of detention in conformity with the United Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules, General Assembly resolution 40/33), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines, General Assembly resolution 45/112) and the United Nations Rules for the Prevention of Juveniles Deprived of Their Liberty (The Tokyo Rules, General Assembly resolution 45/110)?<sup>14</sup>

### Articles 12 and 13

23. Further to the recommendation of the Committee in its previous concluding observations (para. 18), what measures have been taken by the State party to raise the minimum age of criminal responsibility from 10 years of age to an internationally acceptable level?<sup>15</sup>

24. Further to the recommendation of the Committee in its previous concluding observations (para. 15 (b)), please provide detailed information on any effective steps taken by the State party to guarantee the accountability of the Guyana Police Force and, to this effect, carry out prompt, impartial and effective investigations, try the perpetrators of acts amounting to cruel, inhuman or degrading treatment and, when convicted, impose appropriate sentences, and adequately compensate the victims.<sup>16</sup>

25. Please provide detailed information and statistical data, disaggregated by crime committed, geographical location, ethnicity and gender, on complaints relating to torture, attempted torture and complicity or participation in torture, which have been filed during the reporting period, on related investigations, prosecutions, convictions and on the penal or disciplinary sentences applied.<sup>17</sup>

26. Further to the recommendation of the Committee in its previous concluding observations (para. 16), please provide detailed information on steps taken by the State party to prevent acts such as the alleged practice of extrajudicial killings by members of the police and to guarantee that prompt and impartial inquiries are conducted, perpetrators are prosecuted and effective remedies are provided to victims.<sup>18</sup> Please provide the number of cases of extrajudicial killings filed, investigated, prosecuted and convicted. Also, please provide information requested in the follow-up letter of 14 May 2010 as to the impact of the 8th and 9th Parliament in addressing this issue of extrajudicial killings.

27. As requested in the follow-up letter of 14 May 2010, please clarify whether there are non-police-related avenues for submitting complaints of alleged killings by members of the police force and whether the mechanisms that are already in place to guarantee that the investigations are carried out meet international standards of independence and impartiality. Are there any oversight mechanisms in place to guarantee this?<sup>19</sup>

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14 Ibid., para. 14..

15 Ibid., para. 18. See also CRC/C/15/Add.224.

16 CAT/C/GUY/CO/1, para. 15(b).

17 Ibid., para. 24.

18 Ibid., para. 16..

19 Follow-up letter of 14 May 2010.

28. Further to the recommendation of the Committee in its previous concluding observations (para. 17), has the State party amended the Constitution and deleted the provision which allows the employment of part-time judges?<sup>20</sup>

29. As requested in the follow-up letter of 14 May 2010, please provide information on whether the State party has established or plans to establish a monitoring mechanism to investigate and deal with cases of sexual violence in the country. Also, please provide statistical data on complaints, investigations, prosecutions and convictions for acts of sexual violence.

#### **Article 14**

30. Please provide detailed information on measures taken to ensure the provision of compensation, including rehabilitation, through its civil jurisdiction to all victims of torture. This information should include the number of requests filed, the number granted, the amounts of compensation ordered and those actually provided in each case.<sup>21</sup>

31. Please provide information on measures taken to ensure that all women who are victims of violence, including Amerindian women and those living in rural and hinterland areas, have access to immediate means of redress and protection, including protection orders, legal aid and shelters in sufficient numbers.<sup>22</sup>

#### **Article 16**

32. Further to the recommendation of the Committee in its previous concluding observations (para. 12), please provide information on measures taken by the State party to reduce overcrowding in prisons, improve the infrastructure and hygienic conditions and make available the necessary material, human and budgetary resources to ensure that the conditions of detention are in conformity with minimum international standards.<sup>23</sup>

33. Further to the recommendation of the Committee in its previous concluding observations (para. 12), please provide detailed information on any measures taken by the State party to improve the conditions of detention of persons on death row in order to guarantee their basic needs and fundamental rights.<sup>24</sup> Please provide the number of persons on death row and the number of executions carried out within the last reporting period.

34. Please provide detailed information on the measures taken to expressly prohibit corporal punishment and other forms of violence or abuse against children by law in the family, school and other institutions.<sup>25</sup> Please provide the number of complaints, investigations, prosecutions and convictions.

35. Please provide information on whether steps have been taken to prevent the excessive use of force by the police.<sup>26</sup> Please provide the number of complaints, investigations, prosecutions and convictions.

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20 CAT/C/GUY/CO/1, para. 17.

21 Ibid., paras. 15 (b) and 24.

22 CEDAW (A/60/38), paras. 269-314.

23 CAT/C/GUY/CO/1, para. 12.

24 Ibid., para. 23.

25 A/HRC/WG.6/8/GUY/2, para. 26.

26 A/HRC/WG.6/8/L.13, para. 46.

**Other issues**

36. 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.

37. Please provide information on steps taken to ratify the Optional Protocol to the Convention.

38. What steps have been taken to abolish capital punishment in the State party's internal legislation? Is there a moratorium in place, and if so, is there legislation in support of it?

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

39. 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 initial report, including any relevant jurisprudential decisions.

40. 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 initial report, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

41. 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 initial report in 2006, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.