

COSTA RICA

CAT A/56/44 (2001)

130. The Committee considered the initial report of Costa Rica (CAT/C/24/Add.7) at its 472nd, 475th and 482nd meetings, held on 10, 11 and 17 May 2001 (CAT/C/SR.472, 475 and 482), and adopted the following conclusions and recommendations.

A. Introduction

131. Costa Rica deposited its instrument of ratification of the Convention on 11 November 1993 without making any reservation. The State party has not made the declarations provided for in articles 21 and 22 of the Convention.

132. The report was submitted after a delay of more than five years. In both form and content it complies with the Committee's general guidelines for the preparation of initial reports of States parties. The core document (HRI/CORE/1/Add.104) also conforms to the established guidelines.

133. The Committee welcomes and expresses its appreciation for the frank and constructive dialogue with the representatives of the State party that took place during consideration of the report.

B. Positive aspects

134. The Committee notes with satisfaction the following:

(a) The supremacy of international human rights instruments in general and the Convention in particular over domestic law, including the Constitution, to the extent that they contain broader rights and guarantees than those recognized in the latter;

(b) The State party's accession to and ratification of most of the international human rights instruments, in both the global and inter-American systems, and its recognition of the self-executing effect of their provisions;

(c) The Committee has not received any information from non-governmental organizations about acts or situations that might constitute non-compliance by the State party with its obligations under the Convention;

(d) The inclusion in domestic law of provisions that permit the extraterritorial enforcement of criminal law in order to prosecute and punish persons responsible for torture;

(e) The adequate legal and institutional regime for the protection and promotion of human rights, in particular:

(i) The adequate constitutional and legal regulation of the remedies of habeas corpus and amparo, and the broad interpretation of those provisions by the national courts;

- (ii) The autonomy and powers of the ombudsman's office;
 - (iii) The existence of numerous bodies and institutions available to the persons concerned for lodging complaints of torture or cruel, inhuman or degrading treatment;
 - (iv) The system of monitoring of police activities;
- (f) The explicit inclusion in the Constitution and laws of the rights and guarantees of every person deprived of liberty, in particular:
- (i) The requirement of a written arrest warrant issued by a competent authority, except in cases of flagrante delicto;
 - (ii) The obligation of the person making an arrest to inform the arrested person of the reason for his arrest and his rights to remain silent, to inform anyone he wishes of the arrest and to have the services of a defence counsel of his choice;
 - (iii) The time limit of six hours set for the police to bring the detainee before a member of the Public Prosecutor's Office and 24 hours to place him at the disposal of a judge, and the exclusion of arrest on suspicion;
- (g) The planned construction and renovation of prisons.

C. Subjects of concern

135. The Committee expresses its concern about the following:

- (a) The fact that torture is not characterized as a specific offence, despite the express prohibition of torture in the Constitution;
- (b) The inadequacy of training concerning the prohibition of torture for police officers and prison personnel, which is frankly admitted in the report;
- (c) The cases of abuse of authority by police officers and prison personnel, as described in the State party's report;
- (d) The overpopulation of prisons, which has led to overcrowding, caused by inadequate investment in prison infrastructure and the use of deprivation of liberty and longer prison sentences as virtually the sole response to an increase in crime;
- (e) The absence of State programmes for the rehabilitation of torture victims;
- (f) The maximum-security detention regime, comprising 23 hours of confinement and just one hour outside the cell, appears excessive;
- (g) The absence of statistical data in the report on cases of abuse of authority, the results of the

investigations conducted in such cases and the consequences for the victims in terms of redress and compensations.

D. Recommendations

136. The Committee recommends that the State party:

- (a) Include the crime of torture in the Criminal Code in terms consistent with article 1 of the Convention and with a penalty commensurate with its seriousness, as prescribed in article 4, paragraph 2, of the Convention;
- (b) Step up training activities, with the specific inclusion of full information the prohibition of torture in the training of police officers and prison personnel;
- (c) Ensure that its next two periodic reports are submitted in accordance with article 19 of the Convention;
- (d) Make the declarations provided for in articles 21 and 22 of the Convention;
- (e) Make the process for granting refugee status more efficient in order to reduce the long period of uncertainty for asylum-seekers and refugees;
- (f) Include in its next report statistical data, disaggregated by, inter alia, the age and gender of victims and the services to which the perpetrators belong, on cases relevant to the Convention that are heard by domestic bodies, including the results of investigations made and the consequences for the victims in terms of redress and compensation.
- (g) Widely disseminate the Committee's conclusions and recommendations in the State party.