



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

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**Committee against Torture**  
**Forty-fourth session**  
26 April-14 May 2010

**List of issues prior to the submission of the fifth and sixth periodic reports of Argentina (CAT/C/ARG/5-6)\***

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

**Articles 1 and 4**

1. Please inform the Committee of any steps taken by the State party to adopt a comprehensive definition of torture covering all elements, including the purposes for perpetrating such acts, as contained in article 1 of the Convention, as well as the elements under article 4, such as attempt to commit torture, complicity and participation in torture.
2. Please provide information on whether the State party foresees adding specific provisions on instigation to torture and exact penalties for these acts into its domestic legislation.

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

**Article 2\***

3. According to information before the Committee, access to legal counsel is sometimes delayed due to an overburdened system. Please provide information on further steps taken by the State party to ensure that all detained persons are afforded, in practice, fundamental legal safeguards from the very outset of detention, including the right of access to a lawyer and a medical doctor of their own choice, as well as the right to inform a relative, to be informed of their rights, and to be promptly presented to a judge. Please also indicate if all persons detained are registered from the very outset of detention.
4. Please provide information on steps taken by the State party to implement the recommendation of the Working Group on Arbitrary Detention in December 2003 to reduce the length of the pre-trial detention period and to ensure that it is only used as an exceptional measure. Please inform on the use and implementation of alternatives to pre-trial detention.
5. It is reported (CRC/C/15/Add.187, para.62) that under article 205 of the Code of Criminal Procedure, a child may be held in incommunicado detention for a maximum 72 hours. Please provide information on measures taken to improve the poor conditions of children in detention, including the lack of adequate basic services such as education and health, the absence of adequately trained staff, and the use of corporal punishment, and isolation.
6. Please provide information on the mandate of the Office of the National Ombudsman, the number of complaints received in relation to violations of the provisions of the Convention, the actions taken to address these violations, as well as their outcome.
7. According to the Office of the National Ombudsman, “conditions of detention at police stations in Rosario, Santa Fe Province (police station 15 and substation 20), and at City Hall Cordoba are subhuman and detainees are not segregated in accordance with the status of their prosecutions or with their adaptability.” Please provide information on measures taken to improve detention conditions in those stations. Please also provide the outcome of the petition of habeas corpus submitted by the Ombudsman on behalf of all those being held or detained at the facilities in question.
8. Please provide information on steps taken to guarantee that convicted prisoners are not held in the same facility as pre-trial prisoners and individuals in immigration proceedings.
9. Please provide information on “reforms conducted to remedy the absence of a law against enforced disappearances, as well as on legislative measures taken to grant the International Convention for the Protection of All Persons from Enforced Disappearance a constitutional ranking,” as recommended by the Working Group on Enforced or Involuntary Disappearance following its mission to Argentina. Please provide information on whether the Penal Code has been amended in order to include the crime of enforced disappearance.

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

10. Please provide information on the Judicial Council (*Consejo Judicial*) created in 2006 and the exercise of its competency to select judges whose independence should be guaranteed.

11. (a) Please provide updated information on measures taken to adequately prevent and combat trafficking in persons, especially women and children, and to prosecute and punish such acts. Please provide information on measures taken to implement the Migration Act, which, inter alia, criminalizes trafficking in human beings and stipulates that a foreigner may be detained only by a judicial authority. Please provide information on the Law against trafficking in persons adopted in April 2008 and its application in practice. What measures have been taken to assist and support victims of human trafficking?

(b) Please provide updated statistical data on the prevalence of human trafficking, since consideration of the previous report. Statistical data should also be provided on the number of complaints relating to human trafficking, and related investigations, prosecutions, convictions and sanctions, as well as compensation provided to victims.

(c) Please provide information on steps taken to implement the National Plan of Action to Combat Commercial Sexual Exploitation of Children, which was adopted in 2000. Please inform if coordinated policies and programmes relating to this issue have been formulated.

12. Please provide updated information on measures taken to adequately prevent, combat and punish discrimination and other ill-treatment against vulnerable groups, including members of indigenous communities, sexual minorities, women, and persons reporting acts of torture and ill-treatment, as well as measures taken to safeguard their physical integrity. Please provide information on the impact and effectiveness of these measures in reducing cases of such acts.

13. (a) Please provide updated information on measures taken to adequately prevent, combat and punish violence, including domestic violence, against women and children. According to information before the Committee, increased domestic violence is difficult to quantify because of a lack of records, and marital rape is not prohibited by legislation. In this respect, please indicate if such violence is criminalized under the legislation of the State party. If not, please inform the Committee whether the State party is taking any legislative steps to include prohibition against marital rape in its domestic legislation and the anticipated schedule for such legislative steps.

(b) Please provide statistical data on the prevalence of violence against women and children, including rape and sexual harassment. Statistical data should also be provided on complaints relating to violence against women and children, related investigations, prosecutions, type of sanctions, as well as any redress, compensation and rehabilitation provided to victims.

(c) Please provide information on the protection provided to victims of such acts, including access to medical, social and legal services and temporary accommodation. Data should be provided on the number of victims that have received such protection and the specific form of protection they have received.

### **Article 3**

14. Please provide information on the application of the General Law of November 2006 on the recognition of refugees, and the National Committee for Refugees (CONARE), which was created in April 2009 and which replaces the Committee for Refugee Eligibility, especially with regard to its mandate with regard to the determination of refugee status.

15. (a) Please provide information on any steps taken to ensure that the State party fulfils the “non-refoulement” obligations under article 3 of the Convention, in particular with regard to considering all elements of an individual case, and providing, in practice, all procedural guarantees to the person expelled, returned or extradited.
- (b) Please indicate any requests received for extradition, and provide detailed information, including their outcome, on all cases of extradition, return or expulsion that have taken place since the last report.
16. Please indicate if the State party relies on “diplomatic assurances” to return persons to countries known for practicing torture. If so, please provide detailed information on:
- (a) Procedures in place for obtaining diplomatic assurances;
- (b) Steps taken to establish a judicial mechanism for reviewing, in last instance, the sufficiency and appropriateness of diplomatic assurances in any applicable case;
- (c) Steps taken to guarantee effective post-return monitoring arrangements;
- (d) All cases where diplomatic assurances have been provided, since consideration of the last report;
- (e) Assurances that have not been honoured and appropriate actions taken by the State party in such cases.
17. Please provide data which are disaggregated by age, sex and nationality, on:
- (a) Number of asylum applications registered and accepted, including on grounds that they had been tortured or might be tortured if returned to their country of origin;
- (b) Number of applicants in detention;
- (c) Number of cases of refoulement or expulsion;
- (d) Countries to which these persons were expelled;
- (e) How the risk of torture is assessed in the determinations;
- (f) How individuals can appeal an extradition, refoulement, return or expulsion decision.

### **Articles 5 and 7**

18. Since consideration of the last report, please indicate whether the State party has rejected, for any reason, any request for extradition by a third State in respect of an individual suspected of having committed an offence of torture. If so, please indicate whether the State party has engaged its own prosecution as a result, and provide information on the status and outcome of such proceedings.

19. Please provide information on domestic legislation establishing universal jurisdiction over the offence of torture.

20. Please indicate if the State party has established a national prevention mechanism in accordance with the Optional Protocol to the Convention.

### **Article 10**

21. Please include updated information on:

(a) Educational and training programmes developed and implemented by the State party for law enforcement personnel, border guards, penitentiary staff and detention centre staff, as well as all members of the judiciary and prosecutors on the absolute prohibition of torture and other provisions of the Convention, in order to enhance the efficiency of investigations and bring judicial decisions into line with relevant international standards;

(b) Training for all medical personnel involved with detainees in detecting signs of torture and ill-treatment in accordance with international standards, as outlined in the Istanbul Protocol;

(c) Steps taken to develop and implement a methodology to evaluate the implementation of training/educational programmes, and their effectiveness and impact on the reduction of cases of torture and ill-treatment. If steps have been taken, please provide information on the content and implementation of such methodology as well as on the results of the implemented measures; and

(d) Whether these training/educational programs have been designed in consultation with civil society, including national and/or international human rights experts.

## **Article 11**

22. Please provide information on any new interrogation rules, instructions, methods and practices as well as arrangements for custody that may have been introduced since the consideration of the last periodic report.

23. Please provide information on measures taken to effectively and systematically monitor and visit all federal and provincial places of detention. Please indicate whether a system of independent monitoring of prisons exists, and if so, by what entities, also whether unannounced visits are always allowed. Furthermore, please inform the Committee whether the State party has established a national prevention mechanism that visits detention centres to ensure full implementation of the Optional Protocol to the Convention.

24. Please provide information on establishment of effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and assistance to victims.

25. Further to the last Concluding Observations of the Committee, please provide information on the establishment of the national register of information from domestic courts regarding cases of torture and ill-treatment, since its establishment in 2006.

26. The Special Rapporteur on torture expressed concern about poor prison conditions and killing, torture and ill-treatment of inmates, resulting from the lack of security presence and actions of police and other inmates. Please provide updated information on measures taken to improve conditions in all detention facilities, including places of detention for asylum-seekers and psychiatric institutions, in order to bring them in line with international minimum standards, in particular with regard to overcrowding, poor physical conditions prevailing in prisons, and lack of hygiene, adequate food and appropriate medical care.

27. Please provide information on the material, human and budgetary resources that are made available by the State party to ensure that conditions of detention are in conformity with minimum international standards. Please provide detailed data on the impact and effectiveness of these measures in improving prison conditions.

28. Please indicate the legally permissible time an individual may be detained without having their detention reviewed by a magistrate and whether there are instances in which

the time limit has been exceeded. Please also inform the Committee as to any legal exceptions to this rule.

### **Articles 12 and 13**

29. Please provide information on steps taken to eliminate the impunity of the alleged perpetrators of acts of torture and ill-treatment to ensure that all allegations of torture and ill-treatment, including by law enforcement officials, are promptly, effectively and impartially investigated and that the perpetrators are prosecuted, in addition to receiving disciplinary penalties if applicable, and sentenced in accordance with the gravity of their acts.

30. Please provide information on measures taken to address crimes involving violations of the Convention that occurred during the military regime. Please include information on any measures taken to ensure that impunity for perpetrators does not exist and that victims are given adequate redress, compensation and rehabilitation, including assistance measures to locate the whereabouts of disappeared family members.

31. Please provide statistical data on the number of complaints of alleged torture and ill-treatment, the outcomes of such complaints, investigation, prosecution and conviction, type of disciplinary or punitive measures imposed on those found guilty of such practices, and the specific responsibilities of all relevant government bodies at federal and provincial level. Please indicate how long it takes to complete each procedural step and whether there are any legal requirements or guidelines on permissible/desirable processing times. The information should be disaggregated by sex, age, ethnicity and reason for imprisonment of the individual filing the complaint. Please provide information on measures taken in order to create a national register on detainees.

32. According to information before the Committee, many cases of death in detention have been registered in different regions of the country. Please provide detailed information on the investigation and prosecution in the case of 35 detainees of the “Unidad Penal No.1 de Varones del Servicio Penitenciario Provincial de Santiago del Estero” who died in a fire. Please confirm that at the time of fire, the detention facility was at 111.5% of its maximum occupancy.

### **Article 14**

33.

(a) Please provide details on steps taken to ensure that adequate compensation, redress and appropriate rehabilitation programmes, including medical and psychological assistance are provided to victims of torture and other ill-treatment and their families, including victims of human trafficking, domestic violence and other sexual abuse. Please also elaborate on the allocation of adequate resources to ensure that as full rehabilitation as possible is made available to all victims of such crimes.

(b) Please provide information on redress and compensation measures ordered by the courts and actually provided to victims of torture or their families since examination of the last periodic report. The information should include the number of requests made for compensation, number granted, amounts ordered and amounts actually provided in each case.

(c) Please provide information on redress and compensation measures for families of victims of involuntary disappearances under the Integral Reparation Plan (*Plan de Reparación Integral*), and on the creation of a special body dealing with this issue.

(d) Please provide statistical data on the number of complaints, investigations, prosecutions, convictions and sanctions regarding discrimination and other ill-treatment of vulnerable groups, including members of indigenous communities and other ethnic groups, sexual minorities, women, persons reporting acts of torture and ill-treatment and political groups, as well as on compensation provided to victims.

## **Article 15**

34. Please indicate steps taken to ensure that, in practice, information obtained by torture shall not be invoked as evidence in any proceeding, in accordance with article 15 of the Convention. Indicate which provision in the Penal Code applies and provide the applicable language. Please provide examples of cases when courts accepted evidence obtained by torture and other ill-treatment, and what reasons they provided for so doing.

## **Article 16**

35. Please indicate if the State party uses solitary confinement in detention. Please describe steps taken by the State party to limit the use of solitary confinement as a measure of last resort, for as short a time as possible under strict supervision and with a possibility of judicial review.

36. According to information before the Committee, detention conditions for minors are poor and results in suicide (4 cases in 2008) and ill-treatment. Please provide information on the availability of separate detention facilities for juvenile offenders. Updated information should also be provided on steps taken to improve living conditions in detention facilities for persons under the age of 18.

37. Please inform the Committee of the number of persons under the age of 18 who are in detention. Please disaggregate the data by sex, age, place of detention and capacity of detention facility concerned. Please update the Committee on measures taken to ensure that minors are no longer held in police units. Please provide information as to whether a nationwide ban has been imposed on the detention of minors by police personnel on “welfare grounds.”

38. Please indicate steps taken to adequately prevent and combat prison violence in places of detention. Please indicate how quickly injuries caused by prison violence, as identified by the medical personnel, are brought to the attention of the relevant prosecutor. Please also inform the Committee as to measures taken to prevent, investigate and prosecute or punish persons found responsible. Data should also be provided on the impact and effectiveness of these measures in reducing cases of inter-prisoner violence.

39. According to the information before the Committee, there have been reports of unwarranted or excessive use of force. Please inform the Committee as to the number and type of cases involving the use of excessive or unwarranted force by police. Please indicate what measures are taken to address the use of excessive force, including related investigations, prosecutions, type of sanctions, as well as any redress, compensation and rehabilitation provided to victims.

40. According to information before the Committee, there are abuses in a number of Argentina’s psychiatric hospitals, social care homes, and psychiatric penal units. Please provide information and statistics on investigation of deaths in institutions, detention of persons with mental disabilities in isolation cells, physical, psychological and sexual abuse, lack of medical care, lack of rehabilitation, misuse of medication and overcrowding.

41. According to information before the Committee, in 2008, 112 persons died in detention facilities, which represents 10% more than in 2007 (101 persons). The deaths were attributed to fights, suicide, general injuries and disease. Please provide detailed statistical data on the situation, including investigations, prosecutions, sanctions and other measures taken to prevent future occurrence.

42. According to information before the Committee, in 2009, eight prisoners in Mendoza Province were murdered by other prisoners. The Mendoza Government acknowledged these issues and created the position of a prison ombudsman to receive and investigate prisoners' complaints, and increased training for prison officials. In November 2009, the Supreme Court of Justice ordered Mendoza Province to improve the Boulogne Sur Mer prison facilities, giving it 60 days to develop a working plan. Please provide updated information on the development and implementation of this working plan. Please also provide information on complaints, investigations, prosecutions, convictions and sentences, as well as other measures taken to prevent future occurrence.

43. According to information before the Committee, the security of witnesses in human rights trials has become a serious concern since the 2006 disappearance of Jorge Julio López, a torture victim who had testified in one of the cases that had been concluded that year. Please provide updated information on this case and on measures taken to prevent the recurrence of such a situation. Please provide information on measures taken to reinforce the Witness Protection Programme (*Programa de Proteccion de Testigos e Imputados*).

44. Please provide information on development and application of public policies protecting the rights of indigenous peoples, in particular in the framework of INAI and PACI.

### **Other issues**

45. The Committee notes that it has not received further clarification on the follow-up information from the State party, as requested by the Rapporteur for Follow-up on Concluding Observations in her letter sent on 11 May 2007. Please provide the information requested.

46. Please provide detailed information on steps taken to establish an effective system to compile statistical data relevant to monitoring the implementation of the Convention at the national level, especially in terms of types of offence, age, ethnic group, sex of the victim and type of perpetrator, reports of acts of torture and other cruel, inhuman or degrading treatment or punishment inflicted by State officials, and investigations, proceedings and criminal and disciplinary punishments imposed following such reports, as well as consequences for the victims in terms of reparation and compensation.

47. Please provide updated information on measures taken by the State party to respond to any threats of terrorism. Please describe if, and how, these measures have affected human rights safeguards in law and practice and how it has ensured that these 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 relevant training given to law enforcement officers, number and types of convictions under such legislation, legal remedies available to persons subjected to anti-terrorist measures in law and in practice, whether there are complaints of non-observance of international standards, and the outcome of these complaints.



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

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

49. Please provide detailed relevant information on new political, administrative and other measures taken to promote and protect human rights at the national level, that have occurred since the fourth periodic report, including any national human rights plans or programmes and the resources allocated to these measures, their objectives and their results. Please provide information as to whether the Government is planning to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights which prohibits the application of death penalty.

50. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since consideration of the fourth periodic report in 2004, including necessary statistical data, and on any events that occurred in the State party that are relevant under the Convention.

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