



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

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COMMITTEE AGAINST TORTURE

**List of issues prior to the submission of the
second periodic report of BRAZIL (CAT/C/BRA/2)¹**

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

Article 1

1. According to the Committee's previous concluding observations, please provide detailed information on whether the Torture Act (Law No. 9455/97) is interpreted in conformity with article 1 of the Convention and on any relevant judicial decisions relating to the interpretation of the definition of torture.

Article 2

2. Please elaborate on any measures undertaken to ensure that detainees are immediately informed of their rights when taken into custody. Please provide information on the rights of detained persons or individuals deprived of their liberty to contact family members, and to obtain prompt access to an independent medical doctor at their request. Please indicate how the State party protects and monitors implementation of these safeguards.

3. Please provide information on measures adopted to ensure that any person under arrest is informed of his or her continuing right to consult privately with a lawyer at any time and to receive independent free legal aid when he or she cannot afford a private lawyer. Please also indicate whether a statement of detainees' rights, such as the Penal Execution Law, is available at all places of detention for consultation by detainees. Please also indicate whether the State's Public Defender's Offices have been established. Does the State party envisage creating a National Network of Public Defenders ex officio?

¹ The present list of issues was adopted by the Committee at its forty-second 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.

4. What measures has the State party taken to ensure routine forensic examinations of detainees? Please provide information on legislative measures adopted at the State and federal levels to grant autonomy and functional independence to forensic institutes and other equivalent organs.
5. Please indicate whether institutions such as community councils, State councils on human rights, police and prison ombudsmen, and non-governmental organizations are able to monitor places of detention and enjoy unrestricted access to those places. What is the legal regime for the adoption of restrictions, if any, to free access to detention centres of the above-mentioned organs?
6. Please indicate whether alternatives measures to imprisonment are implemented by the State party in conformity with the United Nations Standard Minimum Rules for Non-custodial Measures (General Assembly resolution 45/110, annex, the “Tokyo Rules”). Has the State party engaged in awareness-raising of the judiciary regarding the possibility of applying alternative sentences as a solution to combating the problem of overcrowding in detention and imprisonment centres? Please indicate the outcome of the implementation of Law No. 10259/01.
7. Please indicate the measures taken to ensure that detainees are separated on the basis of their status (remand or under sentence) as well as on the seriousness of their offence.
8. Please provide information on measures taken to implement recommendations concerning the improvement of the system of juvenile justice. Has the State party implemented the recommendation to set up special courts to deal with crimes against children and juvenile as well as children’s units in Public Defender’s Offices?
9. What measures have been taken to limit the length of pre-trial detention of children, to guarantee their access to legal and medical assistance and to their families, and to promptly review the lawfulness of their detention?
10. Has the State party guaranteed the separation of children from adults in all prisons and pre-trial detention places? Are juvenile offenders separated on the basis of age, physical build and seriousness of the offence? Please also indicate whether the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (General Assembly resolution 40/33, annex, the “Beijing Rules”) are applied.
11. Please provide detailed information on measures taken to address the use of prolonged remand in police custody. Please also provide detailed information on measures undertaken to enforce respect of the 24-hour time limit prescribed by the law for detention in police custody.

Article 3

12. What effective measures have been taken to ensure that a person will not, under any circumstances, be expelled, returned or extradited to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture? Please inform whether any expulsion, return or extradition has recently taken place in the State party and, if so, please indicate to which countries. Which adequate judicial mechanisms for the review of the decision have been put in place?

13. Please indicate in which cases the State party would seek diplomatic assurances from a third country to which an individual is to be extradited, returned or expelled. What monitoring mechanisms are in place to assess if the assurances have been honoured? Has the State party received any such request for diplomatic assurances? Please also provide examples, if any, of cases in which national authorities did not proceed with the extradition, refoulement or expulsion of an individual for fear that he or she would be tortured. Please also indicate which post-return monitoring arrangements have been adopted.

Article 4

14. Please clarify whether the attempt to commit torture and the complicity or participation in torture are also punished under Law No. 9455/97 (the Torture Act). Please provide disaggregated data with respect to persons accused, tried and convicted, including the sanctions imposed for the crimes of torture, attempts to commit torture, if applicable, and complicity or participation in acts of torture. Please indicate whether the Amnesty Law of 1979 (Law No. 6683/79) has been abolished. Please also indicate whether there is a distinction between judgments penalizing torture-related acts and those penalizing bodily injuries or abuse of authority-related acts.

Articles 5 and 7

15. Please indicate any legislative or other measures taken to implement each provision of article 5 of the Convention. Under the legislation in force, are acts of torture considered universal crimes under national law, wherever they occur and whatever the nationality of the perpetrator or victim? Please provide any relevant examples.

16. Has the State party rejected, for any reason, any requests for extradition by another State for an individual suspected of having committed a crime of torture, and thus engaging its own prosecution as a result?

Article 10

17. According to the Committee's previous concluding observations, please provide detailed information on the measures taken to reinforce education and promotion activities on human rights in particular regarding the prohibition of torture for law enforcement officials and medical personnel. In this regard, please provide examples, if any, on training programmes for police, detention personnel and public prosecutors.

18. Please indicate the efforts made to draw up and implement the guidelines for selection and training of the police for the protection of human rights defenders.

19. What measures has the State party taken to ensure that medical examinations are carried out in any allegation of torture by specifically trained doctors in accordance with the Istanbul Protocol?

Article 11

20. Please indicate whether the State party has kept under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment with a view to preventing any cases of torture. If so, please provide detailed information.

21. Considering that prolonged isolation may amount to torture, please provide information on how the State party is reviewing the disciplinary policy regimes for detainees (the *regime disciplinar diferenciado* “RDD” and the *regime disciplinar especial* “RDE”) currently being applied. Please also indicate the maximum period of isolation established by law.

22. What measures have been adopted to provide educational and vocational training, and medical and recreational facilities to help reintegrate children and adolescents into society?

Articles 12 and 13

23. According to information before the Committee, only a small number of allegations of acts of torture result in prosecution against public officials. Please provide detailed statistical data on arrests made and charges brought under the Torture Act of 1997, especially concerning prosecutions of law enforcement officials for torture-related crimes.

24. Please provide detailed information on the outcome of the investigations into the use of cells of *castigo*.

25. Please provide the Committee with detailed statistical data on the investigation of allegations of torture, including patterns of abuse, involving public officials, such as members of police forces as well as related prosecutions and convictions. Have the Public Prosecutors’ Offices been empowered to initiate and carry out investigations into any allegations of torture? What measures is the State party undertaking in order to create an Office of an Investigating Judge? Please provide information on measures adopted to establish a centralized database on charges against national law enforcements officials for torture and other inhuman treatment-related acts.

26. Please explain whether alleged human rights violations committed by the military police against civilians are investigated and prosecuted by general criminal courts at all stages of the criminal proceedings.

27. Please provide information on the relevant national authorities with the competence to receive and review complaints. Please also provide information on the number and content of complaints alleging torture, ill-treatment or inhuman or degrading punishment from prisoners received by the competent authorities, on their investigation and on the number of convictions of prison wardens, public officials, border guards and other persons who may be involved in the

custody, interrogation or treatment of individuals subject to any form of arrest, detention, or imprisonment for such offences under relevant criminal legislation.

28. Please provide statistical data on investigations into cases of police abuse, the number of complaints of unlawful methods of investigation, and the number of complaints found justified by the prosecutor. Please provide examples, if any. What is the legal situation regarding the establishment at State level of independent *ouvidores* who would monitor the conduct of police officers? To what extent has the action taken by the *corregedorias* of the civil and military police proved effective in investigating acts of torture and inhuman treatment-related acts?

29. Please provide information on the measures in place to guarantee the confidentiality of complaints and protect complainants from possible reprisals. Please elaborate on any witness protection programmes for victims of torture, ill-treatment and related violations.

30. Please indicate if the State party has established a special mechanism to receive complaints and investigate violations of the rights of human rights defenders, in line with the content of the National Programme for the Protection of Human Rights Defenders initiated in 2004. Do federal authorities have jurisdiction in respect of serious human rights violations? Please indicate any examples.

Article 14

31. Please provide information on how the right of victims of torture to fair and adequate compensation by the State is enforced. In this regard, please indicate the recent developments on the reform of the current system of implementation of judicial decisions on compensation. Has the State party established programmes for the physical and mental rehabilitation of torture victims? Does the State party envisage the adoption of measures to reopen the military archive in relation to events that occurred between 1961 and 1988?

Article 15

32. Please provide information on measures explicitly prohibiting the use as evidence in judicial proceedings of any statement obtained through torture. Has the State party taken measures to ensure that only statements or confessions made in the presence of a judge are admissible as evidence in criminal proceedings?

Article 16

33. Please provide information on the measures taken to combat and prevent trafficking in women and children. Has the State party established effective witness and victim protection mechanisms? If so, please provide detailed information. Please provide statistical data on the number of complaints, investigations, prosecutions and convictions registered in this regard. Please also indicate the measures that have been taken to prosecute and punish traffickers, and ensure protection of the rights of trafficked women and girls, including adequate protection and support when testifying against their traffickers.

34. Please provide detailed information on measures taken to address overcrowding and inhuman conditions of detention in prisons. Please also indicate measures taken to improve the

material conditions of detention centres throughout the State party. Has the State party implemented the programme related to the establishment of federal prisons of high security? If so, please elaborate on the outcome of such programme. Please also indicate whether a general training programme for detainees in the penitentiary system has been established.

35. Please elaborate on Law No. 11340/06 (the “Maria da Penha Law”) on domestic violence and whether there has been an evaluation of the impact of that Law. Please also indicate whether the State party has taken measures to put an end to the illegal practice of requesting sterilization certification for employment purposes. Please provide statistical data on the number of complaints, investigations, prosecutions and convictions registered in this regard. Has the State party set up shelters where victims may live in dignity?

36. Please provide information on measures adopted to put an end to the significant number of street children and their vulnerability to extrajudicial killings and various forms of violence, including torture, sexual abuse and exploitation. Please also indicate the steps taken to implement a systematic and comprehensive strategy to address this situation and protect these children, and the very poor registration of missing children by the police. Please also indicate whether the State party has adopted legislation at the State or federal levels to prohibit and punish corporal punishment against children.

37. Please provide detailed information on measures taken to combat practices of slave labour and forced labour in the State party. How does the State party ensure that perpetrators are prosecuted and punished and that protection and redress are granted to victims? Please also provide information on the implementation of the National Plan for the Eradication of Slave Labour.

38. Please provide information on the measures taken to put an end to killings that reportedly took place during police operations as a result of excessive use of force from the police forces. Have they been investigated and have the perpetrators been brought to justice? Please also comment on the death squads that reportedly continued to act with impunity in certain states, with the participation or collusion of members of the police.

39. Please indicate the measures being taken to bring to an end the forced evictions of indigenous peoples from their ancestral lands, in particular regarding the Quilombo communities. Has the State party established a parliamentary commission on the violence perpetuated against Indians over their land as well as a specialized police unit for the protection of vulnerable groups such as Indian communities, Blacks, Quilombo communities, and Terreiros, following the example of the Secretariat for Justice of the State of São Paulo?

40. With reference to the decision of the Supreme Court which has recently ruled to maintain the Raposa Serra do Sol (RSS) reservation in Roraima State as a single continuous territory, enabling indigenous peoples to maintain control over their lands, please indicate the concrete measures taken by the State party to ensure the peaceful removal of all illegal occupants and the security of indigenous peoples in the RSS as well as the results of the investigations, prosecutions and convictions of past violence against indigenous peoples, as requested by the Committee on the Elimination of Racial Discrimination under its Early-Warning Measures and Urgent Procedures in 2008.

Other issues

41. Please provide information on the legislative, administrative and other measures the State party has taken to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice. Please describe the relevant training given to law enforcement officers, the number and types of convictions entered under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, the number of complaints related to non-observance of international standards, and the outcome of and follow-up to these complaints.

42. Has the State party established the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment? If so, please provide detailed information in this regard.

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

43. Please provide detailed relevant information on any other 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.

44. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level that have occurred since the submission of the State party's first initial report, including on any national human rights plans or programmes, and the resources allocated to them, their means, objectives and results.

45. 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 State party's initial report in 2001, including the necessary statistical data, as well as on any events that have occurred in the State party and are relevant under the Convention.
