



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

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COMMITTEE AGAINST TORTURE  
Forty-second session  
Geneva, 27 April-15 May 2009

**List of issues to be taken up in connection with the consideration  
of the fifth periodic report of CHILE (CAT/C/CHL/5)**

**Article 1**

1. According to reports, the definition of torture given in Chilean legislation does not completely match the definition given in article 1 of the Convention, chiefly because the legislation limits potential victims of torture to persons deprived of their liberty, and because a 10-year statute of limitations still applies to acts of torture. Please clarify whether attempted torture is an offence under current domestic legislation (see CAT/C/CHL/5, para. 80 and CAT/C/CR/32/5, para. 7 (f)).

**Article 2**

2. Please indicate whether a national record is kept of information from domestic courts concerning cases of torture and ill-treatment that have occurred in the State party.

3. Please provide information on legislation and practice with regard to:

(a) When and by whom a detainee's personal details are recorded, who has access to the record and how long it takes to bring the detainee before a judge;

(b) The percentage of detainees who have not been charged.

4. Please indicate whether the initiative to set up a national human rights institute has been approved by Congress, and whether the institute will conform to the Paris Principles (CAT/C/CHL/5, para. 5).
5. Given that the Optional Protocol to the Convention against Torture was approved by Congress in August 2008, please indicate whether the Protocol has been ratified so as to ensure its prompt entry into force.
6. Please supply more detailed information on the recent establishment of the National Commission on Political Imprisonment and Torture as it relates to people captured and tortured under the military regime who were not covered by the work of the Truth and Reconciliation Commission (CAT/C/CHL/5, para. 14).
7. Pursuant to the concern expressed by the Committee in its previous concluding observations (CAT/C/CR/32/5, paras. 6 (d) and 7 (c)), please indicate whether a Ministry of Public Security has yet been established to oversee the operations of the carabineros and the civil police forces.
8. Please indicate the current status of the bill before Congress to repeal Amnesty Decree-Law No. 2,191, and whether the State party has considered declaring the law unconstitutional or repealing it as contrary to international law. Is there any intention to declare the Amnesty Decree-Law inapplicable (CAT/C/CR/32/5, paras. 6 (b) and 7 (b))?
9. Please provide more detailed information on the establishment in January 2006 of a working group comprising representatives of the ministries of justice, defence and foreign relations to discuss bringing military justice into line with constitutional due-process standards. Please also supply information on the thrust of the proposed bill on military justice reform and procedure (CAT/C/CHL/5, paras. 93 and 94).

### **Article 3**

10. How does the State party ensure compliance with article 3, paragraph 1, of the Convention in cases of expulsion, return or extradition? Is there a procedure to assess the danger of the person being subjected to torture in the country to which he or she is returned? Please indicate whether immigration officials or authorities empowered to order refoulement receive training in the subject of political asylum and the requirements of article 3 of the Convention. Please indicate also whether free legal assistance and interpretation are available in practice to foreigners who appeal against deportation.

### **Article 4**

11. Please indicate the current status of the bill to render statutory limitations inapplicable to crimes against humanity (CAT/C/CHL/5, para. 102).
12. Please indicate whether the Convention has been invoked directly before the domestic courts. If so, please provide examples (CAT/C/CR/32/5, para 4 (f)).

### **Articles 6 and 7**

13. Please state what roles the Truth and Reconciliation Commission and the National Commission on Political Prisoners and Torture play in the identification of those responsible for extrajudicial killings, forced disappearances and torture (CAT/C/CHL/5, para. 14).

14. According to some reports, the carabineros and the Prison Service have conducted internal investigations into alleged cases of torture and ill-treatment documented during police detention and in the prison system. Please report on the progress of judicial proceedings against carabineros and prison officers (CAT/C/CR/32/5, para. 7 (e)).

15. Please inform the Committee whether the State party has taken steps to end court-authorized detention incommunicado which can last for up to 10 days.

16. Please provide up-to-date information on the progress of the investigations into 27 members of the military forces on trial as principals or accomplices in 16 aggravated kidnappings, 13 aggravated killings and 59 aggravated kidnappings and killings (CAT/C/CHL/5, para. 162).

17. Please provide up-to-date information on the upshot, if any, of the acquittal at first instance in the Arica Caravan file which the victims' lawyers were appealing before the Court of Appeal (CAT/C/CHL/5, para. 163).

### **Article 10**

18. Please comment on whether the Istanbul Protocol is taught as part of the training curriculum for medical personnel to identify cases of torture.

19. Are there training programmes in place for local law enforcement personnel, prison guards, public officials and any other groups of people that may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment?

### **Article 11**

20. Please provide information on national monitoring mechanisms that visit all places of detention at regular intervals without prior warning.

21. Please indicate whether steps have been taken to end abusive checks and searches of detainees' relatives at prisons as a means of intimidation or punishment.

22. Please provide statistics on complaints lodged, disciplinary procedures initiated and sanctions applied against prison guards and police officers on grounds of torture in prisons.

23. Please give details of the progress made with Government efforts to improve prison conditions since 2000 (see CAT/C/CHL/5, para. 120 (a)). Have the four new prisons mentioned in the report been built (CAT/C/CHL/5, para. 120 (b))?

24. Please indicate what steps the State party is taking to reduce or end prison overcrowding due to the steady growth in the prison population (CAT/C/CR/32/5, para. 7 (j)).

25. Please give details of how the prison-building and privatization policy is being applied. Please also indicate how responsibilities are divided between the public and private sectors.
26. Please indicate whether the State party affords special protection to certain vulnerable groups, in particular adolescents, women, members of indigenous groups, persons with disabilities, older persons, the mentally ill, foreigners (especially illegal immigrants) and persons infected with HIV, at detention centres.
27. Please indicate whether the State party has taken steps to address the alleged disciplinary failings and lapses in security that came to light during the October 2007 riot at the National Service for Minors “Tiempo de crecer” Behaviour Rehabilitation Centre, Puerto Montt, in which 10 teenagers died. Has preventive action been taken against incidents of this type? Has the investigation into the causes of the incident been completed?
28. Please provide information on the number of cases brought against carabineros and prison officers for acts of torture.

#### **Article 12**

29. Please provide information on the extent to which courts require, apparently, medical reports to be produced as evidence in cases of allegations of torture.

#### **Article 14**

30. Please indicate whether the Programme of Compensation and Full Health Care (PRAIS) for victims of human rights violations has been expanded to offer assistance to victims of torture under the military Governments (CAT/C/CR/32/5, para. 7 (1)).
31. Please provide information on cases concerning torture victims that have been ruled on by the Chilean authorities. In how many cases was compensation awarded, and what were the compensation amounts? In particular, the Committee would like information on compensation awarded to victims recognized by the National Commission on Political Prisoners and Torture (“Valech Commission”).

#### **Article 16**

32. Please comment on the alleged practice of holding prisoners in isolation cells as punishment without regard for the proper procedures and for long periods (up to 15 days).
33. Please indicate what steps are being taken to remedy the alleged serious shortcomings in prison conditions, such as lack of access to basic medical care, poor standards of health and hygiene and inadequate, poor-quality food.
34. According to reports, people undergo thrashings and kickings and are beaten with sticks and swords by prison officers at several Chilean prisons. Please comment.

**Other matters**

35. Is there legislation in the State party prohibiting the production of and trade in equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment? If so, please provide information about its content and implementation. If not, please indicate whether such legislation is being contemplated.

36. Please indicate whether the application of Counter-Terrorism Act No. 18314 has adversely affected any legal and practical human rights guarantees.

37. Please indicate what measures the State party has taken to include the gender perspective in legislation prohibiting torture. Indicate also specific measures taken to prevent acts of sexual violence. Please provide statistics on the number of investigations conducted and on their findings.

38. Please indicate whether the Criminal Code defines an offence applicable to public officials who fail to report acts of torture that have come to their knowledge in the discharge of their duties.

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