

Replies to the List of issues to be considered during the examination of the second periodic report of Cuba (CAT/C/CUB/2)

Articles 1 and 4

Question 1

Studies presently continue for the modification of the current Criminal Code, with a critical analysis of its regulations. One of the topics under consideration is the inclusion of Torture as a crime, in accordance with the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

Cuban legislation has the basis to ensure that a correct determination and the adequacy of the penalty are exercised in all cases, in conformity with the gravity of the actions being judged, by establishing in Article 47 section 1 of the Criminal Code that the court will fix the measure of the sanction within the limits established by the law, guided by the socialist juridical conscience and taking into account, especially, the level of social danger of the judged action, the circumstances concurring in it, both mitigating and aggravating, and the motives of the defendant, as well as his precedents, his individual characteristics, his behavior after committing the crime and his possibilities to amend.

The exceptions conceived by the law for the prescription of the penal action in conformity with what is stated in article 64 of the Criminal Code, are contemplated in its section number five, by establishing that the provisions on the prescription of action are not applicable in cases when the law foresees sanction by death and in cases of crimes against humanity. Due to the above, cases that imply an act of torture and correspond to the above situations will not be prescribed.

The Criminal Code and the Regulations of the Prison system prohibit in article 30.11 of the first and articles 6 and 7 of the second a cruel and degrading treatment toward individuals that are sanctioned, and foresee the imposition of sanctions upon the official that incurs in such practices.

Article 2

Question 2, entry a)

Cuban laws guarantee and regulate legal assistance for persons deprived of their liberty, as well as communication with their families and other persons.

The Criminal Procedure Act stipulates the obligation to inform the accused of their rights. In that sense, its article 2 stipulates: "Officials intervening in the penal procedures are obliged, within their respective prerogatives, to register in the proceedings and to appreciate in their resolutions the circumstances both adverse and favorable to the accused, and to instruct him of his rights".

This law regulates at which moment a detained person has the right to meet with his lawyer. Its article 249 stipulates that: "From the moment a resolution decreeing any of the precautionary measures authorized by this law is dictated, the accused will be party in the process and will be able to propose evidence in his favor. The Defender, from the procedural moment referred to in the previous paragraph, will be able to:

1. Establish communication with his defendant and meet with him with due privacy, if he were detained.
2. Examine the proceedings corresponding to the inquiry in preparatory phase, except in the case referred to by the last paragraph of article 247 of the Law of Penal Procedure.
3. Propose evidence and present document in favor of the defendant.
4. Request the revocation or modification of the precautionary measure imposed on the defendant. If the Instructor denies the practice of any of the evidence proposed by the Defender or the request of revocation or modification of the precautionary measure, the Defender will be notified within five working days from the moment of presentation of the request by the Defender, who may complain to the Prosecutor.

On the other hand, article 244 of the Criminal Procedure Act stipulates that at the moment of detaining any person, a record will be drawn immediately in which the time, date and motive of the detention will be registered, as well as any other particular that may result of interest. The record will be signed by the acting authority and the detained.

Upon request from the detainee or his family, the Police or the authority under which he or she is detained will inform about the detention and the place of detention, and will facilitate communication between them in the period and the manner established by the corresponding provisions.

There is no record of persons to whom legal aid has been denied.

The National Organization of Collective Law Firms (ONBC) is an autonomous entity of national reach, of social interest and professional character, with juridical personality and its own patrimony, which is voluntarily integrated by lawyers, as established in article 5 of Decree-Law Nr. 81 of June 8, 1984, "About the Exercise of Law Practice and The National Organization of Collective Law Firms (ONBC) ".

This organization does not have a governmental character. It has its own supervisory organs, which are elected and integrated by the lawyers who, in their condition as delegates, are part of the Assembly of the ONBC. The Assembly is the maximum governing and supervisory body of this institution and elects the President, the Vice-president and the Secretary from among its members, as well as the rest of the members of the National Supervisory Board, which is the body that carries the functions of supervision, representation and performance of the ONBC between sessions of the Assembly.

Because of its independent character, the ONBC adopts its decisions by agreements. It has its own system of working norms, disciplinary order, admission of lawyers, designation of the organization's representation at the level of each province and municipality in accordance with the needs of the service, organization of the services, development and administration of its own patrimony and of the income received for its services rendered to individuals and entities. The ONBC has its own Ethical Code, as well as the procedure to ensure its compliance by member lawyers.

It is an autonomous organization. It does not depend on the Ministry of Justice nor any other Government or State body, nor does it receive income from the State budget, as it functions on the basis of an economic self financing and managing scheme, with freedom to use its monetary, material and professional resources.

Decree Law 81 stipulates that in order to practice law one has to be admitted by the ONBC.

Nevertheless, the possibility for lawyers to assume the representation and supervision of their own affairs or those of their family members is foreseen with an exceptional character, in accordance with what is stipulated in article 4 of said Decree Law.

Question 2, entry b)

Police personnel acting at the moment of detention of any citizen are in the obligation of informing the detainee of the motive of the detention and of his rights. It is the responsibility of the Prosecuting Attorney's Office to monitor the legality of the penal process during the investigating or instruction phases. Detainees are placed under judicial supervision once charges are made against them and the investigating process is finished, and proceedings are presented to make the case known and to proceed to the opening of the oral trial.

the Criminal Procedure Act stipulates that when taking the statement of the accused, after determining and registering his true identity, he is informed of what he is accused of, by whom and the charges waved against him. He is also informed of his right to make a statement or to refrain from doing so, and, if he chooses to make it, that he may do so at the moment of his choosing and as many times as he requests it.

There are, in addition, other normative provisions that establish the obligation of the acting authority to read to each person detained his rights, duties and prohibitions. This information is placed in visible areas in most reclusion centers, so that it can be read by the detainees at any moment.

All persons entering a penitentiary center or establishment, upon decision of a Court or a competent authority, in the condition of accused, sanctioned or secured, are informed of their rights by the corresponding penitentiary authority at the moment of arrival and they retain guarantees of access to the defense for the continuation of the process, as it is stipulated in the Rules of the Cuban Prison system under article 8.2. This article defines that: "Defense lawyers that, in accordance with the existing law, take the juridical representation of an intern may meet with his defendant under prior coordination with the management of the penitentiary establishment or center and other places of internment, and by presenting the corresponding contract for the juridical services rendered."

Upon detention of a person, the duration of which may not exceed, in principle, 24 hours, police personnel have a 72 hours term to impose precautionary measures stipulated by the Criminal Procedure Act, except that of provisional imprisonment, which is approved by the Prosecuting Attorney, and in which case the term is extended another 72 hours.

The detainee will have the right to appoint a lawyer for his defense from the moment in which the imposition of a precautionary measure is notified, who will since forward become part of the process and will be able to propose evidence in his favor.

The content of legal aid in this phase is found in article 249 of the Criminal Procedure Act, which includes establishing communication with the defendant and meeting with him with due privacy, examining the corresponding proceedings of the dossier in preparatory phase, proposing evidence and presenting documents in favor of the defendant, and requesting the revocation or modification of the precautionary measure imposed on the defendant.

Criminal legislation provides the priority granted to criminal process that involve accused that are detained, in respect to others where the accused enjoys provisional freedom with some guarantee or are secured. In the same manner, the Ministry of Interior, the Attorney-General of the Republic and the People's Supreme Court have dictated orders, instructions, indications and rulings aimed at ensuring procedural expediency.

Question 2, entry c)

The "Main Regulations of the Crime Processing Area in the Police Station" stipulate in their article 43 that: "Every detainee that enters the jail area will be subject to medical exam".

Article 44 indicates that: "Detainees that suffer injuries will not be allowed in the jail area without the corresponding medical certificate and without a determination of the causes".

Article 45 states that: "Any detainee that manifests being ill or whenever it can be evidently established at plain sight, or if one requires any type of medical treatment, and if medical attention cannot be provided in the Policy Unit itself, he or she will be taken to the nearest center of medical assistance or to a designated one".

When it is detected or learned that a detainee has been the victim of injuries, the corresponding criminal responsibility will be demanded for the offender, in accordance with what is stipulated in articles 272, 273 and 274 of the Criminal Code, where the crime of injuries is typified and sanctions are foreseen with greater or lesser severity depending on the gravity of the act and its consequences for the victim.

In the above cases, administrative responsibility is also demanded.

When in the proceedings the existence of injuries is referred, the accused by himself or through his legal representation may contest the documented evidence that supports such charges, in the case of inexact facts or omission. Each medical exam practiced as a result of the existence of injuries, is subject to further analysis by the Institute of Forensic Medicine (Instituto de Medicina Legal) of the Ministry of Public Health, in order to determine its gravity.

In case of a possible implication of officials or agents of the authorities in the motives that result in injuries for the detainee, there are procedures in virtue of which commissions are established that are entrusted with the investigation of the matter, and the Attorney General's Office is informed. This institution is the one that determines if the incident deserves imposing administrative measures on the offenders or it merits the opening of criminal procedures. If special medical procedures were required to determine the cause of the injuries provoked on the detainee, the Institute of Legal Medicine is accessed and it produces the corresponding medical report.

The right of the detained person to request an independent medical exam by a professional doctor and to see the resulting reports is contemplated by the law in the framework of the right of defense for the accused.

On the other hand, Chapter VIII of the existing Regulations of the Cuban Prison system, articles 90 to 96, regulate the internment places where primary and specialized medical assistance is provided to the interns by the Ministry of Public Health and the medical services of the Ministry of the Interior, with a particular differentiation for patients with HIV-AIDS, pregnant women and women that are breast feeding.

Question 2, entry d)

The presence of an interpreter is ensured during judicial acts for all persons that do not understand the Spanish language, when this is necessary for them to enjoy their rights. The Criminal Procedure Act, in its Book Two, Chapter V, "On Statements by the Accused, in Article 164, expresses: "If the accused does not know the Spanish language or is deaf or illiterate, the regulation stipulating testimony statements through an interpreter will be observed". In chapter VI "On statements by the witnesses", Article 192, it is stipulated that: "The witness that does not understand or does not speak the Spanish language will make his statement through an interpreter, by means of which questions will be asked and answers received. He will be able to dictate the statements and answers given. In such case, the language of the witness will be registered and then the text will be translated into Spanish". In another consideration, article 193 expresses: "If the witness were deaf and knew how to read, question will be handed to him in writing. If he knew how to write, he will answer in writing. And if he knew none of the above, an interpreter will be named through which questions will be asked and answers received".

Question 3

The current national legislation governing the procedures of the Cuban Prison system and the actions of the officials in penitentiary facilities and centers, contain additional rights for inmates, which preserve universally described guarantees and protect Cuban and foreign citizens in prison from cruel, inhuman or degrading treatment or punishment. Their precepts stipulate various penalties for officials who, abusing their position, ill-treat or allow other forms of humiliation upon accused persons, convicted prisoners, and pretrial detainees.

Question 4

To be appointed a professional judge of the People's Courts, a person is required to be competent to practice Law by a degree issued or validated by a university or an authorized official institution; to be a Cuban citizen; to enjoy a positive public opinion and have good morals. It is also necessary to have practiced as a jurist, or been a teacher in the law school of any of the national universities, for a certain period of time, depending on the level of the court to which he/she is to be appointed. To become a member of a Court as a professional judge, the candidates must be included in the list of contenders who have passed the competitive examination prepared thereon by the Council of Government of the Supreme People's Court.

To act as a lay judge in any court, a person is required to have a positive attitude towards work and the social activity he/she carries out; to have an appropriate educational level and good morals, and enjoy a positive public opinion, as well as to be of the right age, depending on the level of the court to which he/she is to be appointed.

Professional judges in the Supreme People's Court, the Provincial People's Courts, and the Municipal People's Courts are appointed by the respective Assemblies of the People's Power, depending on the level of the court in which they are going to perform their functions.

Lay judges of the Supreme People's Court, the Provincial People's Courts, and the Municipal People's Courts are appointed by the respective Assemblies of the People's Power, taking into account the candidatures thereon presented by the Commissions on Candidate Selection and Candidatures of Lay Judges, at the national, provincial and municipal levels.

These commissions comprise representatives of the Workers' Central Union of Cuba, who chair them, of the Committees for the Defense of the Revolution, of the Federation of Cuban Women, of the National Association of Small Farmers and Peasants, and the University Students' Federation. Those representatives are designated by the respective national, provincial and municipal leadership, at the request of Presidents of the relevant Assemblies of the People's Power.

Potential candidates are proposed in grass-root meetings held in workplaces, neighborhoods, rural areas, and higher education centers, which are convened and presided over by the corresponding organizations at the request of the Chairperson of the Commission.

Professional judges are appointed for unlimited terms. Lay judges are appointed for terms of five years.

Judges can only be dismissed for repeatedly failing to comply with agreements or decisions adopted by the Council of Government, or the President of the Supreme People's Court, or the Council of Government of the relevant Provincial People's Court or its President, within the limits established by the Constitution and the legislation; and for incompetence in the position to which he/she was elected; or for having been subject to various disciplinary measures.

Judges can be suspended in the exercise of their judicial functions by the President of the Supreme People's Court, when and while investigated by the Council of Government of the Supreme People's Court or subject to criminal proceedings for committing a crime; at the beginning or during the process of their dismissal, and until a decision is reached by the electoral body; when they are no longer eligible; and when there is any cause preventing or that is incompatible with their office.

Professional judges serve until they retire. Lay judges serve until their term of office expires. Also, they cease their functions due to passing; physical or intellectual inability to continue exercising the judicial function; resignation accepted by the electoral body; performance of other functions; or dismissal.

Judges can only be dismissed when they have been sanctioned; they have not complied with the sanction and been reinstated, and if the crime committed is the type that undermines the public opinion; when they are subject to being tried for committing a crime; when they are no longer eligible; for incompetence in the performance of the judicial function; or negligence that is or may be harmful to the administration of justice.

In accordance with Article 128 of the Constitution of the Republic of Cuba, *the Office of the Attorney-General of the Republic constitutes an organic unit which is only subordinated to the National Assembly of People's Power and the Council of State.*

This very concept reaffirms that: *the bodies of the Office of the Attorney-General are organized in a vertical manner all over the country. They are subordinate only to the Office of the Attorney-General of the Republic and are independent of all local bodies.*

The Attorney-General of the Republic reports regularly to the National Assembly of the People's Power.

In general, the basic principles on the independence of the judiciary of the United Nations are in agreement with the spirit and nature of the exercise of the judicial functions in Cuba, in a transparent and just manner, in accordance with the characteristics of its legal and social system and its concrete historical reality.

Question 5

Military Courts are part of the national System of Courts and administer justice in peacetime.

The Military Prosecutor's Office promotes and exercises public criminal proceedings against those attempting against the independence and sovereignty of the State; the fighting capability and readiness of armed institutions; and the military discipline and the statutory order established for the military service; as well as other violations of the Criminal Law. It performs its functions within the limits of its demarcation with respect to all areas concerning, assigned to, or representing the interests of the armed institutions.

Military Courts are competent to exercise their jurisdiction within the limits of its demarcation with respect to all areas concerning, assigned to, or representing the interests of the Ministry of the Revolutionary Armed Forces and the Ministry of the Interior, regardless of their subordination, as well as over the people under their competence, in accordance with Article 11 of Law No. 6/1977 "Military Criminal Procedure Act", and Article 9.1 of Law No. 97/02 regarding Military Courts.

Military Courts can try civilians and are competent to know about ordinary law crimes committed by military personnel, according to Law No. 6/1977 "Military Criminal Procedure Act".

Military Courts has knowledge of criminal proceedings for any punishable crime resulting in the accusation of a military person, even when any of the perpetrators or the victim is a civilian. Likewise, Military Courts can know of criminal proceedings for crimes committed in military zones, weather by civilian or military persons. (Article 11 of Act 6/1977 “Military Criminal Procedure Act”)

According to the National Defense Law, the determination of military zones must be made by the Minister of the Revolutionary Armed Forces through Resolution 108 of 6 February 2002, establishing as military zones those areas of the national territory which belong, are assigned to, or represent the interests of the Ministry of the Armed Forces and the Ministry of the Interior.

Question 6

Cuba has a comprehensive and effective inter-agency system that includes the participation of non-governmental organizations, which receives, processes, and replies to any complaint or petition lodged by individuals or groups of people, concerning the enjoyment of any human right. This system also assesses the effectiveness of the existing mechanisms, policies and programs on the promotion and protection of human rights, as well as formulates and follows up on recommendations it deems appropriate to continue enhancing the enjoyment of human rights in the country.

Every Cuban citizen has the constitutional right to lodge complaints and petitions with the authorities and to receive appropriate attention or replies within a proper time limit, in accordance to the Law.

Among its functions, the Office of the Attorney-General of the Republic must address claims submitted by citizens on alleged violations of their rights. It also plays a key role in the system.

To strengthen this function, the Office of the Attorney-General of the Republic created the Department for the Protection of Citizens’ Rights, as well as counterpart departments in each Provincial Prosecutor’s Office. In every municipality of the country, there is a prosecutor in charge of this field of work.

The Office of the Attorney-General addresses, investigates and replies to the legal denunciations, complaints and claims lodged by citizens. In case it notices any infringement of legality, it announces a binding resolution for the reinstatement of the breached legality. Most frequent claims are regularly monitored by a group of specialists of the Office. They know the root causes of those violations and act accordingly to prevent new ones.

In the country, there are other authorities and mechanisms to address the complaints and petitions of citizens on human rights, such as social organizations; the offices for the attention of the population in every organ of the Central State Administration; the Secretariat of the Executive Committee of Council of Ministers; members of the municipal Assemblies of the People's Power and municipal and provincial Councils of Administration, as well as the permanent structures of the National Assembly; and the procedures for the attention of the population of the Council of State.

In practice, this system has proved effective and capable to address the interests, complaints and denunciations of alleged violations of human rights.

Question 7

In its Article 42, the Constitution of the Republic of Cuba provides that: *Discrimination because of race, skin color, sex, national origin, religious beliefs and any other form of discrimination harmful to human dignity is forbidden and will be punished by law.*

Likewise, its Article 44 stipulates that: *Women and men have the same rights in the economic, political, cultural and social fields, as well as in the family.*

The State ensures that women are offered the same opportunities and possibilities as men, so that they fully participate in the development of the country.

Also, Act 62 of the "Criminal Code" establishes in its Article 295.1, Chapter VIII "Offences against the right to equality" that anyone who discriminates another person or promotes or incite discrimination, either by remarks and attitudes that are offensive to that person's sex, race, skin color or national origin, or by actions to hinder or prevent the person, for those reasons, from exercising or enjoying the rights of equality laid down in the Constitution, shall be sentenced to imprisonment for six months to two years, or to a fine of 200 to 500 *quotas*, or both.

Question 8

In recent years, only two cases of trafficking in persons have been registered. One of them took place in 2006, in the province of Santiago de Cuba, where Italian nationals tricked female dancers from the "Tropicana Santiago" Cabaret into becoming prostitutes abroad. Therefore, one of the traffickers was severely sanctioned by the people's court.

The second case occurred in 2008, in the special municipality of Isla de la Juventud, where two Cuban nationals (brother and sister), one of them with a permit to live in Ukraine, were seeking Cuban girls to trick them into traveling to Ukraine, by means of a letter of invitation, and working in a restaurant. Once in Ukraine, the Cuban girls were forced to become prostitutes. The accused persons were severely sanctioned by the Special People's Court of Isla de la Juventud.

No cases of human trafficking involving victims from other nationalities were registered. The two Cuban victims registered in 2008, who were subjected to sexual exploitation, returned to Cuba by their own free will.

The legislative, judicial and administrative measures adopted by the Cuban State as of 1959 place Cuba among the countries in the region with the most advanced national legislation on the prevention of and fight against human trafficking, in spite of the fact that this type of crime is not frequent.

These measures include: fundamental guarantees and rights of citizens endorsed by the Constitution; the implementation of this constitutional protection in the Family Code (Act 1289 of 14 February 1975) and the Code of Childhood and Adolescence (Act of 16 June 1978), aimed at protecting women and children; the establishment of a permanent Commission for the attention of Youths, Children and Women, subordinated to the National Assembly of the People's Power; Act 83 of the Office of the Attorney-General, which recognizes the role of this body in the tutelage of minors; the creation in 2005 of specialized centers subordinated to the Ministry of the Interior, for the attention of children victim of any crime; and comprehensive protection of all children and their families.

Also, the Criminal Code includes offenses such as Pimping and Trafficking in Persons (Article 302), Sexual Affront (Article 303), Corruption of Minors (Article 310, 311, 312, 313 and 314), the Sale and Trafficking in Children (Article 316), which are punishable crimes entailing severe sentences, depending on how serious the offense is.

As to preventing and combating human trafficking, the Cuban State considers a priority an effective international cooperation, based on the strict respect for international law and the purposes and principles of the Charter of the United Nations. Therefore, Cuba signed the UN Convention against Transnational Organized Crime in 2000, and ratified this instrument on 9 February 2007. Furthermore, the Cuban State has signed the following international instrument:

- International Agreement for the Suppression of the White Slave Traffic, 1904.
- Slavery Convention, 1926, ratified on 6 July 1931.
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949, ratified on 4 September 1952.
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, ratified on 21 August 1963.

Although no new legal human trafficking instruments were established between 1959 and 1999, the State has signed others that are related to the issue, such as:

- Abolition of Forced Labour Convention, ILO No. 105, 1958, ratified on 2 June 1958.
- Convention on the Elimination of All Forms of Discrimination against Women, 1979, ratified on 17 July 1980.

- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1998, signed on 17 March 2000.
- Convention on the Rights of the Child, 1989, ratified on 21 August 1991.
- Hague Convention on the Protection of Children and Cooperation with Respect to Inter-Country Adoption, 1993. Entry into force in Cuba on 1 June 2007.
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, ratified on 25 September 2001.

In 2008, Cuba actively participated in the Fourth Session of the Conference of the Parties to the UN Convention against Transnational Organized Crime, and in the Vienna Forum as part of the Global Initiative to Fight Human Trafficking.

Article 3

Question 9

Article 13 of the Cuban Constitution provides that: *The Republic of Cuba grants asylum to those who are persecuted because of their ideals or their struggles for democratic rights; against imperialism, fascism, colonialism and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants and students and the redress of their grievances; for their progressive political, scientific, artistic and literary activities; for socialism and peace.*

Cuba is not party to the Convention relating to the Status of Refugees of 28 July 1951 and to the Protocol relating to the Status of Refugees of 31 January 1967. In that respect, the legal treatment of persons described as asylum-seekers and refugees, is regulated from a migratory point of view by Article 3 of the Act 1312/76 (Migration Act), and by Articles 80 and 81 of the Decree-Law 26/78, Rules and Regulations of the Migration Act.

Measures to reform the Migration Act and its Regulations have included the conduct of studies on the possible reform and the preparation of the draft document that would eventually modify the legislation in force. At present, Cuba is involved in an updating process to that end, including the modification of norms of Migration and Alien affairs, which was announced by the President of the Councils of State and Ministers. However, this process has not concluded yet.

The number of refugees or others seeking asylum in the national territory is monitored by the Office of the UN High Commissioner for Refugees (UNHCR) based in the country, considering that Cuba is not signatory to the international instruments mentioned. The Department for Immigration and Alien Affairs (DIE) only deals with cases seeking asylum, which are reported by said Office. Those people are allowed to remain in the country for 90 days since their arrival; and if during that time limit their request has not been replied by the UNHCR Office, they must leave the country, as visitors, without being forced to return to their country of origin or any other place where they claim to be persecuted.

When this reply was being drafted, 396 refugees were registered. Of them, 366 were students (364 Saharawi, 1 Palestinian, and 1 Colombian) and 30 were refugees who spontaneously arrived from Colombia, Eritrea, Iran, Kazakhstan, Sudan, and Syria. There were also 2 asylum-seekers in the process of determining their status.

Question 10

Since 2008 to date, a total of 76 people have requested, in Cuba, to be recognized as refugees by the UNHCR Office. Of them, 40 have been recognized as such. Broken down by country of origin:

Syria- 12
Argentina- 1
Iran- 5
Eritrea- 14
Somalia- 1
Kazakhstan- 1
Colombia- 4
Sudan- 2

Question 11

The Cuban legislation regulates the expulsion, refoulment, and extradition of sentenced persons.

The data provided was collected between 1997 and 31 December 2011.

Refoulment of people to serve the rest of the sentence: 124 foreigners.

People expelled from the country after being sentenced by a Court of Justice: 225 foreigners.

Question 12

There are virtually no cases of Trafficking in Persons in Cuba. In the cases that have taken place, the victims have received the necessary support and protection, without need for international protection.

Question 13

There have been no cases of ill-treatment or physical abuse on the part of law-enforcement officials against asylum-seekers, since the consideration of the Cuba's initial report.

Articles 5, 7 and 8

Question 14

Since 1997 to date, the Republic of Cuba has not rejected any request for extradition by another country, concerning an individual suspected of having committed an offense of torture.

Article 10

Question 15

The topics related to human rights, including specific provisions of the Convention, are contained in various training programs and reflected in the actions of police officers and other law-enforcement officers.

Training programs for law-enforcement officers are specifically based on international legal regulations on Human Rights, particularly on the provisions of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The effectiveness and impact of these programs are assessed following general standards issued by the Ministries of Education and Higher Education, as well as by the Ministry of the Interior. Said standards stipulate the periodic review of the academic performance and discipline of students, as well as the adoption of the necessary measures to maintain the required academic level, and the permanent evaluation of teachers with a view to ensuring the quality of instruction and education of the new professionals, so that they meet the interests of the society and the institution.

Question 16

The Office of the Attorney-General of the Republic has created a Diploma course entitled "POSTGRADUATE TRAINING FOR PROSECUTORS", aimed at conveying knowledge and creating skills inherent in the functions of prosecutors in Cuba. The outcomes attained in recent years have favored a more rigorous progressive training based on practice, which contributes to the training and development of new prosecutors, providing them with skills that enable them to appropriately exercise their functions.

This training course has the specific objectives of gaining basic knowledge in order to properly address any sort of complaints and claims, and learning the basics so as to monitor law enforcement in prisons and detention facilities.

The Diploma course has a duration equivalent to an academic course, and each module is developed through conferences, practical lessons and workshops, and has a practical component with the premise of learning through practice.

Specialized conferences are also delivered on topics relating to criminal policies, citizens' guarantees, and UN Conventions on the protection of Citizens' Rights.

Monitoring Law Enforcement in Prisons and Detention Facilities, as Part of the Prosecutor's Functions is one of the training courses. Documental courses are also given, such as "Lessons on Forensic Science and Medicine".

The Module corresponding to the course *Monitoring Law Enforcement in Prisons and Detention Facilities, as Part of the Prosecutor's Functions* includes the following contents:

- International instruments regulating the treatment of prisoners and detainees.
- Existing regulations for prisons and detention facilities in Cuba. Instructions given by the General-Attorney to ensure a proper behavior on the part of prosecutors.
- General aspects of the Prison Law, especially the structure, functioning and work of the Cuban prison system.
- Prosecutor's actions when detecting violations of the Law in prisons, cells in the headquarters of the National Revolutionary Police (PNR) and other detention facilities.
- Processing of complaints lodged by detainees, prisoners, accused persons, and their families.
- Voluntary starvation. Prosecutor's actions when detecting a case.

They have the following objectives:

- To increase knowledge about the major international regulations on the treatment of prisoners and detainees.
- To identify the regulations governing the activities in prisons and detention facilities in Cuba.
- To define the characteristics of the prison regime in Cuba.
- To train prosecutors for them to acquire knowledge and develop skills to monitor law enforcement in prisons and detention facilities.
- To develop the skills of the prosecutor in the face of prison privileges.
- To acquire key elements helping to process the complaints and claims lodged by prisoners, accused persons, detainees, and their families.

On its part, the module related to Forensic Medicine is focused on the importance of the legal-medical examination of accused persons and the victims for the criminal proceedings. It has the following objectives:

- To gain updated knowledge on how to carry out legal-medical examinations of the accused persons and the victims in the criminal proceedings.

- To further study the legal-medical examinations carried out in the cases of physical injuries, sexual crimes, and psychiatric examinations.

Furthermore, for Prosecutors working in the field, there are permanent training courses including the following topics:

- The role of Prosecutors in the legitimization of the arrest.
- The role of Prosecutors in monitoring and implementing in Cuba the UN prison model of Rights and Responsibilities.
- Working regime of prisoners. Applicable legislation.
- Main modifications to the methodology of the specialty of Monitoring Law Enforcement in Prisons. Special attention to addressing complaints and claims lodged by prisoners, detainees, or their families.
- Voluntary starvation from the point of view of the integration of the various working fields of the Prosecutor's Office.

Instruction No. 2 of 2012 was announced by the Office of the Attorney-General, approving the Methodology to conduct interviews in the Office of the Attorney-General, which is a working tool enabling prosecutors, from the psychological point of view, to conduct interviews with prisoners and detainees, among others.

Article 11

Question 17

As to inspections to Cuban prisons, it should be pointed out that said facilities are under permanent and rigorous scrutiny by the Office of the Attorney-General, among other institutions, as the organ tasked with the general control of the nation and the Ministry of the Interior itself.

The Office of the Attorney-General of the Republic, by the powers vested in it by Act 83 of 1977, and in compliance with its primary mandate to ensure the enforcement of the Law, regularly carries out inspection visits to prisons and other detention facilities. This task is done according to their internal planning, in order to investigate the denunciations and complaints lodged by prisoners, detainees, or their families.

Prison facilities are regularly visited by the prisoners' relatives, representatives of national political and social organizations, law students, and by artists who have taken their works for the prisoners to see, among other people.

Previously coordinated, social workers and other non-governmental organizations, including representatives of religious institutions, can visit the prisons, in conformity with Article 54 (t), of the Regulations of the Prison System in force in Cuba.

Cuba maintains regular and good communication with the International Committee of the Red Cross (ICRC). Its representatives visit our country, and together we follow up on agreements and planned activities, always within the scope of the mandate of the Committee, in the wide range of issues addressed by the international humanitarian law.

Cuba has actively engaged in cooperation processes to improve prison systems established according to the mandate of the ECOSOC Commission on Crime Prevention and Criminal Justice.

The resources available for the monitoring, training and advising of the personnel in charge of the functioning of the Cuban prison system have proved effective. The permanent improvement of said system does not require any other type of visits or additional assistance.

Article 8.1 of the Regulations of the Cuban Prison System establishes that pursuant to the existing legislation, judges and prosecutors have access to prisons and other detention facilities in order to monitor the implementation of penalties and re-educational measures imposed by the courts, and the conditions in which these measures and pretrial detentions are served, in order for their purposes to be achieved.

Question 18

Concerning the prison population in Cuba

- There are 83.4% of convicted prisoners; 12.4% accused persons; and 3.3% pretrial detainees.
- Men account for 95.8% (84.3% convicted prisoners, 12% accused persons and 3% pretrial detainees).
- Women represent 4.2% (61.7% convicted prisoners, 14.5% accused persons and 23.8% pretrial detainees).
- Black people account for 26.1% of the prison population (53.4% convicted prisoners, 24.6% accused persons, and 22% pretrial detainees).
- Mestizo people represent 29.6% (56.6% convicted prisoners, 11.3% accused persons, and 32.1% pretrial detainees).
- White people represent 44.3% (62.2% convicted prisoners, 8.1% accused persons, and 45.9% pretrial detainees).
- Regarding the age, people aged 16-19 account for 2%. Of them, 59% are convicted, 26.7% are accused, and 14.3% are pretrial detainees. People aged 20-30 are 30.9% (80.7% convicted prisoners, 13.9% accused persons, and 5.4% detainees). People over

the age of 30 account for 67.1% (85.4% convicted prisoners, 11.3% accused persons, and 3.3% pretrial detainees).

Prisoners under minimum security conditions:

- They account for 38.7%: (94% convicted prisoners and 6% pretrial detainees).
- 24% are black people (75.8% convicted prisoners and 24.2% pretrial detainees).
- 29.9% are mestizo (73% convicted prisoners and 27% pretrial detainees).
- 46.1% are white (76.7% convicted prisoners and 3.3% pretrial detainees).
- Disaggregated by age, convicted prisoners aged 16-19 account for 2.4%. People aged 20-30 constitute 31.4% (71.4% convicted prisoners and 28.6% pretrial detainees). People over the age of 30 are 66.2% (65% convicted prisoners and 35% pretrial detainees).

Question 19

The stages of the Cuban prison regime are regulated by Articles 29.1 and 2 of the Regulations of the Prison System, and are as follows:

- Regime of Maximum Severity: First and Second Stages
- Severe Regime
- Regime of Medium Severity
- Regime of Minimum Severity

Classification and compartmentalization criteria are regulated by Articles 26, 27 and 28.1 of the Regulations of the Prison System. They are classified and compartmentalized by:

- Sex
- Legal situation: convicted prisoners, pretrial detainees and accused persons.
- Citizenship (Cuban or alien nationals)
- Age, as defined in Article 5 (h), (i), (j) and (k) of the Regulations.
- Criminal record: first-time offenders, recidivists, multi-recidivists
- Progressive regime: Maximum Severity, Severe, Medium Severity, and Minimum Severity.
- Physical health condition: patients who are chronically ill and with contagious diseases.
- Nature of the crime: intentionally and by imprudence.
- Type and duration of the sentence: temporary imprisonment, life imprisonment, and death sentence (at the request of the prosecutor or awaiting execution).

Based on the Working Procedures of the Specialty of Educational Treatment, 21 areas of admission, observation, examination and diagnosis have been implemented, which classify according to the personality of the prisoners, as a new and advanced way to classify.

In compliance with the Constitution, the legislation, and the Regulations of the Prison System, in Cuba no discriminatory treatment is given to prisoners. This includes individuals convicted for crimes against the State Security, who receive the same prison privileges as the rest of the inmates, such as: adequate food; medical and dental care; education; technical training and on trades; artistic, sports, cultural and recreational activities; visits by relatives and friends; labor remuneration; social security benefits; and conjugal visits. They are also entitled to make phone calls; receive legal assistance through lawyers, the prison itself or detention facility; enjoy sunlight and fresh air on a daily basis; receive the visit of their lawyers; submit complaints and receive replies; to lodge a complaint against any disciplinary measure being imposed on them; among other rights.

If those people file a complaint or a denunciation with the Office of the Attorney-General of the Republic, claiming they have been the victim of physical or psychological ill-treatment, such institution investigates the facts based on the Law. It also demands the corresponding legal and administrative responsibility, if necessary, as professionally and impartially as it does with the complaints of the rest of the prisoners.

Every prisoner consumes 2,600 Kcal. a day (82 g of protein) and 6.30 Kg of meat products a month. In the case of prisoners suffering from malnourishment, low weight and tuberculosis, as well as women who are pregnant or breastfeeding, they consume 3,300 Kcal. a day (102 g of proteins) and 8 Kg of meat products a month. Prisoners suffering from HIV-AIDS consume 4,100 Kcal. a day (140 g of proteins) and 8.87 Kg of meat products a month.

Prisons and detention facilities maintain a good hygiene, so that they are free of diseases and epidemics, thus meeting hygienic-epidemiological requirements. Medical and dental care is free of charge. Prisoners convicted for crimes against the State security voluntarily receive the curricula and syllabuses destined to the general prison population, which are aimed at providing prisoners with school instruction and a comprehensive general culture.

Question 20

At present, no prisoner is sentenced to death awaiting execution in the country. All those in that situation in 2009 were sentenced to 30 years or life imprisonment.

Article 29 of the Criminal Code establishes that:

In Cuba, death sentence is handed down under exceptional circumstances, and is only applied by the Court in the most serious crimes for which it has been established.

Death sentence cannot be imposed on people under the age of 20 or on women who were pregnant when committing the crime, or in such condition when the sentence has been announced.

Death sentence is executed by firing squad.

Article 29-2 of the Regulations of the Cuban Prison System establishes the progressive regime, which has as a fundamental aspect the gradual reduction of the penitentiary rigor, prescribing as such: the regime of maximum severity, with its first and second stages; the severe regime; the regime of medium severity; and the regime of minimum severity.

Article 30.1 (b) of said Regulations provides that those sentenced to death are placed in the regime of maximum severity, first stage. However, they are entitled under Article 54.1 of the Regulations to receive food, medical and dental care, and family visits; to receive and make phone calls; to receive legal and religious assistance; and to lodge complaints using the established ways and means, etc.

Question 21

Statistical data of the pretrial detainees by Articles 78-84 of the Criminal Code, at the end of 2011

- They account for 4.2% of the prison population
- 76.3% are men and 23.7% are women
- 22% are black, 32.2% are mestizo and 45.8% are white
- 7.2% are aged 16-19, 40% are aged 20-30, and 52.8% are over 30 years old

Question 22

There are regulatory enactments stating measures aimed at preventing deaths in custody. Such enactments make the provision of medical care to any detainee claiming to be sick obligatory, whether evident or declared by themselves. Strict control measures are taken in order to prevent detainees from self-inflicted wounds.

If despite all these actions, a situation of the sort takes place, immediate assistance and medical treatment is provided, and certified reports are filed detailing the circumstances and causes of that situation.

When a death occurs at a Detention Facility or Prison, a medical-legal committee must be created to investigate the causes. In cases of suicide, an instructor, a medical examiner, and authorities from the detention facility, all lead by a prosecutor, must perform the autopsy of the body. The relatives are informed of the results.

In order to avoid suicides, the Cuban Prison System has a Suicidal Prevention Program, which has been certified and is in accordance with the National Ministry of Public Health. This Prevention Program provides measures for the individual, differentiated, and therapeutic treatment of prisoners identified as showing this behavior. This Program includes psychologists, doctors, psychiatrists, and authorities and institutions from the Public Health System.

Likewise, there are regulations for the steps to take in case of voluntary starvation associated with the WMA Declaration of Malta on hunger strikes. In general, they lean towards a rational, persuasive and humanitarian treatment for prisoners in that condition so

that they desist from their attitude. A permanent interaction among the medical staff, the prisoners and their relatives is ensured.

To this end, multidisciplinary groups composed of doctors, psychologists, psychiatrists, and negotiators are created, and they take coordinated actions on a case-by-case basis, bearing in mind the causes and personality of each prisoner. Also, it is compulsory to provide a permanent follow-up to the clinical situation of the prisoners by moving them to medical facilities or hospitals from the National Healthcare System.

The Working Procedures of the Prison System provide a methodology for the treatment of prisoners in voluntary starvation, in accordance with international requirements and preventive and remedial measures from the medical and penitentiary point of view. The prevailing principle is to preserve the life of the prisoner. The methodology includes keeping a record of the medical protocol followed so that a relevant authority and the relatives can verify its legitimacy.

The investigations by the respective committees created to analyze these facts concluded that in absolutely none of the cases of deceased prisoners, there was responsibility by the active forces, and the autopsy showed no sign of physical violence.

Question 23

In the last four years, the frequency of aggressions among prisoners reported by the National Prison System is of 2 situations per day. In the cases reported, it has not been proved that they were the result of negligence by the officials. No accusations have been made either.

As part of preventive measures, the Prison System has a Plan of Action and Control providing the comprehensive engagement of multidisciplinary groups working in prisons in order to avert acts of violence or aggression.

Question 24

There are no people serving time in psychiatric hospitals or any other medical institution intended for people with mental or physical disabilities. Disabled people who have committed a crime and have been sentenced by a competent court are studied and a diagnose is provided by the Forensic Medicine Institute, which is the body in charge of judging whether the person can go to prison or not.

The legal bases to analyze deranged people who commit a crime are included in Resolution 100/08 of the Ministry of Public Health:

In each territory, the Head of the Provincial Health Division appoints a Mental Investigation Committee integrated by forensic and psychiatry specialists. They can act as chairmen and appoint experienced experts and advisors with certain moral requirements.

The accused, the victim, and the witnesses, if any, are subject to the expert examination in case of an indication of mental instability.

If a prisoner shows symptoms of severe mental disorders while serving time, he/she is assessed by the same Committee.

Personnel in territories providing therapeutic treatment for prisoners with psychiatric disorders can follow-up on the prisoner's progress and the possibility to resort to a less restrictive method of therapeutic control, if requested by the relevant court.

The Mental Investigation Committee in the province does not assume the evaluation of a minor (under 16) that has committed offenses. Their evaluation is the responsibility of the Minors Division of the Ministry of Interior. These minors are not judged under the criminal law.

Concerning states of emergency, forensic medicine specialists assisted by psychiatry specialists can proceed to evaluate persons with obvious signs of mental disorder, who were the victims of or committed serious offenses. Their objective is to submit a descriptive preliminary report of the person's mental condition.

The Cuban Health System guarantees, through forensic psychiatry services, the evaluation, care, and rehabilitation from the institution to the community. Our country has 205 beds in psychiatric hospitals in Havana, Santiago de Cuba, Holguín, and Villa Clara that receive patients from the west, center and east of the island. Thirty percent of the patients spent less than a year in forensic units of psychiatric hospitals, 38% spent one to four years, 18% spent five to ten years, and 13% spent over 10 years. These results arise from the application of the Assessment Instrument for mental Health Systems (WHO-AISM) from the WHO applied in Cuba in 2008 with data from 2007. Below, you can find a pie chart showing the distribution of beds for people with mental illnesses.

The mental health network in the communities, composed of Community Centers (100) and mental Health Services (358) in the Polyclinics, provide a follow-up to the cases discharged from hospitals, but still under out-patient medical treatment (under article 79 of the Criminal Procedure Act). Therefore, they comprehensively support the local prevention and social care groups in Resolution 242 of 2007 in their work to reintegrate the patients into society, their families and work.

Despite the economic problems of our country and consequent limited resources, political will is the strength of the community rehabilitation program.

Regarding the death of 26 patients of Havana Psychiatric Hospital in January 2010, an investigation process took place and the results were the following:

The Second Criminal Division of the People's Court in Havana delivered judgment on Monday, January 31st, 2011, concerning the events that occurred in January 2010 in the

Psychiatric Hospital of Havana. The trial was public and was held from 17-22 days of that month.

The legal body considered the Prosecutor had enough evidence, and the defendants were found guilty, with different degrees of responsibility, of the charges of Abandonment of Disabled People (this charge is aggravated due to the resulting deaths), Misappropriation of Funds, and Failure to Act in Preserving Assets from Economic Institutions. As a result, sentences of 5 to 15 years of imprisonment were imposed, as well as the highest fine in the Criminal Code in the case of one defendant.

The Court decided to sentence the Hospital director to 15 years of imprisonment, 14 years for the administrative deputy director, and 12 years for the head diet specialist, all for the Abandonment of Disabled People and Misappropriation of Funds.

As responsible for the charges of Abandonment of Disabled People, the clinical-surgical deputy director and the Infirmary deputy director will serve 10 years of imprisonment each; and the psychiatry deputy director will serve 7 years.

For the crime of Misappropriation of Funds, the head warehouse manager will serve 10 years; the person in charge of the freezer will serve 9 years; the director of the kitchen, 6 years; the supply manager, 5 years; and the cook will serve 6 years.

For the crime of Failure to Act in Preserving Assets from Economic Institutions, the sanction for the head of the pharmacy department was fined 300 payments of 20 pesos each.

As an accessory sanction, the director of the hospital and the Infirmary deputy director were forbidden to exercise their professions, position or trade for the time of the sanction. Additionally, all individuals found guilty were deprived from their electoral rights and forbidden to assume managerial positions.

In parallel with the trial, severe administrative sanctions were imposed on others involved.

Articles 12 and 13

Question 25

The existing investigation mechanism for potential denunciations is the same as in the previous report. However, the bodies in charge of ensuring the prompt and impartial investigation of such complaints on torture and ill-treatment are currently taking the necessary measures to improve their work.

Question 27

There are structures in prison facilities to address these complaints. They make possible for prisoners to exercise their rights to lodge claims and petitions with the relevant authorities. Besides, prisoners can mail freely whatever institution or person they wish. Therefore, there is a mechanism enabling inmates to lodge complaints or petitions with any court and to be timely and properly responded.

In the Office of the Attorney-General of the Republic, there is a Division for Law Enforcement in Prison Facilities. One of its functions is to control and oversee the required

process of reception, processing, investigation, and replies, under the legal system, to the claims lodged by the detainees, the accused persons in provisional imprisonment, those convicted and pretrial detainees, and their families, in relation to the treatment they receive in the prison facilities.

Also, the bodies under the Office of the Attorney-General are competent to carry out inspections aimed at verifying the law enforcement in penitentiaries and any other detention center.

Article 63 of the Constitution of the Republic of Cuba provides that *every citizen has the right to file complaints with and send petitions to the authorities and to be given the pertinent response or attention within a reasonable length of time, in keeping with the law.* The Rules and Regulations of the Cuban Prison system contain various articles to address the complaints and petitions of the prisoners, families, and State entities, and their respective responses (Article 54.1 (u) and Article 134.3).

The Ministry of the Interior has a Department for the Attention of the Population, to which prisoners and their relatives can send complaints, claims and accusations, and receive responses.

Likewise, The Department of Penitentiary Facilities receives, through the working group for the attention of the population, oral or written complaints sent by prisoners, their relatives, and other State institutions. Those complaints are processed and analyzed, and the relevant response is given to the complainants.

Article 14

Question 28

Article 26 of the Chapter I of the Constitution of the Republic entitled “*Political, social and economic principles of the State*”, establishes that: *Anybody who suffers damages unjustly caused by a State official or employee while in the performance of his public functions has the right to claim and obtain the corresponding indemnification as prescribed by law.*

Measures adopted by the Cuban courts correspond to the modalities of indemnification of the civil responsibility included in Article 83 of the Civil Code. In cases referring to the responsibility for committing a crime, and when a law suit is filed with the civil court, measures of indemnification can be contemplated as a final resolution, and the sums of money to be given to the affected party as part of said responsibility is to be determined according to the assessment of actions, the allegations referred by the victim and according to the logic and reason.

Question 29

Compensation cannot be obtained if the perpetrator of the torture or cruel treatment has been subjected to a disciplinary, but not a criminal penalty. According to the Cuba legislation, cases of insubordination in workplaces do not entail reparation of civil liability by

the perpetrator of the crime. Consequently, the right to compensation or reparation for material or moral damages shall depend on the existence of a criminal sentence so providing.

Question 30

The entire Cuban population is entitled to benefit from the mechanisms to treat traumas and other forms of rehabilitation, for any person who needs it, free of charge, under the instruction of the appropriate medical personal, not a court.

When there is a case of ill-treatment of a prisoner, it is established the creation of a Commission presided over by the Head of the Unit or Head of the provincial body to determine the circumstances, causes, conditions, and degree of responsibility of the involved officials. Reparations are made depending on the cause and nature of the damage. The results are used to file a denunciation with the relevant authorities, and informed to the prisoner and his/her relatives.

In exceptional cases, and when the prisoner needs rehabilitation given the nature of the injury, the treatment is conducted in a hospital from the National Healthcare System.

Article 15

Question 31

The most important moment of the Cuban criminal justice system is the oral proceedings. Therefore, evidences obtained during the Investigation Stage must be shown in said moment, which is public par excellence.

This guarantees that, in practice, torture or ill-treatment is not used to obtain evidence that will have to be later reaffirmed and submitted to the Court in a public hearing, and subjected to the consideration of the judges, in accordance with the principles of logic and reason, and with the interaction of the parties in the criminal debate.

Likewise, in the criminal proceedings, and as a sign of the principle of contradiction, the parties have the opportunity to refute, question and impugn the evidences proposed by each other. No cases have been dismissed because of the use of evidence or testimony obtained through torture or ill-treatment.

The Constitution of the Republic of Cuba, in its Article 59, provides that: *Nobody can be tried or sentenced except by the competent court by virtue of laws which existed prior to the crime and with the formalities and guarantees that the laws establish.*

Every accused person has the right to a defense

No violence or pressure of any kind can be used against people to force them to testify.

All statements obtained in violation of the above precept are null and void and those responsible for the violation will be punished as outlined by law.

Article 166 of the Law of Criminal Procedure stipulates that no violence or coercion of any kind may be used against people to force them to testify. Any statement obtained in violation of this provision is null and void, without affecting the corresponding criminal liability.

Article 16

Question 33

Corporal punishments of children are not expressly proscribed in the criminal legislation. However, children find legal protection against the crimes of injuries or other actions against the physical integration or the life, and other Actions Contrary to the Normal Development of the Minor.

In Cuba, all acts of torture are prohibited and sanctioned by the Cuban legislation. They are considered to be incompatible with the principles and the foundations of the existing general legal framework. The Criminal Code contains articles that directly protect children from any sort of abuses, ill-treatment or discrimination. There are also programs for children and adolescents who are victim of abuses and negligence. If necessary, they are taken in foster homes where they receive all the care and support they need.

In the case of minors with behavior disorders or who commit actions described as crimes by the Law, the Cuban Government has a program of decriminalization and differentiated treatment under the Decree-Law 64/82. This is a preventive program for minors, with an educational approach, in which detention measures are reserved as a last resort, once all possibilities of re-orientation in the community have been exhausted.

Question 34

In Cuba, disabled persons are not housed in special institutions on account of their disability or their rights restricted.

Article 31.5 of the Criminal code established that: The time during which a convicted prisoner has been hospitalized for showing signs of dipsomania or usual drug addiction, and so requires medical treatment, will be taken into account in the time of the sentence imposed. In the case of a convicted prisoner with symptoms of derangement who has been subjected to a security measure, he/she will be subject to the provisions of the Criminal Procedure Act, according to the time of duration of the situation.

Specialized institutions for the disabled are not part of the Cuban Prison system. When a person with motor disabilities is in prison, he/she receives a differentiated treatment

according to medical criteria. No restrictions are applied to him/her, except those given by his/her own disability or those established by the law for which he/she was tried.

Other matters

Question 35

Act No. 93 against Terrorist Acts of 20 December 2001 provides in its Article 1.1 that such Act is aimed at preventing and sanctioning the acts described by its Articles which, given their way of execution, means and methods used, evidence the specific purpose to cause state of alarm, fear or terror on the part of the public, placing in imminent danger or affecting the life, health or physical or mental integrity of people or jeopardizing physical property of significant importance, international peace or the security of the Cuban State.

Article 3 establishes that the crimes included in this Act are sanctioned independently of those defined in the Criminal Code or, in its case, in the Military Offenses Act.

Article 5 stipulates that in the crimes provided by this Act, preparatory, attempted and executed actions are sanctioned.

Cuba has vast experience in the fight against State Terrorism. Several measures have been taken to combat and prevent them, fully respecting international law, without affecting the safeguard of human rights.

As to the procedural aspect, criminal proceedings for these actions are entirely governed by the Law of Criminal Proceedings itself, without establishing any sort of difference. In these cases, those accused enjoy the same guarantees and prerogatives as any other accused.

Question 36

Cuba has been party to the UN Convention against Torture and Other Cruel, Inhuman and Degrading Practices (CTC) since 17 May 1995.

Cuba ensures respect for the physical and spiritual integration of the people. In our country, there is no torture or other cruel, inhuman and degrading treatment or punishment.

Cuba has effective national resources to ensure the rigorous implementation of the CTC.

Cuba has not deemed necessary to undertake obligations to procedures and authorities of supranational jurisdiction in the processing of individual petitions; or to resort to the assistance of international investigations so as to guarantee the people in its national territory the fullest protection and enjoyment of the rights and resources established by international human rights instruments. The proper use of the resources established by the national legislation has enabled Cuba to prevent any violation of the provisions of the CTC or other international human rights instruments.

Question 37

With respect to the recognition of the obligation under Article 22 of the Torture Convention, it should be pointed out that Cuba has permanently examined those optional provisions to which it has not committed, even after the ratification of any legally-binding international instrument. This applies to Article 22 of the Torture Convention.

The prevailing consensus among national organizations is not to favor the recognition of the jurisdiction of supranational entities in relation to matters that can be effectively addressed by exhausting the available national resources.

Question 38

No. Cuba considers that The International Criminal Court lacks independence as a jurisdictional organ, mainly given the way in which its relationship with the UN Security Council has been defined, and the possibility for a political organ to effectively monitor the functioning of an institution such as the Court, created to administer justice. Article 16 of the Rome Statute grants the Security Council the power to suspend investigations or prosecutions carried out by the Court.

Despite not being a State party to the Rome Statute of the ICC, Cuba has always followed very closely everything related to this international organ. Cuba has participated as observer in meetings of States Parties. Likewise, it actively engaged in the meetings of the Working Group to define the crime of aggression and later in the Review Conference of the Rome Statute, held in Kampala, Uganda, in May 2010.