



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

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Committee against Torture

**Third periodic report submitted by Cuba under
article 19 of the Convention, due in 2016^{*}, ^{**}**

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* The second periodic report of Cuba is contained in document CAT/C/CUB/2; it was considered by the Committee against Torture at its 1078th and 1081st meetings, held on 22 and 23 May 2012 (CAT/C/SR.1078 and 1081). For its consideration, see the Committee's concluding observations (CAT/C/CUB/CO/2).

** The present document is being issued without formal editing.



Introduction

1. The Government of the Republic of Cuba is pleased to inform the Committee against Torture of the measures taken to fulfil its commitments under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This information is set out in keeping with the general guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 19 (1) of the Convention (CAT/C/14/Rev.1).
2. The report is the result of an interdisciplinary effort involving government and/or state ministries and institutions, parliament, non-governmental organizations (NGOs) and other relevant entities. The Ministry of Foreign Affairs coordinated the national group set up to conduct the broad, participatory consultations that culminated in the approval of this document.
3. The scope of this report does not include the territory illegally occupied by the United States of America, namely the Naval Station Guantánamo Bay, where the Cuban people are prevented from exercising their sovereignty and where a globally condemned arbitrary detention and torture centre operates.
4. In Cuba, torture and cruel, inhuman and degrading treatment were commonly employed by the authorities until 1959, with these practices reaching their climax during the bloody Batista dictatorship. The Cuban revolution, which was profoundly humanist and ethical in nature, put an end to that State policy. In its domestic and foreign policy, Cuba upholds the principle of respect for the physical and moral integrity of the individual and, in particular, the defence of the legitimate interests of its citizens.

Part I: Information in relation to each of the articles of the Convention

Article 1

5. Cuban criminal legislation does not expressly define the crime of torture. The country needs to make further progress in adjusting its legal provisions in order to make the regulatory and material modifications prescribed by the Convention and is working in that direction. The studies currently being conducted in connection with the amendment and updating of the Criminal Code provide a comprehensive overview of the changes that should be made, which include a more explicit characterization of the offence of torture in accordance with the Convention.
6. Nevertheless, existing laws on other related offences provide for the comprehensive protection of the individual and prohibit all acts of torture, in line with the Convention.
7. The various unlawful acts that may fall under the definition given in the Convention against Torture are covered by a number of criminal offences provided for in the Criminal Code and the Military Offences Act. For instance, the Criminal Code includes the offences of abuse of authority (art. 133); assault (art. 272); deprivation of liberty (art. 279); threats (art. 284); duress (art. 286); and sexual abuse (art. 301).
8. The Military Offences Act defines the offences of dishonourable conduct (art. 36); mistreatment of prisoners of war (art. 42); looting (art. 43); and violence against the population in a theatre of military operations (art. 44).
9. Article 6 of the Cuban Prison System Regulations strictly prohibits subjecting persons deprived of their liberty to any kind of ill-treatment, corporal punishment or cruel, inhuman or degrading treatment, as well as using unlawful means of coercion or any type of measure that may cause physical or psychological suffering or violate their human dignity.
10. Moreover, article 18.4 of the Criminal Code, on the differing degrees of criminal responsibility, defines all persons who are criminally responsible for crimes against humanity, human dignity or public health or for crimes defined by international treaties, irrespective of the nature of their involvement, to be principal offenders.

11. Article 30.11 of the Criminal Code provides that “a convicted person may not be subjected to corporal punishment, nor is it admissible to employ against him any measure that causes humiliation or is detrimental to his dignity.”

Article 2

12. The Cuban State is taking the necessary measures to prevent the commission of acts prohibited by the Convention, acts which it considers to be an affront to human dignity and a violation of domestic law and international standards. There is no room for impunity in Cuba or for laws or regulations that allow it. Cuba stands ready and willing to address and suppress any occurrences of such offences and has the legal means to impose severe punishment for conduct of the kind defined in the Convention.

13. Accordingly, a set of effective measures have been implemented to forestall and prevent the commission of acts of torture and other cruel, inhuman or degrading treatment or punishment.

14. For instance, the liberty and inviolability of the person are protected by the Constitution (art. 58) and domestic legislation. The Constitution (art. 59) likewise provides that no one may be tried or convicted except by a competent court on the basis of laws that existed prior to the offence and in accordance with the procedures and guarantees established by law, that every accused person has the right of defence, that no violence or coercion of any kind may be used against people to force them to testify, that any statement obtained in violation of this provision is null and void and that those responsible for the violation shall be criminally liable.

15. A police officer conducting an arrest is obliged to inform the individual concerned of the grounds for his or her arrest and of his or her rights. Detainees are brought before the court once charges have been laid against them and the investigation process has been completed. The details of the case are presented, and the oral proceedings then begin.

16. Other legislative provisions in place establish the duty of the acting authority to inform all detainees of their rights, responsibilities and the prohibitions that apply to them. This information is clearly displayed in the majority of detention facilities so that detainees may read it at any time.

17. Furthermore, article 244 of the Criminal Procedure Act provides that, at the time of arrest, a record is to be drawn up immediately which states the time, date and reason for the arrest, as well as any other particulars of interest. The record is to be signed by the arresting official and the arrested person.

18. The police officer or the authority that has the detainee in custody is required to report the arrest and the place where the detainee is being held and to facilitate communication with his or her family members within the time limits and in the manner set out in the relevant legal provisions.

19. Cuban legislation guarantees and regulates the provision of legal representation to persons deprived of their liberty. After a person is arrested, he or she may not be held in detention for longer than 24 hours. The arresting officer has 72 hours in which to apply one of the precautionary measures provided for in the Criminal Procedure Act, with the exception of pretrial imprisonment, which may only be ordered by a prosecutor; an additional period of 72 hours is allowed for the issuance of such an order. Detained persons have the right to appoint a defence lawyer once they receive notification of the application of any precautionary measure; from that point on, they become a party to the proceedings and may submit evidence on their behalf.

20. All individuals sent to a detention facility following a ruling by a court or competent authority, whether to await trial or sentencing or to serve a sentence, are informed of their rights on arrival by the corresponding prison authority and are guaranteed the right to a defence throughout the proceedings, as laid down in article 8.2 of the Cuban Prison System Regulations.

21. This article provides that lawyers who agree to serve as legal counsel to an inmate may interview him or her as many times as they see fit by prior arrangement with the head

of the prison or other place of detention and upon submission of the corresponding legal services contract.

22. The rules and procedures governing the work of judicial investigative bodies lay down the principles applying to the treatment of detainees and set out their rights, which are consistent with the provisions of articles 58 and 59 of the Constitution, mentioned above. These directives stipulate that strict compliance with constitutional safeguards is to be guaranteed during the interview process.

23. The right of a detainee to request a medical examination by an independent physician and to see the resulting report is provided for by law as part of the accused person's right to a defence.

24. Article 43 of the principal regulations governing the processing of detainees in police stations stipulates that every detainee is to undergo a medical examination upon arrival in the cellblock. Detainees with recent injuries may enter a cell at a police station only if they are in possession of a certificate issued by a competent physician showing that they have received primary health care. This certificate is mandatory under Resolution No. 139/1982 of the Ministry of Public Health.

25. Any detainee who claims or is seen to be unwell or who requires any form of medical treatment and who cannot be cared for in the police unit must immediately be transferred to the nearest or a designated medical centre.

26. Any arrested person who suffers an injury while being held in a cell, is to be examined, after having received primary health care, by specialists in forensic medicine who will determine the extent of the injuries and whether they have healed. Such persons must receive a certificate showing that they have received primary health care issued by the corresponding physicians.

27. In cases where officials or law enforcement agents may have had a hand in the detainee's injuries, there are procedures in place for setting up committees to investigate the matter and for reporting the case to the prosecution service. The Office of the Prosecutor is responsible for determining whether the imposition of administrative measures is warranted or whether it is appropriate to initiate criminal proceedings.

28. All persons who have been detained or deprived of their liberty and who do not understand the Spanish language are guaranteed the services of an interpreter for any judicial proceedings in which those persons are called upon to assert their rights.

29. In the interests of law enforcement, article 127 of the Constitution stipulates that the Office of the Attorney General is responsible for watching over and preserving the legal order by ensuring that the Constitution, laws and other legal provisions are obeyed by State agencies, economic and social institutions and the general public.

30. In the period from 2010 to the first quarter of 2016, the courts presided over 88 habeas corpus proceedings. In four of those cases, the application for habeas corpus was admitted, and the immediate release of the detainee in question was ordered. In all the proceedings, the application of procedural guarantees was ensured and the principles of due process were observed.

31. The National Defence Act does not allow torture or other cruel, inhuman or degrading treatment in any circumstances, including emergency situations.

32. Under no circumstances, however exceptional, may the orders of a superior officer or public authority be used to justify torture or other cruel, inhuman or degrading treatment or punishment in Cuba.

33. No one is authorized to order the use of torture or related treatment in Cuba. On the contrary, as noted in this report, it is prohibited under the Constitution and other legislation in force. No individual, official or superior officer may order or direct a subordinate to commit such acts.

Article 3

34. Article 13 of the Constitution provides that the Republic of Cuba may grant asylum to persons who are being persecuted for their ideals or for their efforts to fight for democratic rights, to fight against imperialism, fascism, colonialism or neo-colonialism, to fight against discrimination and racism, to fight for national liberation, to fight for the rights and claims of workers, peasants and students, to fight for socialism and peace or who are being persecuted because of their progressive political, scientific, artistic or literary activism.

35. Cuba is not a party to the 1951 Convention relating to the Status of Refugees or to the 1977 Protocol relating to the Status of Refugees. Accordingly, the legal treatment of persons falling into the categories of asylum seekers or refugees is regulated, for migration purposes, by article 3 of Act No. 1312/76 (the Migration Act) and by articles 80 and 81 of Decree No. 26/78, which promulgates the implementing regulations of the Migration Act.

36. The entry into force in January 2013 of Decree-Law No. 302 of 11 October 2012, amending Act No. 1312/76 and its supplementary decrees and resolutions, and Decree No. 305, amending Act No. 26/78, served to update the national migration policy and represented a further step towards ensuring that migratory movements take place in a lawful, orderly and secure manner. These measures also help to reduce the cost of travel procedures and to streamline the migration process from a national policy perspective.

37. Cuban citizens may not be extradited to another State; foreigners are to be extradited in conformity with international treaties or, in their absence, Cuban legislation. Cuban legislation likewise regulates expulsion, the transfer of detainees and extradition.

38. The number of refugees and other persons seeking asylum or refuge in the country is tracked by the Cuban office of the Office of the United Nations High Commissioner for Refugees (UNHCR), since Cuba is not a signatory of the aforementioned international instruments. The Directorate of Identification, Immigration and Foreign Nationals processes the cases of applicants for refugee status referred to it by that office. Applicants are allowed to stay in the country for 90 days from their time of entry. If UNHCR fails to take a decision on their application within that time, they must leave the country but will not be forced to return to their country of origin or another country where they claim to face persecution.

39. Under Instruction No. 11 of 2013 from the Minister for Public Health, foreign nationals who are in the country on a temporary basis and who have been granted the status of asylum seeker or refugee by UNHCR are to be provided with free medical assistance.

40. As of January 2016, 303 refugees were registered, including 192 students (181 Saharans, 3 Palestinians and 5 Yemenis) and 84 spontaneous arrivals from Afghanistan, Eritrea, Ethiopia, Palestine, Iran, Iraq, Somalia, Syria and Yemen. In addition, there were 25 applicants for refugee status whose cases were still under consideration.

41. Between 2013 and 2015, a total of 198 people applied to UNHCR for refugee status in Cuba, 134 of whom were recognized as refugees. The country breakdown is as follows: 3 from Palestine, 2 from Somalia, 49 from Syria, 12 from Yemen, 31 from Iran, 14 from Afghanistan, 1 from Djibouti, 16 from Eritrea, 4 from Ethiopia and 2 from Iraq. The breakdown on the basis of sex and age is as follows: 90 men, 16 women and 28 children.

42. Between 2013 and 2016, a total of 57 people were transferred abroad to serve out the remainder of their sentence. In addition, 18 foreign nationals were expelled from the country after having been sentenced by a court of justice.

43. During the period under review, no cases involving applications for asylum in Cuba were recorded.

Article 4

44. The above-mentioned provisions in the Cuban Criminal Code on torture-related offences provide for penalties ranging from 3 months' to 20 years' imprisonment, depending on the nature of the offence and its gravity.

45. In addition to the primary penalties, they also provide for accessory penalties whereby offenders are barred from holding certain positions or jobs and from practising certain professions and trades.

46. The aggravating circumstances set forth in article 53 of the Criminal Code include the commission of the offence with cruelty or extreme depravity; the abuse of power, authority or trust; or taking advantage of the victim's defencelessness or dependency on or subordination to the offender.

47. An attempt to commit an offence is also punishable under the Criminal Code. Article 12 of the Code stipulates that both completed and attempted offences are punishable and that the penalties for an attempt to commit an offence shall be the same as those laid down for the offence itself, although the court may reduce the length of the sentence by up to two thirds of its lower limit.

48. Article 64 of the Criminal Code establishes the statute of limitations under Cuban criminal law, which ranges from 3 to 25 years. The statute of limitations under criminal law is also applicable in military jurisdictions. The statute of limitations is not applicable in cases where the law calls for the death penalty and in cases involving crimes against humanity. Therefore, the statute of limitations is not applicable in cases involving acts of torture that fall into either of these categories.

Article 5

49. The territorial jurisdiction of Cuban criminal law entails its applicability to all acts committed within the nation's territory and to all persons who, for whatever reason, are present within that territory, whether they are citizens, foreign nationals or stateless persons. The territorial validity of domestic law covers types of offences corresponding to the requirements of article 5 of the Convention.

50. Article 4 of the Criminal Code provides that Cuban criminal law is applicable to all offences committed in the national territory or on board Cuban ships or aircraft, wherever they happen to be, subject to the exceptions established by the treaties to which the Republic is a party.

51. Cuban criminal law is also applicable to offences committed on board foreign ships or aircraft located in Cuban territorial waters or airspace, whether by Cubans or by foreign nationals, except for those offences involving only foreign crew members, unless, in the latter case, the victim, the ship's captain or the consul of the country of which the victim is a national asks the Cuban authorities to assist the victim.

52. An offence is also considered to have been committed in Cuban territory if the offender engages in preparatory acts, or acts which contribute to the execution of the offence, within Cuban territory, even though the result is produced abroad, or vice versa.

53. Pursuant to article 5 of the Criminal Code, criminal law is also applicable to:

(a) Cubans and stateless persons residing in Cuba who commit an offence abroad, whether they are present in Cuba or have been extradited;

(b) Cubans who commit an offence abroad and have been turned over to Cuba for trial by its courts under treaties to which it is a party;

(c) Foreign nationals and stateless persons not residing in Cuba who commit an offence abroad if they are present in Cuba and have not been extradited, or if they reside in the territory of the State in which the offence was committed or in any other State, provided that the act is also punishable in the place where it was committed. This latter stipulation is not a requirement if the act constitutes an offence against the fundamental political or economic interests of Cuba, or against humanity, human dignity or public health, or is prosecutable under international treaties.

Article 6

54. Cuban criminal law provides for the arrest of any individual who has committed an act constituting torture as defined under the Convention. Following the arrest, custodial or

non-custodial measures may be taken to ensure the person's safety. The choice of measures to be taken will depend on the gravity of the acts concerned, on the degree of outrage that the crime has caused and on whether or not it has given rise to justified, widespread revulsion and animosity in the surrounding area.

55. The preliminary investigation is not to exceed 60 days, but the allowable time period may be extended by the examining magistrate's superior officers for a period not exceeding 180 days. In exceptional cases, the Attorney General may grant a further extension for the conclusion of the investigation.

56. Cuba is a party to the Vienna Convention on Consular Relations of 24 April 1963. Under this Convention and in compliance with domestic legislation, Cuba promptly informs the appropriate consular office of the arrest or placement in pretrial detention of any national of the State represented by that office.

57. The competent authorities provide every facility to enable foreign nationals who are being held in custody to communicate with their consular representative.

58. The authorities inform the appropriate consular representatives of the detention of a foreign national, the relevant circumstances and the outcome of the corresponding criminal proceedings; those representatives may arrange for the person's defence. If a defence lawyer is not engaged to represent the foreign national, the Cuban State will appoint one *ex officio*.

Article 7

59. If a person suspected of having committed acts covered by the Convention is not extradited, Cuba has a system of independent courts that will conduct his or her trial. This system consists of a supreme court, provincial courts, municipal courts and military courts. This court system is regulated by Act No. 82 concerning the people's courts and Act No. 97 concerning the military courts.

60. Criminal proceedings are brought by the prosecutor before the competent court once the prosecutor considers the preliminary case file submitted by the parties to be complete; he or she then formulates the appropriate preliminary arguments and places the defendant at the disposition of the court.

61. Cuban legislation is structured in such a way as to ensure that sentences are determined correctly and are appropriate in all cases, taking into account the gravity of the acts in question. Article 47 (1) of the Criminal Code provides that the court shall determine the penalty, within the limits established by law, in all good conscience, taking into account, in particular, the degree of danger posed to society, the accompanying mitigating and aggravating circumstances, as the case may be, and the motives of the defendant, as well as his or her background, individual characteristics, behaviour after having committed the offence and capacity for rehabilitation.

62. In conformity with Cuban law, the standard of evidence required for prosecution or indictment is equally rigorous for any of the cases covered by article 5 of the Convention against Torture.

63. Cuban criminal procedure is such that every accused person is entitled, in conditions of complete equality, to the applicable guarantees and to fair treatment at all stages of criminal proceedings.

Article 8

64. In accordance with article 6.1 of the Cuban Criminal Code, Cuban citizens may not be extradited.

65. Article 6.2 stipulates that the extradition of foreign nationals is to be carried out in conformity with international treaties or, in their absence, Cuban law, which does not exclude the possibility of foreign nationals being tried by Cuban courts, as indicated in the above sections on articles 4 and 5 of the Convention.

66. The commission of torture or other related crimes may, accordingly, result in a person's extradition, even though Cuba has not signed any extradition treaty that covers the crime of torture and no one accused of this crime has been extradited.

67. In addition, article 435 of the Criminal Procedure Act stipulates that extradition may be requested only in respect of an offence that was a crime at the time of its commission and at the time that the request was made. In addition, a request for extradition may be granted only under the specific circumstances set out in existing treaties with the requesting State or, in the absence of such treaties, when extradition is deemed appropriate on the basis of the principle of reciprocity (art. 437).

68. Since its previous review, Cuba has not received any extradition requests from another country for a person suspected of having committed the offence of torture or any other form of ill-treatment. Between 2013 and 2014, seven foreign nationals were extradited, but none of them had been charged with committing acts of torture or other forms of ill-treatment.

69. Cuba is a signatory to 11 extradition treaties and 25 mutual legal assistance agreements, 16 of which provide for extradition. This brings the total number of agreements involving extradition to 27. In addition, the 1928 Code of Private International Law (Bustamante Code), title III of which regulates extradition, is in force for Cuba.

70. Cuba has adopted a comprehensive approach whereby the extradition agreements that it concludes cover all offences, irrespective of the name that they are given in domestic legislation, rather than using a checklist method, as previously recommended.

71. In Cuba, the Ministry of Justice is responsible for determining whether or not extradition requests should be granted and for implementing agreements in this connection. As to the offences that may give rise to extradition, Cuba uses a broad formulation that establishes that extradition shall be admissible when the request refers to malicious or culpable conduct that is addressed in the legislation of both parties and constitutes an offence that carries a custodial sentence of not less than 1 year. Offences related to torture and other forms of ill-treatment may therefore give rise to extradition.

Article 9

72. Cuba conducts judicial cooperation activities with other States in relation to the offences covered by article 4 of the Convention against Torture in accordance with the international treaties to which it is a signatory and in accordance with the principle of reciprocity or, failing that, in accordance with Cuban law.

73. During the period under review, no requests for judicial assistance from other States in respect of crimes related to those described in article 1 or requests for such assistance emanating from Cuba itself have been processed.

Article 10

74. In Cuba, high priority is accorded to the provision of technical and professional training for medical personnel, members of the National Revolutionary Police, prison system officials, public servants, examining judges responsible for investigating offences, including those who take part in interrogations, and both civilian and military law enforcement officers in general.

75. Training programmes cover international human rights standards and particularly the provisions of the Convention.

76. Training programmes are also continually updated and are developed in step with changes in the way work is organized in order to ensure that they address existing needs at any given time.

77. The professionals attached to the Institute of Forensic Medicine and those employed in the forensic medical services operating in each province of the country provide this training to criminal investigators, examining judges, experts and officers either in on-the-job training sessions or as part of a postgraduate course.

Article 11

78. The foundations of the Cuban prison system are aligned with the principles set out in the Constitution and those enshrined in the Criminal Code, the Criminal Procedure Act and the Cuban Prison System Regulations. The application of penal policy is also based on such principles.

79. The Ministry of the Interior, the civilian and military Courts, the Office of the Attorney General and the Social Services and Prevention Committees participate actively in upholding and ensuring legality in the prison system. In this regard, the Legal Governance Directorate of the Office of the Attorney General plays an essential role in this connection in prisons and other detention facilities.

80. The Office of the Attorney General conducts regular inspections of prisons and other detention facilities under the powers conferred on it by Act No. 83 of 1997 and pursuant to its primary objective of upholding the principle of legality.

81. These visits are carried out in accordance with the Office's programme of work and also may lead to the investigation of allegations and complaints submitted by inmates, detainees or their family members. In addition, under Act No. 101 of 2006, military prosecutors are authorized, within their respective jurisdictions, to inspect places of detention, facilities, military establishments, disciplinary units, prisons and disciplinary holding units at any time.

82. In accordance with the legislation in force and prison regulations, judges and prosecutors are given access to prisons and other detention facilities in order to monitor the implementation of court-ordered penalties and re-education measures and the conditions under which these measures and the precautionary measure of pretrial detention are applied with a view to ensuring that they serve their intended purposes.

83. Prisons are also visited on a routine basis by relatives of prisoners, representatives of national political and social organizations, law students, artists who bring their works into the prisons and others.

84. By prior arrangement, social workers and representatives of NGOs, including religious institutions, may visit prisons as provided for in article 54 (t) of the Cuban Prison System Regulations.

85. Under article 6 of the prison regulations, it is strictly prohibited to subject persons who are deprived of their liberty to any type of humiliation, corporal punishment or any other inhuman or degrading treatment or punishment; nor is it admissible to employ any illicit means of coercion or any measure that may cause them physical or psychological suffering or be detrimental to their dignity as human beings.

86. Article 7 of the prison regulations stipulates that prison officers and authorities who, in the exercise of their functions, fail to observe the guarantees and limits established therein shall be held criminally and administratively liable and shall be responsible for restoring compliance with the law.

Article 12

87. In Cuba, the conditions for prompt and impartial investigations are guaranteed by law.

88. Any person who witnesses the perpetration of an offence that is subject to ex officio prosecution, or who is otherwise certain that such an offence has been committed, is required to bring it to the attention of the nearest court, prosecutor, examining magistrate or police unit or, in the last resort, military unit.

89. The same requirement applies to anyone who, by virtue of his or her duties, profession or occupation, becomes aware that an offence has been committed.

90. If the police are informed that an offence has been committed, they may arrest the suspect, take the requisite precautionary measures as set out in the Criminal Procedure Act (with the exception of pretrial detention, which must be approved by a prosecutor) and initiate the necessary procedures without delay.

91. The Criminal Procedure Act sets out detailed provisions concerning the conduct of criminal investigations and the procedures for bringing their perpetrators before the competent courts. These provisions ensure that investigations will be carried out with the necessary speed and grant equal rights to all persons involved in criminal proceedings.

92. Articles 119 to 124 and 245 to 260 of the Criminal Procedure Act stipulate which authorities are to conduct such investigations and establish the time limits and procedures for doing so. Article 132 of the Military Criminal Procedure Act stipulates which authorities are to be responsible for conducting investigations that come under the jurisdiction of military courts.

93. During investigations, the Office of the Attorney General: (a) monitors compliance with the Criminal Procedure Act in the conduct of proceedings, observance of safeguards and execution of the proper procedures, and in the legal classification of unlawful acts; (b) follows the course of the criminal investigation and, when needed, either carries out or arranges for the conduct of any actions or procedures that may be necessary in order to establish that an offence has been committed, identify the perpetrator and determine other essential circumstances; and (c) ensures that the procedural safeguards to which the accused is entitled are observed and that the rights of the victim or injured party and the interests of the State and society are protected.

94. In cases where the authorities decide not to initiate criminal proceedings and request the competent court to order a general or partial dismissal of the case but the court deems otherwise, the victim of the offence is legally entitled to bring a private criminal action, whereupon the case will go to trial.

Article 13

95. Article 63 of the Constitution states that any citizen has the right to submit complaints or petitions to the authorities and receive an appropriate response, within a suitable amount of time, in accordance with the law.

96. The main guarantor of this right is the Office of the Attorney General, whose function is to uphold legality in order to protect the legal order and, in particular, the rights and freedoms of citizens.

97. The Office of the Attorney General has the following operational structure: a central office along with 15 provincial offices, an office in each municipality and a special municipal office located in the Special Municipality of Isla de la Juventud. This structure ensures that all members of the Cuban population can rely on the State to take action against violations of their rights. The Military Prosecutor's Office has the following operational structure: a main office, provincial offices and other bodies at that level that provide similar services, and regional offices and bodies.

98. The Office of the Attorney General is required to process, investigate and respond to reports, complaints and claims submitted by citizens in accordance with legal procedures within 60 days.

99. If, in the performance of these functions, the Office of the Attorney General determines that a citizen's rights have been violated, it takes action that is in keeping with the gravity and significance of the events in question and is duty-bound to order the restoration of legality.

100. Furthermore, if the complaint, report or claim is found to be inadmissible or to lack sufficient merit, the Office must provide the applicant with a written or oral explanation of the reasons for this decision and, if an oral explanation is given, it must then be placed on record.

101. If applicants are dissatisfied with the handling of the complaint, report or claim or the reply received, they may apply to the official's immediate superior or directly to the Attorney General within a time limit of 30 days from receipt of the reply. They must provide an explanation of the reasons for their dissatisfaction so that the case may be re-examined and a proper reply can be provided.

102. Cuba also has other bodies and mechanisms to deal with citizens' complaints and petitions in respect of human rights issues.

103. These include social organizations, the National Revolutionary Police and specifically its public service offices, departments which deal with the public in each central government agency, the Supreme Court, the Office of the Secretary of the Executive Committee of the Council of Ministers, delegates to the people's municipal assemblies and municipal and provincial administrative councils, the standing committees of the National Assembly and the Council of State's public service offices.

104. Legal guarantees are in place to ensure that everyone, whether a Cuban citizen or a foreign national, can assert their rights before the courts or the proper authorities and demand protection from human rights violations. This thoroughly authentic system is geared to the needs of the Cuban people and has been systematically improved to ensure its effectiveness and its ability to meet people's needs and expectations.

Article 14

105. Any person who suffers harm or injury at the hands of State officials while they are carrying out their duties has the right to claim and receive appropriate redress or compensation as prescribed by law.

106. Any person who is held criminally responsible also bears civil liability for the moral and material damage caused by the offence in question. The court determines civil liability and its extent based on the relevant provisions of civil law and also directly enforces the obligation to restore the property or make good the moral damage.

107. The Compensation Fund is responsible for the provision of redress for material damage and compensation for injury when civil liability has been established. Victims of offences do not, under any circumstances, need to hire a lawyer in order to avail themselves of this procedure.

108. The Criminal Procedure Act stipulates that civil suits arising from a criminal offence are conducted in conjunction with the criminal proceedings, **except where an injured party's health prevents him or her from testifying**.

109. In that case, the charges are laid and the Court continues with the proceedings until a judgment is handed down. The judgment will not include a determination of civil liability but will notify the injured party that, at the appropriate time, he or she may file a suit with the relevant civil court.

110. The Criminal Procedure Act provides for the possibility that, at any stage of the proceedings, the court, acting either of its own motion or at the request of one of the parties, may impose such precautionary measures as are necessary – including bail, seizure and garnishment of property of the accused or of third parties who bear civil liability – to ensure, where appropriate, that the judgment with regard to civil liability can be enforced.

Article 15

111. Oral trial proceedings are the cornerstone of the Cuban criminal justice system. Evidence obtained during the investigative or pretrial phase must be presented during these proceedings, which, given their significance, are open to the public.

112. This is the main way of guaranteeing that, in practice, acts of torture or ill-treatment are not used in order to obtain a piece of evidence that will subsequently have to be validated and assessed in open court, examined by the judges in keeping with the principles of logic and reason, and presented to the parties during the proceedings.

113. Likewise, in criminal proceedings, in keeping with the adversarial principle, the parties have the opportunity to refute, question and challenge the evidence presented by the opposing party. There have been no cases in which evidence or testimony has been dismissed because it was obtained by means of torture or ill-treatment.

114. Article 59 of the Constitution provides that a person may be tried or convicted only by a competent court under a law that existed prior to the commission of the offence in

question and in accordance with the procedures and guarantees established by law. Every accused person has the right of defence. No violence or coercion may be used to force a person to testify. Any statement obtained in violation of this provision is null and void and those responsible for the violation shall be punished in accordance with the law. These rights are protected by procedural and substantive criminal law.

Article 16

115. The Cuban Criminal Code covers offences or unlawful forms of behaviour referred to in the first paragraph of this article, such as: wrongful execution of penalties or security measures; offences against the rights of assembly, demonstration, association, complaint or petition; offences against property rights; offences against the right of equality; wrongful imposition of disciplinary measures; and abuse of authority.

116. The code of ethics for officials in the prison system establishes a set of principles, values and standards of conduct and action for prison officials with the aim of ensuring the appropriate, respectful treatment of prisoners and their relatives and maintaining order and discipline among prisoners. The code is also intended to prevent incidents that would be in violation of the established prison regime and takes a rigorous approach to the abuse of power, physical or verbal ill-treatment, the use of despotic methods and humiliation, and other degrading actions detrimental to strict respect for human dignity or the physical and moral integrity of prisoners.

Part II. Additional information requested by the Committee

117. Information requested by the Committee and not provided by the State party during the Committee's consideration of the preceding report has been included herein, both in part I and in part III below, which deals with the State party's compliance with the conclusions and recommendations formulated by the experts in 2012.

Part III. Compliance with the Committee's conclusions and recommendations

118. This section addresses the conclusions, suggestions and recommendations issued by the Committee in its concluding observations (CAT/C/CUB/CO/2) following its consideration of the second periodic report of Cuba on 22 and 23 May 2012.

119. With regard to the recommendation contained in paragraph 7 of the concluding observations, on the offence of torture and its definition, in this report the Government has already acknowledged the need to continue to work towards ensuring the implementation of the regulatory and material adjustments prescribed by the Convention, and it is working towards this end. Accordingly, studies are under way with a view to amending and updating the Criminal Code on the basis of an overall vision of all the changes that need to be made, such as a more explicit definition of the offence of torture in accordance with the Convention.

120. In any case, as indicated above, the legislation on other related offences provides for the comprehensive protection of the individual and prohibits all acts of torture, in line with the Convention.

121. Regarding the recommendation set forth in paragraph 8, the Government has taken all the necessary measures to ensure that detainees are afforded, in law and in practice, all legal guarantees, including the right to have access to counsel, to medical care, to have contact with a family member and to be informed of their rights and the charges against them.

122. The Ministry of the Interior has a computerized public information system that interconnects all of its facilities and is used for the real-time registration of persons who are being held by the police or by criminal investigation agencies. This system allows members of the public to locate the place of detention of any family members, friends or acquaintances who are in custody.

123. As stated above, Cuban law ensures and regulates access to a lawyer for persons deprived of their liberty, as well as contact with relatives and other persons. All detained persons have the right to appoint a defence lawyer once they receive notification of the application of a precautionary measure; from that point on, they become party to the proceedings and may submit evidence on their behalf.

124. A police officer conducting an arrest is obliged to inform the individual concerned of the grounds for the arrest, of his or her rights and of the charges that are being brought.

125. As explained in paragraph 24, article 43 of the principal regulations governing the processing of detainees in police stations stipulates that every detainee is to undergo a medical examination upon arrival in the cell block.

126. If a detainee claims or is seen to be unwell and cannot be cared for in the police unit, he or she must immediately be transferred to the nearest medical centre.

127. If a detainee is found or is known to have suffered injuries, the person responsible for having inflicted them will face the appropriate criminal charges, as provided for in articles 272 to 274 of the Criminal Code, which define the offence of bodily harm and the related penalties. The severity of the applicable penalty will depend on the gravity of the act and the consequences suffered by the victim. In such cases, administrative liability is also incurred.

128. When, in the course of investigative proceedings, reference is made to the presence of injuries, the accused, his or her legal representative or the prosecutor may challenge the relevant documentary evidence in the event of an inaccuracy or an omission.

129. When necessary, medical examinations carried out on injured persons are reviewed by the Institute of Forensic Medicine of the Ministry of Public Health to determine the seriousness or type of injury concerned. This determination is based on the certificate of initial treatment of an injured person and any other medical documents that may exist in respect of the individual.

130. As noted in paragraph 27, measures taken in response to the possible involvement of law enforcement officers or officials in incidents leading to the injury of a detainee may include investigative procedures, the reporting of the incident to the prosecutor's office and the determination by the latter of whether to apply administrative measures or bring criminal proceedings against the parties.

131. The right of a detainee to request a medical examination by an independent physician and to see the resulting report is provided for by law.

132. Furthermore, chapters XIII and XIV of the Cuban Prison System Regulations establish that it is the duty of places of detention to provide primary and specialized medical assistance to inmates on the behalf of the Ministry of Public Health and the medical services of the Ministry of the Interior, including targeted care for persons living with HIV/AIDS and women who are pregnant or breastfeeding.

133. The habeas corpus procedure is an immediate remedy for challenging the legality of detention and is provided for under articles 467 to 478 of the Criminal Procedure Act. By virtue of these provisions, a person deprived of liberty under circumstances not provided for in the Constitution or other laws or without the authorities having completed the formalities or complied with the procedures and guarantees set out therein shall be released at his or her own request or at the request of any other person. A very short (72-hour) summary procedure exists for this purpose. The present report includes data on habeas corpus procedures completed between 2010 and 2016.

134. With regard to the recommendations contained in paragraph 9, it should be noted that, although Cuba is not a State party to the instruments referred to by the Committee, its treatment of asylum seekers and refugees is based on the humanitarian tradition and solidarity of the Cuban people and its revolutionary process.

135. Hence, the country welcomes refugees from various parts of the world and respects the basic principles of refugee protection, particularly that of non-refoulement. Cuban policy in this area has constitutional status, as reflected in article 13 of the Constitution,

which deals specifically with the right to asylum. The protection of refugees, asylum seekers and stateless persons is guaranteed in Cuba.

136. For more than 25 years, UNHCR has had an office in Cuba, and the Government maintains close, collaborative relations with that office. Since UNHCR began operations in Cuba, this office has dealt with approximately 11,000 refugees, according to its own sources.

137. All of the above demonstrates that, despite not being a party to the international conventions on refugees and statelessness, Cuba does respect them. In any event, the possibility that accession will be considered in the future, as part of the ongoing process of updating the country's legislation, cannot be ruled out. The ratification of an international instrument is a complex process, given that Cuba must make sure that the international obligations arising from these instruments are compatible with the domestic legal and political system.

138. As reported in paragraph 38, the office of UNHCR is actively involved in processing refugees and asylum seekers in Cuba.

139. The Directorate of Identification, Immigration and Aliens considers asylum applications referred to it by UNHCR. If the Directorate does not respond to an application within 90 days, the individual concerned shall not be forced to return to his or her country of origin or to travel to a third country if the person claims that he or she will be subjected to persecution. Cuba and UNHCR coordinate and work closely on this issue.

140. While Cuba has not acceded to the Convention relating to the Status of Refugees of 1951, this does not prevent it from using this instrument as a framework for its cooperation with UNHCR. The Cuban authorities do not interfere with the work of the Office of the High Commissioner and they respect its decisions in the area of refugee status determination.

141. As stated above, Decree-Law No. 302, which amends the Migration Act and its related decrees and decisions, entered into force in January 2013.

142. Haitian migrants who arrive in Cuba by accident while attempting to emigrate to the United States are repatriated under a tripartite agreement between the Governments of Cuba and Haiti and the International Organization for Migration (IOM). All repatriations are conducted in accordance with the migrants' wishes and with the support of the Cuban Red Cross and IOM. During their stay in Cuba, these individuals are treated humanely and with dignity and are provided with free food and health care.

143. As of the end of 2016, a total of 137 refugees were benefiting from temporary protection and had access to free health and education services while lasting solutions were being sought for their resettlement in third countries. Refugees who have settled in Cuban territory, such as Syrians, are guaranteed the same rights as Cuban citizens.

144. The Directorate of Identification, Immigration and Aliens has a network of processing offices located in all of the country's municipalities and the overseas consulates of Cuba. This network manages migration procedures and permits the identification of individuals in need of international protection in accordance with current migration legislation.

145. Concerning the recommendations set forth in paragraph 10 on detention conditions, the Government wishes to reiterate that conditions of detention in Cuba are fully in keeping with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), which Cuba supports and observes.

146. Cuba provides the necessary legal and practical guarantees so that inmates are treated fairly and with dignity in all prisons and other detention facilities. The necessary procedures are in place to severely punish any personnel who violate or fail to comply with these standards.

147. Despite limited financial resources and the existence of numerous priorities owing to our status as a small, blockaded developing country, Cuba has striven to ensure decent living conditions in its prisons and detention facilities. Prison conditions in Cuba are much better than in most developing countries.

148. The country has made a sustained effort to improve prison infrastructure through the implementation of a prison rehabilitation programme which forms part of its master plan for investment in the prison system launched in 2007.

149. Between 2011 and 2015, the Government invested more than 82 million pesos in the renovation of 217 detention facilities, with capacity for 18,000 inmates, equivalent to 56 per cent of total prison capacity. More than 300 common-use areas (visiting rooms, conjugal quarters, kitchens and dining rooms) were built or refurbished. Over 17,000 m² of roofing was waterproofed, and solar water heating systems were installed. Electrical, water and sanitation systems were also upgraded, among other works.

150. Prisons will continue to undergo major repairs in the coming years at a cost of more than 200 million pesos. This effort will include the architectural refurbishment of a number of buildings and the introduction of new technologies.

151. The humanist character of the State and its social reintegration policies have permitted the continued use of non-custodial penalties.

152. Between 2010 and the first quarter of 2016, deprivation of liberty accounted for only 35.03 per cent of the penalties handed down by the courts; correctional labour with internment accounted for 9.46 per cent; correctional labour without internment 16.74 per cent; restriction of freedom, 9.83 per cent; and fines, 27.79 per cent.

153. The effectiveness of non-custodial measures (correctional labour without internment and restriction of liberty) was demonstrated during this period, as 79.3 per cent of offenders sentenced with such penalties completed them satisfactorily.

154. Between 2010 and 2016, an average of one third of offenders benefited from early release arrangements; the vast majority of these offenders were released on parole, but some had their sentences of correctional labour with internment suspended and were placed on furlough.

155. Another important development is the adoption of Decree-Law No. 310 of 2013, which extends the provisions of article 8.3 of the Criminal Code on the application of financial penalties (fines).

156. This has contributed to a drop in the number of cases that go to trial. A flexible and efficient formula has been adopted for the application of criminal justice whereby the limited threat to society posed by the type of offence in question, the conduct of the perpetrator and the appropriate compensation of the victim are taken into account. The new law has enabled the authorities to deal more quickly with certain types of criminal acts by allowing them to apply article 8.3 in the case of offences punishable by not more than three years' deprivation of liberty, thereby reducing the number of people sent to prison.

157. Between 2012 and 2015, article 8.2 of the Criminal Code was applied to the cases of 3,647 persons, while 11,064 persons were given administrative fines under article 8.3.

158. In September 2015, 3,522 prisoners were pardoned, taking into account the nature of the offences committed, their conduct in prison, the length of sentence served and their state of health. A further 787 individuals were pardoned in November 2016.

159. At present, 46.3 per cent of prisoners are held in open facilities that do not have fences or other security measures; these inmates do not wear prison uniforms and work under conditions similar to those of the civilian non-institutional population. They receive special passes or permits for good behaviour. The prison system has drawn up a policy that calls for an increase of the proportion of detainees held in open facilities to 70 per cent.

160. In accordance with the applicable regulations, specialized bodies of the Ministry of the Interior, the People's Supreme Court and other courts and the Attorney General's Office systematically evaluate the status of prisoners and may decide to order their early release,

bearing in mind their conduct during imprisonment, time served and incompatibility with the prison regime for health reasons.

161. For example, in the first quarter of 2016, 90 per cent of convicts who left prison did so without completing their full sentence. Early release may be granted to first-time offenders after half of their sentence has been served; this period is reduced to one third for juveniles and increased to two thirds for repeat offenders.

162. Despite the limited nature of the country's resources, which is compounded by the impact of the continuing blockade, special priority is given to the provision of food and drinking water to persons deprived of their liberty.

163. The nutrition standard for prisoners is 2,600 kcal per day (82 g of protein) and 6.30 kg of meat products per month; undernourished and underweight prisoners, tuberculosis sufferers and pregnant and breastfeeding women consume 3,300 kcal per day (102 g of protein) and 8 kg of meat products per month; for inmates with HIV/AIDS, intake is 4,100 kcal per day (140 g of protein) and 8.87 kg of meat products per month. Their families may also bring them up to 40 pounds of foodstuffs and other items on every visit.

164. The diet of inmates who are ill is suited to their condition and their medical prescriptions. All inmates are provided with personal hygiene necessities, underwear and a uniform at no cost to them.

165. The Ministry of the Interior, which administers the prison system, is working with other institutions on systematic measures aimed at continuing to enhance prisoners' quality of life. In that context, health and medical care is an area of high priority. Inmates are guaranteed unrestricted access to primary and specialized medical and dental care that is free, universal and of good quality; clinical histories are maintained for all inmates.

166. The prison system has special hospitals, health centres and clinics, and there are public hospitals in every province that have special wards equipped for prisoners, where they are guaranteed full access to the improvements in health care achieved by our country. Forensic psychiatric units in health-care institutions also provide specialist medical care to convicts and persons standing trial who show signs of psychiatric disorders.

167. Primary care in the prison system is provided under the Family Doctor and Nurse Programme. There are currently 331 doctors, 80 dentists and related specialists and 238 nurses providing preventive, supportive and specialist care for the prison population. Inmates have the right to be admitted to any unit in the country's hospital network. They are also assured of specialized care provided by teams of specialists who visit prisons regularly.

168. Pregnant prisoners are put on a special enhanced diet during the pregnancy and until the child is one year old, during which time the child remains with the mother so that it can be breastfed. At the end of this period, the baby may be handed over to family members or placed in a nursery free of charge. Like all other pregnant women in Cuba, pregnant inmates receive highly specialized care and regular check-ups, including consultations in obstetrics and gynaecology hospitals around the country, as well as in facilities in the prisons themselves.

169. The right to communicate with family members and lawyers is fully guaranteed and respected. Prisoners keep in regular touch with their lawyers and their families through visits, the use of conjugal quarters (a benefit available to both male and female prisoners), telephone calls and letters. To encourage good behaviour, they may also be awarded special leave or home visits. Prisoners are taken to hospitals, funeral homes or burials in the event of the serious illness or death of a close relative. Visits are conducted with no wire netting, bars, glass walls or any other kind of barrier that would prevent direct contact between prisoners and relatives.

170. Disciplinary rules and the regulations governing the application of those rules expressly forbid the use of corporal punishment, cruel, inhuman or degrading treatment or punishment or the reduction of the food supply. On no account are chains, shackles or straitjackets ever used on inmates. Force is only permitted when its use is strictly necessary to control a prisoner following a violent outbreak. The use of firearms by personnel

working inside prisons is prohibited; their use is confined to the perimeters of closed prisons and even there it is heavily restricted.

171. Solitary confinement is used as a disciplinary measure only on the strength of a certificate or report issued by the prison doctor, who has a responsibility to visit the prisoner every day for the duration of the solitary confinement and to keep the prison director apprised of the prisoner's state of physical and mental health. The doctor also evaluates the prisoner's status and can propose the suspension of the measure. The maximum duration of solitary confinement as a disciplinary measure is 15 days for men and 10 days for women and juveniles under 20 years of age. Such measures may not be applied to pregnant women, nursing mothers and women who have children with them.

172. The Government is pursuing a policy of housing inmates in prisons closer to their places of residence.

173. Consequently, inmates are not usually transferred to prisons that are far from their family and social setting. Only a few inmates have been moved from Havana to neighbouring provinces, to which travel is feasible, owing to a lack of capacity. In view of their situation, visiting arrangements have been made more flexible, temporary leaves have been extended from three to five days and a rotation has been organized to reduce the length of time spent in prisons far from Havana. Meanwhile, work is under way to add extra capacity in order to definitively resolve the situation. Some 85 per cent of prisoners are housed in their province of residence. Of the remaining 15 per cent, approximately half are prisoners who offended in other provinces and are awaiting trial in a court in that location; the other half are Havana residents who, owing to the aforementioned capacity issues, are being held in facilities close to the capital which can be reached in a round trip on the same day.

174. Torture cases are non-existent in the country. There have been isolated cases of ill-treatment, generally associated with excesses committed by internal security officers in the performance of their duties or as a response to aggression by prisoners. When a complaint is filed in which the actions in question appear to constitute an offence, the military prosecutor's office is informed. Between 2012 and 2015, this institution investigated 1,924 accusations of ill-treatment at the hands of internal security officers. As a result of those investigations, disciplinary or administrative measures were applied to 256 officers, while 37 officers incurred criminal penalties.

175. With regard to the recommendations contained in paragraph 11, all the necessary measures and arrangements are in place, in law and in practice, to ensure that the application of the precautionary measure of pretrial detention is not excessively prolonged. Criminal legislation gives priority to proceedings involving defendants in detention over those involving defendants who are at liberty, with or without bail. In addition, the Ministry of the Interior, the Attorney General's Office and the People's Supreme Court have issued orders, instructions, guidance and expert opinions aimed at ensuring that proceedings are conducted promptly.

176. Efforts have been made to ensure that the precautionary measure of pretrial detention is applied rationally and objectively. Monthly meetings are held between the Attorney General's Office and the Ministry of the Interior to analyse different developments that might require the increased application of the measure at a given time on an exceptional basis and only in cases that warrant it. The Attorney General has issued precise instructions for the continuous evaluation of the use and modification of pretrial detention, based on established criminal policies, for those cases in which it is necessary.

177. Remand prisoners are housed in facilities or areas that are separate from the rest of the prison population.

178. The policy established in coordination with the Attorney General's Office and the courts is for pretrial detention to be ordered only when strictly necessary. A great deal of effort is being devoted to reducing the length of trials and sentencing proceedings to a minimum in the interests of due process.

179. At present, only about 12 per cent of prisoners are being held in pretrial detention. The duration of pretrial detention varies between two and three months. Periods of pretrial

detention that exceed the stipulated duration must be approved by the Attorney General. The Attorney General's Decision No. 1 of 2015, whereby the chief prosecutors of each district are instructed to ensure the effective observance of procedural time limits, without prejudice to the quality of the investigation, has effectively helped to reduce delays in criminal investigation proceedings.

180. Working in coordination with one another, on a regular basis the Attorney General's Office and the criminal investigation agencies look into and analyse the causes of delays, and this has contributed to the swift conclusion of proceedings.

181. Indefinite extensions of the allowable period for the examination of the preliminary case file are granted only in exceptional cases involving matters of extreme investigative complexity. Between 2012 and 2015, there were only 433 cases in which the examination of the preliminary case files took longer than 180 days. The root causes of these delays were related to the complexity of the incidents under investigation, the need to substantiate evidence or audit proceedings, the difficulties entailed in investigating crimes involving child victims and the commission of a larger number of economic crimes.

182. All prisons and places of detention in Cuba are subject to a system of inspection that is independent of the authority responsible for their administration. In accordance with the legislation in force, judges and prosecutors have access to prisons and other detention facilities in order to oversee the proper and effective application of penalties and use of pretrial detention. The role of the Attorney General is essential in this regard.

183. Thematic prison inspections in Cuba have increased the quality and effectiveness of supervision and contributed to the restoration of law and order. These subject-specific inspections are conducted by working groups of prosecutors and specialists from various institutions, with the composition of those groups depending on the subject matter in question. The appropriate methodological preparations for these visits are based on the guidelines established for each subject area.

184. Between 2012 and 2015, the Attorney General's Office carried out 40,430 inspections: 5,871 in prisons and 34,551 in detention facilities. The violations that were identified were corrected immediately in 73 per cent of the cases in the prisons and in 86 per cent of cases in the detention facilities. The remainder could not be corrected immediately because of external factors such as the need for investments in infrastructure works.

185. Furloughs may be granted on justifiable grounds – usually incompatibility with the prison regime due to a medical condition – and may last as long as is deemed necessary. This benefit is governed by article 31 (3) (b) of the Criminal Code and may be granted to persons serving terms of imprisonment other than life sentences.

186. Medical commissions are responsible for determining prisoners' state of health and its compatibility with the prison regime and for advising the courts on whether to grant furloughs or not. Such commissions exist in all the provinces and are regulated by Ministerial Decision No. 98/2008 of the Minister of Public Health.

187. The award of a furlough does not entail the expiry of the criminal penalty. Time spent on furlough is credited towards the custodial sentence, provided that the convicted person has been on good behaviour during the leave period.

188. Consequently, prisoners on furlough are under a special regime and must comply with certain obligations and limitations imposed by the fact that they are serving a criminal sentence; one such restriction is that they may not leave the province or country without the authorization of the court.

189. As of the end of April 2016, 736 convicted persons were on furlough from prison. Between 2010 and the first quarter of 2016, 3,778 prisoners were afforded this benefit.

190. Regarding the recommendations made in paragraph 12, the Government of Cuba wishes to reiterate that a review of the country's substantive criminal legislation is under way in order to determine whether, under the current conditions, it is appropriate to retain the concepts in question in the Criminal Code or to make any necessary adjustments.

191. As to the recommendations expressed in paragraph 13, as mentioned previously, all prisons and detention facilities are subject to a system of inspection that is independent of the authority responsible for their administration.

192. Cuba has a well-established nationwide yet decentralized system for the systematic and ongoing review, monitoring and supervision of prisons and detention facilities. This system has proved to be very effective in supporting the objective of making ongoing improvements in the prison system.

193. In accordance with the relevant laws and regulations, the Attorney General's Office systematically monitors inspections of prisons and detention centres, follows up on their findings and takes steps to immediately address any violations that are identified. It also monitors the implementation of the measures outlined in the plans designed by prisons and places of detention for rectifying any problems detected during such inspections and checks on their status during subsequent inspections.

194. Concerning the ratification of the Optional Protocol to the Convention, it should be noted that Cuba has effective national remedies to ensure the rigorous implementation of the Convention.

195. It has not been considered necessary to assume obligations that would involve supranational procedures and bodies in the processing of individual petitions or to resort to international investigative bodies in order to ensure that persons living in Cuba enjoy the full protection of the rights enshrined in international human rights instruments and have full access to the remedies provided for in those instruments.

196. The appropriate use of the remedies established by national legislation has made it possible to avert any violation in Cuba of the provisions set forth in the Convention and other international human rights instruments.

197. Moreover, the country cultivates partnerships with various humanitarian and human rights organizations from around the world and works in cooperation with them in Cuba and in the development of international collaborative missions. Hundreds of representatives of intergovernmental and non-governmental organizations visit Cuba every year. The President of the International Committee of the Red Cross made a working visit to Cuba in November 2015. That visit was successful, and closer cooperation between Cuba and that renowned institution is envisaged in the future.

198. With regard to the recommendation contained in paragraph 14, it should be recalled that the international community has not yet reached a consensus on the application of the death penalty or on moratoriums on its use and that opinion on that subject remains divided. An analysis of this topic cannot be carried out in isolation, but must also take into account its philosophical dimension and, most importantly, the specific conditions of the country concerned and the views of its people.

199. Cuba is against the application of the death penalty and favours abolishing it once the right conditions for doing so are in place. It also understands and respects the arguments of the international movement that advocates the abolition of the death penalty or a moratorium on its use. However, the country has been forced, in the legitimate defence of its national security, to choose the path of adopting and enforcing severe laws against terrorist activities and crimes designed to destroy the Cuban State or the lives of its citizens, while always adhering to the strictest legality and respecting judicial guarantees.

200. It is well known that, although Cuba has retained the death penalty, it has used it very rarely. It has been imposed only by the duly empowered court in the most serious cases for which it is prescribed. Moreover, Cuba observes the safeguards guaranteeing protection of the rights of those facing the death penalty established by the United Nations.

201. In recent years, however, no death sentences have been handed down by the Cuban courts. No one is currently facing the death penalty in Cuba. All those sentenced to death had their sentences commuted to prison sentences of 30 years or life in 2009. The maximum penalty has not been applied in Cuba since 2003.

202. With regard to the recommendations made in paragraph 15, the Government wishes to report that, since the previous review, an average of about 100 persons per year have died in custody.

203. In all cases, immediate, exhaustive investigations, including autopsies, have been carried out by commissions set up for this purpose. The results of the investigations are reported to family members.

204. These investigations established that the authorities were not responsible for any of the deaths in custody, and the autopsies found no signs of physical violence. The autopsies were performed at the forensic medicine units of the Institute of Forensic Medicine in Havana and in the respective provincial departments.

205. Legal measures for preventing deaths in detention facilities include provisions that stipulate that medical treatment must be provided to any inmate who claims to be ill and to anyone who appears to need treatment even if he or she does not request it. Stringent control measures are taken to prevent inmates from harming themselves.

206. When, in spite of the above measures, an event of this nature occurs, aid and treatment are immediately provided to the person concerned, and the circumstances that gave rise to the event are duly recorded and documented.

207. The Cuban prison system has a suicide prevention programme that is certified by, and compliant with, the national programme of the Ministry of Public Health. This programme provides for individualized therapeutic treatment for inmates identified as being at risk of this type of behaviour. Psychologists, doctors, psychiatrists and public health authorities and institutions participate in the programme.

208. Regulations governing responses to voluntary starvation, which comply with the World Medical Association's Declaration of Malta on Hunger Strikers, are also in place. These regulations are aimed at promoting a rational, persuasive and humanitarian approach to the treatment of inmates in this situation in order to encourage them to change their minds. Steps are taken to ensure that ongoing contact is maintained between medical staff, inmates and their family members.

209. To this end, multidisciplinary groups consisting of doctors, psychologists, psychiatrists and negotiators are set up to determine the coordinated and individualized actions to be taken in each case, taking into account the motives and personality characteristics of each inmate. The authorities are required to ensure that the clinical situations of the persons concerned are continually monitored and that arrangements are made for them to be transferred to the medical units of the facilities where they are held or to hospitals belonging to the National Health System.

210. The working procedures of the prison system include a methodology for treating inmates who declare themselves to be on a hunger strike. This methodology complies with international requirements and employs preventive and assistance measures based on medical and prison-related criteria and on the principle that inmates' lives should be preserved.

211. As part of this methodological approach, the actions carried out in each case are recorded in medical files and protocols so that a competent authority or family member can verify their legitimacy.

212. With regard to the recommendations made in paragraph 16, the Constitution states that all Cuban citizens have the right to submit complaints or petitions to the authorities and to have them acted on or replied to within a reasonable amount of time as provided for by law. Cuba has an extensive and effective inter-institutional system for receiving, processing and responding to any complaint or petition from an individual or group concerning the enjoyment of any human right. NGOs are part of this system.

213. The functions of the Attorney General's Office include dealing with complaints filed by citizens concerning alleged violations of their rights. The Office therefore plays a central role in the system for investigating and providing support in relation to such matters.

214. In addition to the Attorney General's Office, other bodies and mechanisms deal with citizens' complaints and petitions in respect of human rights, including social organizations, the public service offices attached to each of the bodies of the central State administration, the Secretariat of the Executive Committee of the Council of Ministers, delegates of the municipal and provincial assemblies, the standing committees of the National Assembly and the public service mechanisms of the Council of State.

215. In the course of dealing with such complaints and petitions, information concerning the existing judicial remedies is constantly being disseminated, and the public are duly informed of their rights in general and the legal remedies available to them for the protection of those rights in the event of violations.

216. In addition, the Ministry of Justice and the National Union of Jurists of Cuba have a public outreach programme that is active at the community level and that also prepares broadcasts for the *Al Derecho* television programme as a way of educating the public about all their rights, including the right to equality as a fundamental human right.

217. Since November 2014, the Attorney General's Office, with a view to expanding the range of avenues and mechanisms for channelling the public's concerns and/or complaints, has made available additional avenues through which the public can seek assistance, including an advisory helpline. As of November 2015, support had been provided to 103,906 citizens, which was 40,697 more than the previous year. An email address and an interactive website have also been established.

218. These avenues are intended to provide greater public access to the Attorney General's Office, especially for older persons, persons with disabilities or persons who, for any other reason, have difficulty in travelling to the relevant offices in each of the organizational units of the institution. Following the establishment of the helpline, 22 per cent of the complaints received in 2015 were channelled through that route.

219. In 2015, 12,141 complaints were received and 11,151 criminal or administrative cases were processed. The majority of the complaints filed by the public relate to criminal matters, non-compliance with protective measures that have been ordered, non-compliance with the procedures of the Housing Directorate or objections to the imposition of fines for minor offences. Complainants sometimes seek legal advice; in other cases, they are simply filing complaints or claims concerning alleged violations of the law or breaches of their rights by different institutions.

220. The complainants were found to have been justified in 24 per cent of the cases that were processed. To date, none of the complaints concerning violations of the law that have been dealt with by the Attorney General's Office have been linked to torture or other ill-treatment.

221. Prisoners also have the right to file complaints. The Prison System Regulations establish that all prisoners have the right to register verbal or written complaints with the penal authorities and to receive a response. Prisoners also have the right to pursue legal procedures with the aid of a lawyer or the head of the relevant detention facility.

222. Irrespective of the offence concerned, protection and assistance are made available to victims, complainants and witnesses from the outset of criminal proceedings, in line with articles 142.2 and 142.3 of the Criminal Code. Article 142 establishes the offence of assault and provides for the protection of complainants, victims, witnesses and their family members from acts of violence and intimidation. In view of the fact that, during the period under consideration, there have been no reported incidents of violence towards any person in any of these categories, it has not been necessary to establish a special protection system.

223. With regard to the recommendations made in paragraph 17, all the necessary measures and arrangements are in place, in law and in practice, to permit any suspected offence, including those covered by the Convention, to be investigated promptly and impartially. The Criminal Procedure Act establishes, in very precise terms, the procedures to be followed for carrying out investigations and bringing the perpetrators before the competent courts. These provisions ensure that action is taken with the necessary speed and that equal rights are granted to all persons involved in criminal proceedings.

224. In Cuba, offences that are on the statute books are automatically prosecutable, so the prosecutor is able to initiate legal proceedings whenever any such offence is committed. On an exceptional basis, proceedings may also be initiated by the injured party in the event that the prosecutor requests a general or partial dismissal of the case.

225. In Cuba, all offenders are prosecuted. If a person's guilt is established as a result of an investigation, the courts impose sanctions commensurate with the seriousness of the acts concerned and the characteristics of the perpetrators.

226. With regard to the recommendations made in paragraph 18, it should be noted that the independence of judges in the administration of justice is an overarching principle of the national legal system and is enshrined in article 122 of the Constitution. This principle is also espoused in the People's Courts Act No. 82 of 1997.

227. Cuban judges dispense justice independently in the exercise of their functions and owe allegiance only to the law. Infringement of this rule, or any obstruction of its implementation, constitutes a violation of the law and results in the imposition of the corresponding remedial and criminal measures. The Code of Judicial Ethics, which figures prominently in judges' training, establishes the obligation to render justice with total impartiality as an overriding principle.

228. Any allegation that judges do not issue their decisions independently would be false and would reflect a lack of understanding of the realities of Cuban life. Professional judges are elected for an indefinite term and may be removed from their posts only on the grounds set forth by law. This reinforces their ability to act autonomously and independently in the performance of their duties.

229. The regulation of this principle in the national legal system is fully in line with international standards, in particular the decisions of the United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the Basic Principles on the Independence of the Judiciary.

230. The Cuban State has institutionalized a system of independent collegial bodies, headed by the Supreme Court, whose membership is suited to their sphere of competence. This system ensures broad popular participation in the administration of justice.

231. The Cuban justice system has certain features that provide additional guarantees for the independence of the judiciary. These include the public nature of the administration of justice and the people's participation in it, the fact that all judges are elected, the collegial make-up of all courts, and the public and oral nature of proceedings.

232. The administration of justice in Cuba is, in essence, a public service subject to rigorous and systematic scrutiny by the people, whose participation guarantees and ensures respect for the justice system's foundational principles:

- The complete independence of individual judges and of the entire court system in the administration of justice
- Justice is of the people: this is mainly assured by opening up judicial posts to non-professional judges, known as lay judges, who sit alongside their professional counterparts
- All judges, both professional and non-professional, are elected
- The presumption of innocence: every accused person is innocent until proven otherwise; the burden of proof lies with the prosecution
- The absolute equality of all persons before the law
- All courts are collegial in nature, irrespective of the judicial instance or the nature of the case in question
- All trials are public, except where otherwise provided for by law
- All court decisions are appealable in accordance with the laws applicable in each case
- Every accused person has the right to a defence

233. The Basic Principles on the Role of Lawyers are observed in Cuba. The National Organization of Collective Law Practices (ONBC) is a national, independent professional association of lawyers who work for the good of society on a voluntary basis. The association has legal status and its own assets.

234. This association is not attached to the Government. It has its own elective governing bodies made up of the lawyers, who, in their role as delegates, comprise the ONBC Assembly. The Assembly is the institution's highest governing and decision-making body. It elects from among its members the President, Vice-President, Secretary and other members of the National Executive Committee, which is responsible for managing, representing and running the organization between sessions of the Assembly.

235. As an independent body, ONBC adopts the decisions by which it is governed by agreement among its members. It has its own system of rules governing its operation, its disciplinary regime, the admission of members, the appointment of representatives of each province and municipality in line with the association's needs, the organization of its services, the constitution and administration of its assets and the income that it derives from the services it provides to both individuals and organizations. It has its own code of ethics and procedures for ensuring that the code is adhered to by the lawyers who belong to it.

236. ONBC is autonomous, is not attached to the Ministry of Justice or any other agency or institution of the State or Government and does not receive income from the State budget but instead generates and administers its own funds and is free to dispose of its monetary, material and professional resources as it sees fit.

237. Decree-Law No. 81 of 1984 provides that the practice of law is dependent on admission to ONBC. On an exceptional basis, however, lawyers who are not members may represent and manage certain matters relating to themselves or their family members, as provided for in article 4 of the aforementioned law.

238. With regard to the recommendations made in paragraph 19, it should be noted that Cuba currently has 19 psychiatric hospitals. Since the previous review, there have been no cases such as those that occurred in the Havana Psychiatric Hospital in January 2010. Those events were entirely exceptional. As the Committee was informed in 2012, the ensuing investigations and legal proceedings led to the imposition of severe sanctions on the persons responsible for these regrettable acts, including sentences of between 5 and 15 years' imprisonment, in accordance with their varying degrees of responsibility.

239. During the reporting period, a number of measures have been taken to ensure that conditions in psychiatric hospitals continue to improve and that such regrettable and exceptional events do not recur.

240. These measures include the following: stepping up regular inspections and audits of psychiatric institutions; making hospital wards more comfortable and improving hospital ward services; making the care provided to patients more comprehensive by bringing in other medical specialists in such fields as general medicine, geriatrics, oral medicine, and physical medicine and rehabilitation; conducting periodic reviews of health policies on staff training and placement in psychiatric hospitals; accrediting services with a view to using psychiatric hospitals as teaching centres; furthering and improving the deinstitutionalization initiative that provides for the rehabilitation of patients with mental illnesses and their placement in family or social environments; and introducing a comprehensive plan of precautionary measures for implementation during the winter season and in the event of other weather-related contingencies.

241. On average, the Government allocates 54,436 Cuban pesos per year, per person, for patients admitted to psychiatric hospitals, most of whom tend to be long-term patients.

242. With regard to the recommendations made in paragraph 20, the Government wishes to stress that arbitrary detention is not practised in Cuba. Persons are taken into custody in accordance with criminal procedure and for acts defined as offences in criminal law.

243. The law establishes the procedures and circumstances of detention and the terms under which detainees are to be subject to protective measures and/or criminal proceedings or are to be released.

244. In each case, the decision whether or not to pursue criminal proceedings is made by the competent authorities based on the criminal legislation in force and on the application of a rational, objective, individualized and preventive criminal policy founded upon universally recognized principles of criminal law.

245. It should be noted that certain individuals, intent on bringing about regime change in Cuba, try to falsely portray common prisoners as human rights defenders and draw up fictitious lists of arrests in order to distort the actual situation in the country.

246. Citizens who are arrested enjoy all the guarantees provided for in Cuban law.

247. Unlike the situation in other countries, law enforcement forces in Cuba do not repress or harass citizens but instead work to raise levels of compliance with the law and public peace and order.

248. In Cuba, persons who assert their human rights are not the targets of raids, acts of intimidation or harassment. Nor are there any cases of torture, enforced disappearance or extrajudicial killing.

249. As in any other country, persons who decide to express their views by holding a demonstration are supported by some and opposed by others who think differently. The right of the majority of the population, which supports the Government, to speak out in its defence and reject the provocations of small groups of persons who, funded by foreign powers, attempt to subvert the constitutional order in Cuba is also part of the right to freedom of expression and peaceful demonstration that we are committed to upholding.

250. The police force in Cuba, in accordance with its duty to uphold law and order, intervene only when there are public clashes between groups of persons who defend opposing interests. This type of intervention is always aimed at avoiding violent incidents that could endanger the safety or lives of the persons involved. Such actions are, at all times, carried out in accordance with strict protocols and the principle of the proportionate use of force.

251. In Cuba, demonstrators are not repressed with tear gas, unarmed people are not killed, and heavy or military-grade riot control equipment is not used to control demonstrations.

252. In Cuba, intimidation or violence is never used against persons exercising the freedom of opinion and expression or the freedom of peaceful association and assembly. Nor is anyone punished for exercising such rights. The guarantees provided by Cuban law to protect these freedoms include severe punitive measures for persons or public officials who seek to unlawfully curtail freedom of thought, association, peaceful assembly, demonstration, complaint or petition. These sanctions are provided for pursuant to the Criminal Code.

253. Act No. 54 sets out the requirements for the recognition and registration of associations, which may exercise their functions freely, elect their representatives and leaders from among their members and maintain cooperative relations with government authorities at all levels.

254. There are over 2,200 organizations, including community-based and grass-roots organizations, that bring together women, campesinos, workers, young people, students, pioneers and neighbours. There are also scientific, professional, technical, cultural, artistic, sporting, religious, fraternal, friendship and solidarity associations.

255. With regard to the recommendations made in paragraph 21, it should be noted that the absence of a specific law to prevent and punish gender-based or domestic violence does not mean that victims are not effectively protected. To date, the country has not found it necessary to enact such a law.

256. The Criminal Code provides for sufficient protection since it sets out the punishments for different forms of violence, including physical, psychological and sexual violence. Section VIII of the Code, which deals with offences against human life and the person, specifies the punishments for actions that cause bodily injury or serious harm to a person's health, endanger a person's life or cause a deformity or disability.

257. Section VIII also establishes the offence of unlawful abortion, since, in Cuba, any woman who chooses to terminate a pregnancy can do so, free of charge, in any hospital.

258. Section XI of the Criminal Code defines the offences of interference with the normal development of sexual relations, rape, sexual abuse, pederasty with violence, procuring and trafficking in persons, and the offences of interference with people's sexual freedom and their autonomy to choose a partner.

259. In addition, when the perpetrator of such offences is the victim's spouse, or the victim and perpetrator are related to the fourth degree by blood or the second degree by marriage, this constitutes an aggravating circumstance that is taken into account in cases involving offences against human life and the person, the offence of interference with the normal development of sexual relations, and offences against the family, children and young people.

260. Other significant steps forward, from a legal point of view, include the establishment of family law divisions in the people's courts in 2008 and the introduction, in 2012, of protective measures applicable to situations of domestic violence, including:

- Restoration of the custody of a child or adolescent in the event of wrongful retention
- The prohibition or authorization of a change in a child or adolescent's place of residence
- The assignment of provisional custody of a child or adolescent to one of the parents, the grandparents or, exceptionally, another person, for the duration of the proceedings
- Attendance at educational or therapeutic programmes or the provision of medical, psychological or psychiatric treatment for children, adolescents, their parents or other persons

261. As an accessory penalty, which can be applied in cases of gender-based or domestic violence, Cuban criminal law also stipulates that an aggressor may be prohibited from frequenting certain places at the discretion of the Court.

262. Information-sharing and awareness-raising activities have been systematically carried out to ensure that people, particularly women, know where to go and what rights they have if they find themselves in these situations.

263. There are courts in every municipality, and the Attorney General's Office represents vulnerable persons at this level of the judicial system. Collective law practices also make legal counsel available to the public at the municipal level as well.

264. In Cuba, a comprehensive public support system operates at all levels of the State and Government and through community-based and grass-roots organizations. Labour justice boards are in operation at the grass-roots level, and National Revolutionary Police units exist in all regions. The public is free to contact any of these authorities.

265. Awareness-raising and training activities for legal professionals, including judges, prosecutors and lawyers, are regularly carried out. The continuation of this work is a priority.

266. With regard to the recommendations made in paragraph 22, the Government wishes to emphasize that, as has been stated above, Cuban law and practice ensure the inadmissibility of coerced confessions.

267. There is no evidence that coercion, pressure, threats or blackmail are, or ever have been, used in Cuba to obtain statements or confessions from accused persons. Allegations of sleep deprivation, coercive methods, exposure to temperature changes and other procedures incompatible with the humanist and honourable nature of the Cuban Revolution are false.

268. During the reporting period, no case has been dismissed because evidence or testimony was submitted that had been obtained through coercion, or any other practice contrary to human dignity.

269. The initial and in-service training provided to law enforcement officials, prosecutors, lawyers and judges, which is addressed in the paragraphs below, covers the absolute prohibition of any method of coercion to obtain confessions from accused persons. The training curriculum also covers such matters as how to conduct oneself when questioning someone and how to detect and investigate a case involving a coerced confession.

270. With regard to the recommendations made in paragraph 23, as mentioned earlier in this report, the initial and in-service training of prosecutors, law enforcement officials, prison officers and law enforcement personnel in general is a priority.

271. These training courses, which are continually being refined, include specific training on international human rights legislation and, in particular, the Convention and the Istanbul Protocol. This is reflected in the standard procedures governing the work of law enforcement officials.

272. The Attorney General's Office, the People's Supreme Court and the National Union of Jurists of Cuba run diploma and postgraduate training courses every year for judges and prosecutors. These courses, which include forensic training offered by the Institute of Forensic Medicine, provide justice officials with a much broader range of professional training opportunities.

273. The results obtained in recent years have laid the groundwork for a progressively more rigorous training programme rooted in practical experience. These initial and in-service training courses equip judges and prosecutors, particularly in the case of ones who are just taking up their duties, with the skills required for the proper performance of their work.

274. The training of the Cuban police force has been continuously improved. These training programmes have been developed in step with the reorganization of operations in order to ensure that they are consistent with the demands put upon members of the police force. Grass-roots sociocultural and educational models are emerging which, together with the improved technology used by the police, facilitate the training of a more integrated force.

275. Different study programmes have been devised for the various training levels, from basic to advanced. Their aim is to firmly instil proper modes of behaviour so that officers will display appropriate professional conduct in line with the socialist legal order and the humanist ethic of the Cuban Revolution.

276. The topics covered by these study programmes are not limited to law enforcement; the curricula are reinforced with closely linked disciplines such as law, social psychology and the human sciences. Special attention is given to questions of civil, criminal and international law to ensure that officers fully enforce laws that protect fundamental human rights.

277. Cuban police officers who successfully complete their training are deeply committed to their profession and to society. They exhibit a strong sense of discipline, exemplary moral conduct and professionalism in the service they render to the community and individual citizens.

278. The security officers in charge of detainees, accused persons and convicted prisoners receive appropriate, in-depth professional training. These officers are required to observe the Code of Ethics and Disciplinary Rules, which explicitly include the prohibitions referred to in article 2 of the Convention against Torture.

279. Prison officers and the staff of investigative agencies receive suitable professional training concerning the scope and type of criminal conduct that may constitute an act of torture or other cruel, inhuman or degrading treatment or punishment.

280. In Cuba, the principle that patients' physical and mental health should be safeguarded irrespective of their personal characteristics or traits is instilled in doctors and health-care staff. Thus, all persons in prison or detention receive the same quality of medical assistance as persons who are not in custody. Public Health Act No. 41 of 1983 serves as the legal basis for the training of health-care staff.

281. The evaluation of the effectiveness and impact of these programmes is conducted in accordance with the general regulations issued by the Ministry of Education, the Ministry of Higher Education and the Ministry of the Interior.

282. These regulations provide for the regular analysis of students' academic and disciplinary records, the adoption of measures necessary to maintain the required standards, and ongoing monitoring and evaluation of the quality of instruction with the aim of ensuring that new professionals receive a good education that serves the interests of society and the institution.

283. With regard to the recommendations made in paragraph 24, the Government wishes to emphasize that the right to seek and obtain redress or compensation is guaranteed in Cuba.

284. The compensation awarded by Cuban courts in civil liability cases is governed by article 83 of the Civil Code.

285. Both in cases where liability arises from the commission of an offence and in cases where it is determined to exist on the basis of a claim filed in a civil lawsuit, the award is established in the final judgment. The sums of money to be awarded to the affected parties are determined on the basis of the appraisal of damages carried out as part of the proceedings, the arguments put forward by the victims themselves and the dictates of logic and reason.

286. It should be noted that receipt of compensation for injury or redress for material or moral harm is contingent upon the issuance of a judgment to that effect in criminal proceedings.

287. The Compensation Fund is the mechanism by which the State indemnifies victims. This mechanism is used for all offences, including those related to the acts defined in the Convention. To date, therefore, it has not been considered necessary to establish a compensation fund for victims of torture and ill-treatment.

288. With regard to the recommendation made in paragraph 25, Cuba has a working system in place for the promotion and protection of human rights. That system produces tangible results and fully reflects the aspirations and requirements of the population. At present, there are no plans to modify this system.

289. Given that there is no single model for the establishment of national human rights institutions, the priority for Cuba will continue to be to ensure that, irrespective of the form that they take, the mechanisms designed for this purpose achieve the goal of helping to maintain and expand guarantees for the enjoyment of all human rights by all citizens.

290. With regard to the recommendation made in paragraph 26, the Government is in the process of refining its system for the compilation of statistics on offences, public security and justice, which is managed by the National Statistics and Information Office. Work is under way to harmonize these statistics with the International Classification of Crime for Statistical Purposes adopted by the United Nations Office on Drugs and Crime in 2015.

291. Steps will be taken to ensure that statistical data-collection systems will generate data that are as disaggregated as possible.

292. The Ministry of the Interior has internal rules that govern the operation of the system used for cross-checking, investigating and following up on cases. This automated judicial operating system is designed for use in monitoring and following up on complaints and provides a basis for evaluating and analysing trends in criminal behaviour in Cuba.

293. The Attorney General's Office has an automated system for compiling data on criminal offences.

294. Following the enactment of Decree-Law No. 281 of 8 February 2011 on the Government Information System, technical committees have been established to improve the collection, analysis and dissemination of data.

295. With regard to the recommendation made in paragraph 28, and as stated earlier in the report, Cuba has an extensive and participatory inter-institutional system for receiving, processing and responding to reports and complaints of any violation of citizens' rights.

296. To date, therefore, it has not been considered necessary to make the declarations provided for in articles 21 and 22 of the Convention. The Government respectfully reminds the Committee that the making of such declarations is a matter of national sovereignty and that, given the non-binding nature of articles 21 and 22, the power to make sovereign decisions about such matters rests with Governments.

297. With regard to the recommendation made in paragraph 29 concerning the ratification of international human rights instruments, the Government continues to review the international instruments to which Cuba is not a party, including the two human rights covenants. A sovereign decision to ratify these instruments will be taken when conditions are such that the State's actions in these areas will not be subjected to political manipulation or targeting. However, the fact that these instruments have not yet been ratified has not prevented Cuba from complying with their spirit and letter, both in the country's internal affairs and in its international dealings, in keeping with its consistent practice of observing and respecting all human rights.

298. With regard to paragraph 30, the Government would like to inform the Committee that a number of steps have been taken to disseminate, not only the report and the previous concluding observations, but also the Convention and other international human rights instruments.

299. The previous report has also been published on the website of the Ministry of Foreign Affairs. A number of important NGOs, including the United Nations Cuban Association, have also published the report and disseminated the outcome of the review. The results of the review have been discussed with NGO representatives at a number of meetings, workshops and seminars. An online forum on human rights was conducted at which the recommendations received during the universal periodic review were analysed, along with other recommendations made by human rights treaty bodies. Participants in the forum included representatives of the Government, civil society, religious denominations, women, teachers and medical associations.

300. Mention should be made of the "For a Right-Side-Up World" programme, which is headed up by the Ministry of Justice and supported by UNICEF. This programme, in which a number of institutions are participating, promotes a culture of rights and disseminates the main international instruments associated with children and adolescents.

301. Cuba has a strategy in place for educating the public about the law with a view to cultivating a heightened legal awareness among all Cuban citizens and so enabling them to understand and defend the basic principles and guarantees set forth in the Constitution.

302. The request made by the Committee in paragraph 31 has been addressed by the Government; the common core document (HRI/CORE/CUB/2016) has been updated.

303. Lastly, the Government wishes to draw the Committee's attention to the fact that the information requested in paragraph 32 has been included in the present report.
