



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

Distr.: General
19 December 2023
English
Original: Spanish

Committee against Torture

Concluding observations on the third periodic report of Costa Rica*

1. The Committee considered the third periodic report of Costa Rica¹ at its 2041st and 2044th meetings,² held on 1 and 2 November 2023, and adopted the present concluding observations at its 2066th meeting, held on 21 November 2023.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this allows for a more focused dialogue between the State party and the Committee. However, it notes that the periodic report was submitted more than seven years after the deadline given following the adoption of the list of issues prior to the submission of the third periodic report of Costa Rica.³

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation and the information provided in response to the questions and concerns raised during the consideration of the report.

B. Positive aspects

4. The Committee welcomes the ratification of or accession to the following international human rights instruments by the State party:

(a) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2014;

(b) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2014;

(c) The International Convention for the Protection of All Persons from Enforced Disappearance, in 2012.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, in particular:

(a) The updating of articles 71 (g) and 72 of the Criminal Code with the objective of including the gender perspective in sentencing, in 2019;

* Adopted by the Committee at its seventy-eighth session (30 October–24 November 2023).

¹ CAT/C/CRI/3.

² See CAT/C/SR.2041 and CAT/C/SR.2044.

³ CAT/C/CRI/Q/3.



(b) The addition of chapter VIII on access to justice to Act No. 7600 on Equal Opportunities for Persons with Disabilities, in 2019;

(c) The updating, by Decree No. 40849-JP, of the national prison system regulations, whose article 16 prohibits torture and cruel, inhuman or degrading treatment or punishment, in 2018;

(d) The adoption of Act No. 9525, whereby article 56 bis of the Criminal Code was amended to afford judges greater latitude to make use of community service as an alternative to pretrial detention and custodial sentences, in 2018;

(e) The enactment of Act No. 9582 of 2018, the Restorative Justice Act;

(f) The adoption of Act No. 9593 of 2018 on Access to Justice for Indigenous Peoples;

(g) The adoption of Act No. 9271 of 2016 on the Use of Electronic Monitoring Devices in Criminal Justice, in order to regulate the wearing of electronic devices as an alternative to deprivation of liberty;

(h) The amendment of article 1 of the Constitution by Act No. 9305, establishing the multi-ethnic and pluricultural nature of the country with the aim of promoting respect for cultural diversity, in 2015;

(i) The enactment of Act No. 9095 of 2012, the Trafficking in Persons Act, which established the National Coalition against Smuggling of Migrants and Trafficking in Persons, and the adoption of its implementing regulations by Decree No. 39325, in 2015;

(j) The adoption of Act No. 8688 of 2008 establishing a national system for addressing and preventing violence against women and domestic violence, and of its implementing regulations pursuant to Decree No. 39208-MP-MCM, in 2015;

(k) The enactment of Act No. 9204 of 2014 establishing the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(l) The adoption of Act No. 8720 of 2009 on the Protection of Victims, Witnesses and Other Parties Involved in Criminal Proceedings;

(m) The adoption of Act No. 9161 of 2013, which introduced in Act No. 8204, which replaced in its entirety the previous law on narcotic drugs, psychotropic substances, unauthorized drugs, related activities, money-laundering and the financing of terrorism, an article 77 bis on the application of criminal penalties for drug trafficking offences committed by women, allowing for sentences of alternatives to imprisonment under certain circumstances.

6. The Committee welcomes the initiatives undertaken by the State party to modify its policies and procedures in order to afford greater human rights protection and to apply the Convention, in particular:

(a) The adoption of the national strategy to combat sexual harassment against women 2023–2026, the “Gender Road Map”;

(b) The adoption of the National Policy for a Society Free from Racism, Racial Discrimination and Xenophobia 2014–2025;

(c) The introduction of the System of Registration, Communication and Comprehensive Care for Victims of Institutional Violence in Prisons, in 2022;

(d) The adoption of the national chapter of the comprehensive refugee response framework in order to address all issues related to refugees, in 2018;

(e) The adoption of the Comprehensive Migration Policy 2013–2023 and the National Integration Plan 2018–2022;

(f) The adoption of the National Policy for Addressing and Preventing Violence against Women of All Ages 2017–2032;

- (g) The adoption of the Immediate Response Team protocol for the identification and formal recognition of trafficking victims, in 2015;
- (h) The publication of the “Manual for the inter-institutional care of exploited children: sexual exploitation, trafficking, child labour and hazardous work”, in 2015;
- (i) The establishment of the Observatory on Gender-based Violence against Women and Access to Justice, in 2014;
- (j) The establishment of the National Fund against Trafficking in Persons and Smuggling of Migrants, in 2013;
- (k) The establishment by Decree No. 35144-MG-MTSS of 2009 of the Immediate Response Team as a specialized inter-institutional body responsible for activating measures to meet the immediate care needs of trafficking victims and their dependants.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations,⁴ the Committee requested the State party to provide information on the follow-up given to the recommendations regarding pretrial detention, the use of alternative measures to deprivation of liberty, the principle of non-refoulement, the administrative detention of immigrants, and the investigation and prosecution of cases of torture.⁵ The Committee regrets that, although the rapporteur for follow-up to concluding observations sent a reminder to the State party on 12 November 2009, it received no response from the State party under the procedure for follow-up to concluding observations. In the light of the information contained in the State party’s third periodic report on the action taken in follow-up to the above recommendations, the Committee is of the view that they have not yet been fully implemented. These pending issues are covered in paragraphs 12 and 13, 14 and 15, 24 and 25 and 30 and 31 of the present document.

Definition of torture

8. The Committee takes note with interest of Act No. 10213 of 2022 and the amendments the Act has made to the definition of the crime of torture in article 381 bis of the Criminal Code. Although the Committee considers these amendments to be an important step forward in that they cover situations not explicitly addressed by the previous legislation (article 123 bis of the Criminal Code) – such as torture inflicted for any reason based on discrimination of any kind, incitement to torture, consent to torture or the order to commit torture given by a public official – and in that they establish sentences of 3 to 15 years’ imprisonment for the crime of torture, the Committee is concerned that the new article 381 bis of the Criminal Code provides for a minimum sentence of only 3 years and does not refer specifically to acts of torture committed for the purpose of intimidating, coercing or obtaining information or a confession from a third person. Nor does article 381 bis establish that the crime of torture may be committed not only at the instigation of a public official but also at the instigation of or with the consent or acquiescence of another person acting in an official capacity. Lastly, the Committee regrets that it has not received any information on criminal provisions that expressly provide for attempted torture. In this regard, the Committee draws the State party’s attention to its general comment No. 2 (2007) on the implementation of article 2, in which the Committee notes that serious discrepancies between the Convention’s definition and that incorporated into domestic law create actual or potential loopholes for impunity⁶ (arts. 1 and 4).

9. **The State party should ensure that all forms of torture are prohibited in accordance with the definition contained in article 1 of the Convention, including acts of torture committed for the purpose of intimidating, coercing or obtaining information**

⁴ CAT/C/CRI/CO/2, para. 29.

⁵ Ibid., paras. 5–7, 10 and 12.

⁶ Para. 9.

or a confession from a third person, attempted torture, and acts of torture inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. The Committee recommends that the State party ensure that the offence of torture is punishable by appropriate penalties which take into account its grave nature, in accordance with article 4 (2) of the Convention.

Incommunicado detention

10. The Committee notes with concern that incommunicado detention may be imposed for periods of up to 10 consecutive days, in accordance with article 261 of the Code of Criminal Procedure. However, the Committee notes that, under the same article, the right of the detainee to communicate with his or her lawyer would not be affected in such cases (art. 2).

11. The Committee urges the State party to consider abolishing incommunicado detention and to ensure that all detained persons benefit from all fundamental legal safeguards from the outset of deprivation of liberty, including the right to inform a relative or another person of their choosing about their deprivation of liberty.

Pretrial detention

12. The Committee remains concerned about the excessive use of pretrial detention by the State party's judicial authorities. According to the information received, the application of this measure is almost automatic in the case of offences related to drug trafficking (art. 2).

13. Bearing in mind its previous concluding observations,⁷ the Committee urges the State party to ensure scrupulous respect for the rules governing pretrial detention and to ensure that it is used only in exceptional circumstances and for limited periods, in accordance with the law, taking into account the principles of necessity and proportionality and the presumption of innocence. The State party should make greater use of alternatives to pretrial detention, as provided for in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

Conditions of detention

14. While appreciating the State party's efforts to reform its prison policy in order to reduce prison overcrowding, mainly through the use of alternative measures to imprisonment and the opening of new prison units or facilities, the Committee is concerned about reports of shortcomings in this regard, in particular high occupancy rates and inadequate conditions of detention in several prisons. The Committee also remains concerned about reports that the strict separation of persons being prosecuted or awaiting trial and convicted persons is not always ensured. It is also concerned about the inadequate provision of health care in detention centres, including mental health care and specialized medical care and treatment when necessary. The Committee takes note of the adoption in 2018 of the "Scientific and Humanist Prison Policy" and the "Building Opportunities" Prison Employment Strategy, as well as the introduction in 2023 of the Model of Social and Employment Integration for the Prison Population, although it remains concerned at the lack of available information on beneficial, educational, recreational or reintegration-oriented activities in prisons (arts. 2, 11 and 16).

15. The State party should:

(a) Continue its efforts to reduce overcrowding in prisons, mainly by making use of alternatives to deprivation of liberty, both before and after trial, in which regard the Committee draws the State party's attention to the Tokyo Rules and the Bangkok Rules, and make the necessary improvements in detention facilities by taking urgent measures to rectify any shortcomings related to general living conditions and health care in prisons, including specialized medical care, in order to bring them into full

⁷ CAT/C/CRI/CO/2, para. 5.

compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);

(b) Ensure the strict separation of prisoners awaiting trial and persons serving a sentence;

(c) Continue to strengthen rehabilitation and reintegration programmes in all places of deprivation of liberty, especially by promoting educational and recreational activities and social and employment integration programmes.

Women in detention

16. While noting the explanations provided by the State party on the rules governing deprivation of liberty in women's prisons, the Committee notes with concern that the specific needs of women prisoners are not adequately addressed. The Committee echoes the concerns of other treaty bodies in this regard,⁸ in particular those relating to the inadequate material conditions in which women deprived of their liberty live, including in the Vilma Curling Closed Rehabilitation Centre, and the shortcomings of the sexual and reproductive health services provided for women prisoners. It is also concerned at the high rates of incarceration of women for drug offences, although it takes note of the measures taken by the State party to address this issue (arts. 11 and 16).

17. The State party should ensure that the specific needs of women deprived of their liberty are met and that the conditions of detention of women are in conformity with the Nelson Mandela Rules and the Bangkok Rules.⁹ The Committee urges the State party to rectify the shortcomings of the health services provided for women prisoners. The State party is also invited to take into account the International Guidelines on Human Rights and Drug Policy in the implementation of its prison and criminal policy on drugs.

Prison violence and deaths in custody

18. The Committee takes note with interest of the System of Registration, Communication and Comprehensive Care for Victims of Institutional Violence in Prisons adopted by the State party in 2022. However, the Committee regrets that it does not have full information on the outcomes of investigations into deaths in custody that occurred during the period under review. The Committee also expresses its concern at the risks posed by the shortage of technical and security staff in prisons, as acknowledged by the State party's delegation during the dialogue with the Committee, and appreciates the additional information provided on plans to create at least 200 posts for prison officers in 2024 (arts. 2, 11 and 16).

19. The State party should:

(a) Continue to implement the System of Registration, Communication and Comprehensive Care for Victims of Institutional Violence in Prisons and report to the Committee on its impact, including that of strategies and programmes for the prevention of suicide and self-harm, and allocate sufficient resources for its implementation;

(b) Adopt measures to ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, taking into account the Minnesota Protocol on the Investigation of Potentially Unlawful Death;

(c) Compile and publish detailed information on deaths in custody and their causes;

(d) Hire and train a sufficient number of prison officers to improve security, reduce violence and ensure proper treatment of inmates.

⁸ CEDAW/C/CRI/CO/8, para. 43; and CAT/OP/CRI/ROSP/1, paras. 82–85.

⁹ CEDAW/C/CRI/CO/8, para. 44.

Juvenile justice

20. The Committee is concerned that the age of criminal responsibility in Costa Rica is 12 years, which is not in line with international standards. It is also concerned that children are being held in pretrial detention for periods of up to three months, which can be extended (Juvenile Criminal Justice Act, arts. 58 and 59).¹⁰ Furthermore, the Committee regrets that the State party has not provided information on the measures taken to respond to the allegations of ill-treatment of children deprived of their liberty reported by the Committee on the Rights of the Child¹¹ and to effectively ensure that similar acts are not repeated in the future. The Committee is also concerned about reports of deteriorating material conditions at the Zurquí Juvenile Training Centre and the negative impact this situation has on the care received by inmates and on reintegration programmes (art. 11).

21. **The Committee urges the State party:**

(a) **Adopt the necessary legislative and other measures to raise the minimum age of criminal responsibility and ensure the full application of juvenile justice standards;**¹²

(b) **Ensure the decent treatment of children deprived of their liberty and the maintenance of adequate detention conditions in juvenile training centres;**

(c) **Take appropriate measures to ensure that all cases of violence against, or ill-treatment of, children deprived of their liberty are promptly and impartially investigated by an independent body;**

(d) **Ensure that pretrial detention is used as a last resort and for the shortest possible period of time, applying alternative measures whenever possible (see rule 13 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and rules 1, 2, 17 and 18 of the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty).**

National preventive mechanism

22. While noting the numerous monitoring visits to places of deprivation of liberty carried out by the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment during the period under review, the Committee is concerned that this mechanism does not have sufficient financial and human resources, in particular specialized personnel, to be able to fully implement its mandate (arts. 2 and 11).

23. **The State party should:**

(a) **Ensure that the national preventive mechanism has sufficient financial resources and qualified personnel to carry out its work effectively in all types of places of deprivation of liberty, in accordance with the requirements of the Optional Protocol to the Convention;**

(b) **Ensure the effective follow-up and implementation of the recommendations made by the national preventive mechanism as part of its monitoring activities, in accordance with the guidelines on national preventive mechanisms adopted by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**¹³

Investigation of cases of torture and ill-treatment

24. According to information provided by the State party, 5,508 criminal cases were opened for complaints of abuse of authority between 2008 and 2018, 16 complaints of torture were registered between 2008 and 2022 (14 cases of torture were handled by prosecutors' offices) and very few convictions were handed down. In this connection, the Committee is concerned that acts of torture may be punished as an abuse of authority, in which case the

¹⁰ CRC/C/CRI/CO/5-6, paras. 19 and 20.

¹¹ Ibid., para. 24.

¹² Ibid., para. 46.

¹³ CAT/OP/12/5, paras. 13 and 38.

penalties imposed would not take into account the gravity of these acts and victims would not have access to appropriate redress. In addition, the Committee takes note of the mechanisms available to persons deprived of their liberty who wish to file a complaint or report an incident, but regrets not having received information on measures to protect alleged victims and their families from possible reprisals (arts. 2, 11–13 and 16).

25. The State party should:

(a) **Ensure that all complaints of torture or ill-treatment are investigated promptly and impartially and ensure that the alleged perpetrators are duly prosecuted and, if found guilty, given a sentence commensurate with the gravity of their acts, guaranteeing appropriate redress for the victims or their families;**

(b) **Ensure that the authorities open an investigation ex officio whenever there are reasonable grounds for believing that an act of torture or ill-treatment has been committed;**

(c) **Ensure that, in cases of torture and/or ill-treatment, suspected perpetrators are immediately suspended from duty for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the act they are alleged to have committed, take reprisals against the alleged victim or obstruct the investigation; and ensure that complainants are protected against any risk of retaliation;**

(d) **Ensure that justice officials continue to receive the necessary training to enable them to correctly determine the criminal offence applicable in cases of torture or ill-treatment;**

(e) **Collect and publish statistical data on complaints, investigations, prosecutions, convictions and sentences imposed in cases of torture and ill-treatment.**

Redress

26. Recalling its general comment No. 3 (2012) on the implementation of article 14, the Committee regrets that the State party has not provided comprehensive information on redress and compensation measures ordered by the courts or other State bodies and actually provided to victims of torture or their families during the period under review (art. 14).

27. The State party should ensure that all victims of torture obtain redress, including the enforceable right to fair and adequate compensation and the means for as full a rehabilitation as possible. The State party should also ensure continuous monitoring and evaluation of the effectiveness of rehabilitation programmes for victims of torture, and collect data on the number of victims and their specific rehabilitation needs. The Committee invites the State party to consider contributing to the United Nations Voluntary Fund for Victims of Torture.

Training

28. The Committee takes note of the information provided by the State party on human rights training for judges, prosecutors and other public officials and on a training day for prison medical personnel on the detection and documentation of cases of torture and ill-treatment in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). However, it notes the shortcomings detected by the Subcommittee on Prevention of Torture in relation to the medical assessments carried out by both forensic doctors and the medical personnel attending to persons deprived of their liberty.¹⁴ The Committee is also concerned about the limited information available on the evaluation of the effectiveness of existing training programmes for public officials (art. 10).

¹⁴ CAT/OP/CRI/ROSP/I, paras. 17 and 18.

29. **The State party should:**

(a) **Ensure that all physical and psychological assessments conducted on alleged victims of torture comply with the principles, procedures and guidelines contained in the revised Istanbul Protocol;**

(b) **Ensure that all relevant personnel are well acquainted with the provisions of the Convention, especially the absolute prohibition of torture, and receive specific training to enable them to identify and document cases of torture in accordance with the Istanbul Protocol;**

(c) **Provide detailed information on the results of any assessments of the impact of training programmes on the incidence of torture and ill-treatment in the State party.**

Non-refoulement

30. The Committee recognizes the migration-related challenge faced by the State party, which, according to the data provided by the delegation, records an average of 6,000 persons transiting through its territory every day, and acknowledges its impact on the national institutions responsible for this issue. It therefore welcomes the State party's efforts to respond to the increase in the number of migrants and asylum-seekers in recent years and recognizes its contribution to international cooperation in this area. However, the Committee is concerned at:

(a) The recent changes to the asylum system made pursuant to Executive Decree No. 43810 of 2022, which establishes a 30-day deadline from the date of entry into the territory of the State party for the submission of asylum applications; introduces the concept of a "safe third country", which implies the automatic inadmissibility of asylum applications; creates a new procedure for processing applications deemed to be unsubstantiated; and imposes restrictions on asylum-seekers' right to work. This reform, coupled with the difficulties in gaining access to legal advice and the long processing times for applications, would appear to be hindering access to the asylum procedure and increasing the risk of refoulement without due process. The Committee notes that the delegation of the State party highlighted during the dialogue that the Constitutional Chamber of the Supreme Court of Justice had in September 2023 declared the reform carried out pursuant to the aforementioned decree to be unconstitutional, but without providing further details;

(b) Information pointing out the lack of transparency in the mechanisms for processing asylum applications submitted at the border and the high degree of discretion, not provided for in the law, afforded to officers of the professional immigration police who decide on the referral of applications to the competent central authority;

(c) Reports of asylum-seekers being held in inadequate conditions at the Juan Santamaría International Airport border post for periods of up to 52 days, which could constitute inhuman or degrading treatment. In this regard, the Committee takes note of the information provided by the delegation regarding the preparation of a procedural manual governing the use of the holding facility;

(d) The lack of complete information on administrative detention measures imposed on foreign nationals awaiting deportation and the maximum duration of such measures, and on the number of unaccompanied migrant children in the country (arts. 2, 3, 12, 13 and 16).

31. **The State party should:**

(a) **Ensure that no one may be returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal and foreseeable risk of being subjected to torture and provide precise information on the judgment on the total or partial unconstitutionality of Executive Decree No. 43810 of 2022;**

(b) **Ensure that all persons on the territory of the State party or under its jurisdiction, including those held at airports and other border crossing points, have effective access to the refugee status determination procedure;**

(c) **Ensure that asylum-seekers have the opportunity to have their case examined individually and enjoy procedural protection from refoulement and collective return;**

(d) **Ensure that procedural safeguards against refoulement are in place and that effective remedies with respect to refoulement claims in removal proceedings are available, including reviews of rejections by an independent judicial body, in particular on appeal;**

(e) **Promote the training of migration officials at border posts in accordance with international standards;**

(f) **Strengthen mechanisms to promptly identify victims of torture and trafficking among asylum-seekers and migrants at borders;**

(g) **Ensure adequate detention conditions and decent treatment in all places of detention or internment of asylum-seekers and immigrants, adopt administrative measures to regulate the use of space at Juan Santamaría International Airport in accordance with international standards, and ensure access to legal assistance and interpreters.**

Trafficking in persons

32. The Committee appreciates the efforts made by the State party to combat trafficking in persons for the purposes of sexual exploitation and forced labour. In particular, it takes note of the work done by the Immediate Response Team, the conclusion of binational agreements aimed at promoting safe labour migration flows, and intelligence work to prevent trafficking. The Committee regrets, however, the shortcomings in identifying victims of trafficking, especially among migrants, that have been highlighted in several reports, and the higher incidence of trafficking cases detected among persons in vulnerable situations, including members of Indigenous Peoples, people of African descent and lesbian, gay, bisexual and transgender persons. In addition, it notes that the number of trafficking cases investigated and prosecutions brought is very small in comparison with the incidence of the problem in the State party.¹⁵ The Committee also expresses its concern at reported reductions in the budgets allocated to trafficking prevention and victim support programmes as a result of the financial austerity measures in effect since 2020¹⁶ (arts. 2, 12, 13 and 16).

33. The State party should:

(a) **Continue its efforts to prevent and combat trafficking in persons, providing protection to victims and ensuring the allocation of sufficient funds for the implementation of prevention and victim assistance programmes;**

(b) **Ensure that trafficking cases are thoroughly investigated, that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims obtain full redress, including adequate compensation and rehabilitation;**

(c) **Improve the training of law enforcement officers and other public officials through mandatory training on the identification of potential trafficking victims;**

(d) **Adopt effective mechanisms for the identification and referral of trafficking victims who may be in detention centres for immigrants in an irregular situation and asylum-seekers.**

Gender-based violence

34. The Committee takes note of the progress made through the amendment in 2021 of the Violence against Women Act and the Criminal Code, other positive measures to combat and respond to violence against women, and the increase in convictions for offences involving sexual and gender-based violence during the period under review.¹⁷ However, it

¹⁵ A/HRC/54/30/Add.1, paras. 36–42, 51 and 54.

¹⁶ CEDAW/C/CRI/CO/8, paras. 25 and 26.

¹⁷ CAT/C/CRI/3, paras. 101 and 142–147 and annex 18.

notes with concern that the incidence of such cases¹⁸ remains high and that, according to information provided by the delegation, these offences were the second most common cause of arrest in 2022, demonstrating the magnitude of the problem (arts. 2 and 16).

35. The State party should ensure that all cases of gender-based violence, particularly those involving acts or omissions by State authorities or other entities which engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, are punished appropriately and that the victims receive redress, including adequate compensation. It should also maintain public awareness and information campaigns that promote existing reporting mechanisms.

Xenophobic attacks and other hate crimes

36. The Committee expresses its concern at xenophobic attacks and other hate crimes against immigrants, asylum-seekers and refugees, and against lesbian, gay, bisexual and transgender persons, during the period under review. In this regard, the Committee takes note of the information provided by the delegation regarding tougher penalties for such offences under the Criminal Code, other administrative measures taken by the State party, and awareness-raising initiatives to mitigate the impact of these acts (art. 16).

37. In view of the commitment made by the State party in the framework of its last universal periodic review,¹⁹ the Committee urges the State party to continue to adopt legislative and other measures aimed at eradicating xenophobic attacks and other hate crimes. The State party should also ensure that perpetrators are promptly investigated, prosecuted and punished, and that victims are provided with protection and redress.

Violence against Indigenous persons, human rights defenders and environmental activists

38. The Committee remains concerned about reports documenting harassment and attacks against the lives and physical integrity of Indigenous persons, human rights defenders and environmental activists during the period under review.²⁰ While noting the information provided by the delegation on the State party's efforts in this area, including the victim and witness protection programme and the prosecution brought for the murder of Indigenous leader Jehry Rivera, the Committee notes with concern that, according to various sources, other cases of attacks and murders, including that of Indigenous leader Sergio Rojas in 2019, have reportedly been dismissed or remain unresolved (art. 16).²¹

39. The State party should continue to promote the necessary measures to prevent violence and protect the life and physical integrity of Indigenous persons, human rights defenders and environmental activists.

Abortion

40. The Committee echoes the concerns and recommendations of the Committee on the Elimination of Discrimination against Women regarding article 121 of the Criminal Code, which does not permit legal abortion in cases of rape, incest or severe fetal impairment.²² The Committee takes note of the explanations provided by the delegation concerning the adoption of a technical standard for the medical procedure related to article 121 of the Criminal Code and other measures aimed at the awareness-raising and training of medical personnel in this regard (arts. 2 and 16).

41. The State party is invited to consider the possibility of amending article 121 of the Criminal Code in order to decriminalize the voluntary termination of pregnancy in

¹⁸ Ibid., para. 141; and CEDAW/C/CRI/CO/8, paras. 23 and 24.

¹⁹ A/HRC/42/12, paras. 111.11–111.16, 111.19–111.38 and 111.57; see also A/HRC/42/12/Add.1.

²⁰ A/HRC/51/28/Add.1, paras. 40 and 47–50. See also the communications No. CRI 1/2019 and No. CRI 1/2020, available at: <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

²¹ See <https://www.ohchr.org/es/2019/03/costa-rica-murder-indigenous-leader-sergio-rojas-ortiz-condemned-un-experts?LangID=S&NewsID=24410>.

²² CEDAW/C/CRI/CO/8, paras. 33 and 34.

cases where carrying the pregnancy to term would cause considerable suffering to the woman, when the pregnancy is the result of rape or incest and where the fetus is severely impaired or is not viable. It should also ensure that pregnant women and girls have adequate access to abortion services and post-abortion care.

Follow-up procedure

42. The Committee requests the State party to provide, by 24 November 2024, information on follow-up to the Committee's recommendations on pretrial detention, conditions of detention, the investigation of cases of torture and ill-treatment, and non-refoulement (see paras. 13, 15 (a), 25 (a) and 31 (a) above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues

43. The Committee invites the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.

44. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.

45. The Committee requests the State party to submit its next periodic report, which will be its fourth, by 24 November 2027. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its fourth periodic report under article 19 of the Convention.
