



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

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Committee against Torture

List of issues prior to submission of the initial report of Lesotho*

Specific information on the implementation of articles 1–16 of the Convention

Articles 1 and 4

1. Please provide detailed information on the measures taken to adopt a definition of torture in domestic criminal law that is consistent with article 1 of the Convention and that includes appropriate penalties, taking into account the grave nature of such acts. Please include information on the measures taken to explicitly criminalize attempts to commit torture and acts constituting complicity or participation in torture and to define them as acts of torture. If there is no such definition, please provide information on criminal or legislative provisions covering all cases of torture and the associated penalties.
2. Please indicate whether the State party has taken steps to ensure that acts amounting to torture are not subject to any statute of limitations.
3. Please provide information on the steps that the State party intends to take in order to ensure that the Amnesty Bill passed in November 2016, which granted amnesty for a broad range of crimes, including murder and kidnapping committed between 1 January 2007 and 31 December 2015, and which would enable impunity for serious human rights violations, is compatible with its obligations under the Convention.
4. Please provide information on whether the Constitution continues to allow for the derogation of rights¹ and whether any domestic legislation or practices,² including customary laws, may be contrary to the object and purpose of the Convention.³ Please provide information on any measures taken to bring all laws into full conformity with the Convention.⁴
5. While having taken note of the non-self-executing character of international conventions in the State party,⁵ please provide information on any steps taken to ensure the approval of the Convention by the National Assembly⁶ and to incorporate it into domestic legislation.⁷ Please indicate whether any structures, mechanisms or systems to

* Adopted by the Committee at its sixty-sixth session (23 April–17 May 2019).

¹ CCPR/C/79/Add.106, para. 8.

² Ibid., para. 2.

³ CEDAW/C/LSO/CO/1-4, para. 15.

⁴ CCPR/C/79/Add.106, para. 9; A/HRC/29/9, para. 113.47.

⁵ CERD/C/304/Add.99, para. 6.

⁶ CMW/C/LSO/CO/1, para. 7.

⁷ Ibid., para. 8.



institutionalize the effective implementation of the Convention have been put in place⁸ to ensure that national laws and policies are in line with the provisions of the Convention. Please indicate whether the Law Reform Commission⁹ has also taken measures to align personal and customary law with the provisions of the Convention.¹⁰

6. Please indicate whether the Convention could or has been directly invoked before domestic courts. Please provide specific examples and statistical data on cases, if any, in which the provisions of the Convention have been invoked before the courts.

Article 2¹¹

7. Please provide information on the measures taken by the State party and on the procedures in place to ensure that:

(a) All detainees enjoy in law and in practice all legal safeguards from the outset of their deprivation of liberty, in particular the rights to have access to a lawyer, to request and receive an examination by an independent physician of their choice, to be informed of their rights and of the charges against them, to notify a relative or any other person of their choice of their arrest, and to be brought promptly before a judge, regardless of the reasons for their arrest;

(b) Detention registers are kept scrupulously up to date;

(c) Legal aid is available to the most disadvantaged, including children;¹²

(d) Detained persons have the right to contest their detention before a judge or avail themselves of another habeas corpus procedure;

(e) Detainees deprived of fundamental legal safeguards can avail themselves of a complaints procedure; and that there are commensurate penalties for officials who fail to afford fundamental legal safeguards to persons deprived of their liberty. Please also provide statistical data in this connection.

8. With regard to pretrial detention, please provide information on whether suspects are detained in practice for periods longer than the 48 hours before being brought before a magistrate, as prescribed by law.¹³ Please inform the Committee about the measures taken to put an end to prolonged pretrial detention.

9. Please provide information on whether the State party has ensured that an order from a superior-ranking officer cannot be invoked as justification of torture.

10. Please provide information on the specific steps taken by the State party to put an end to the practice of arbitrary arrest and politically motivated prosecution, such as detention of opposition party members, journalists and members of the Lesotho Defence Force. Please explain the practice of “open arrest”. Please describe any measures taken to end impunity for acts of torture and ill-treatment by ensuring accountability and justice for the victims.

⁸ CRC/C/LSO/CO/2, para. 6 (a).

⁹ CEDAW/C/LSO/CO/1-4, para. 5.

¹⁰ *Ibid.*, para. 13 (b).

¹¹ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

¹² CRC/C/LSO/CO/2, para. 59 (g).

¹³ CCPR/C/79/Add.106, para. 18.

11. Please provide information on the status of the Human Rights Commission Bill (2015)¹⁴ and on any specific steps taken to establish a national human rights commission in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).¹⁵ While awaiting the ratification of the Optional Protocol to the Convention, please indicate whether the Human Rights Commission Bill (2015) will enable the Commission to monitor places of detention. In addition, please indicate whether international bodies, such as the International Committee of the Red Cross and the African Commission on Human and Peoples' Rights, have been invited by the State party to visit places of detention, as indicated in the context of the universal periodic review, pending ratification of the Optional Protocol to the Convention and the establishment of a national preventive mechanism.

12. Please provide information on the legislative, administrative and other measures taken to eliminate all forms of violence against women, including domestic violence¹⁶ and rape, in particular marital rape, pursuant to the adoption of the Sexual Offences Act (2003),¹⁷ as well as on the status of the Domestic Violence Bill.¹⁸ Please provide information on the protection and support services available to victims of gender-based, and in particular domestic and sexual, violence.¹⁹ Please provide statistical data, disaggregated by the victims' age and ethnic origin or nationality, on the number of complaints of gender-based, domestic and sexual violence and the investigations, prosecutions, convictions and punishments resulting from those complaints since the entry into force of the Convention for the State party. Please indicate whether the Lapeng Care Centre remains the only centre in the country providing services to victims of violence,²⁰ whether any additional centres have been built and whether there are any plans to build more centres throughout the country.

13. Is the State party considering the possibility of increasing the minimum age of criminal responsibility from 10 years²¹ to an acceptable level in order to bring it into line with international standards?

14. Please provide information on the measures taken by the State party to ensure the independence of the judiciary, including by guaranteeing the tenure of the judges in office and severing administrative and other ties with the executive branch.

15. Please provide up-to-date statistics on the complaints, investigations, prosecutions, convictions and sentences imposed on the perpetrators of criminal acts relating to harmful traditional practices, and on the assistance and compensation afforded to victims. Please indicate the measures that the State party has taken to strengthen its efforts to combat harmful traditional practices and any steps taken to make them punishable under law.²²

16. Please indicate whether women with disabilities continue to be subjected to forced sterilization. Please provide information on whether steps have been taken to increase the knowledge of and access to affordable contraceptive methods throughout the country²³ and to make abortion legal in situations in which the life of the woman is in danger,²⁴ and not only in cases in which the woman concerned is of unsound mind or in cases of rape or incest.

17. Please provide up-to-date information, disaggregated by the victims' age and ethnic origin or nationality, on the number of complaints, investigations, prosecutions, convictions and sentences in relation to cases of human trafficking during the reporting period. Please also provide additional information on:

¹⁴ CMW/C/LSO/CO/1, para. 19.

¹⁵ CRC/C/LSO/CO/2, para. 14; A/HRC/29/9, para. 113.13.

¹⁶ A/HRC/29/9, para. 113.72.

¹⁷ CEDAW/C/LSO/CO/1-4, para. 4 (a).

¹⁸ A/HRC/29/9, para. 113.7.

¹⁹ CEDAW/C/LSO/CO/1-4, para. 22.

²⁰ Ibid.

²¹ CRC/C/LSO/CO/2, para. 59 (b).

²² CCPR/C/79/Add.106, para. 12.

²³ CEDAW/C/LSO/CO/1-4, para. 33 (c).

²⁴ CCPR/C/79/Add.106, para. 11.

(a) Any new legislation or measure that has been adopted to prevent, combat and criminalize trafficking in persons, including the implementation of the Anti-Trafficking in Persons Act (2011)²⁵ and the National Anti-Trafficking Action Plan adopted in July 2014;²⁶

(b) The measures adopted to ensure that victims of trafficking in persons have access to effective remedies²⁷ and repatriation;

(c) The signature of bilateral or subregional agreements with other countries, including neighbouring countries, to prevent and combat trafficking in persons.

Article 3

18. Please describe the measures taken to ensure that no person is returned to a country in which he or she would be at risk of torture. Please indicate the procedure followed when a person invokes the rights guaranteed under article 3 of the Convention and whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision. If so, please indicate whether such an appeal has suspensive effect.

19. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please indicate the measures taken by the State party to reduce any backlog that may exist with regard to asylum applications. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled during the period under review. Please provide details of the grounds on which they were sent back, including the list of countries to which they were returned. Please provide updated information on the type of appeal mechanisms that may exist, any appeals that have been made and the outcome of those appeals.

20. Please indicate the number of the occasions on which refoulement, extradition and expulsion were carried out by the State party during the reporting period on the basis of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures have been taken in such cases with regard to subsequent monitoring?

21. Please indicate whether migrant workers and members of their families who are the subject of criminal or administrative, including expulsion, proceedings are guaranteed access to consular and diplomatic assistance and to the due process of law.²⁸

22. Please provide information on any amendments to the laws of the State party aimed at introducing provisions to protect and grant nationality to abandoned children, as well as to the children of citizens of the State party who were themselves born abroad and who cannot pass on their Lesotho nationality to their children born abroad, which may lead to statelessness.²⁹

23. Please provide information on any steps taken to amend the domestic legal framework in order to introduce a statelessness determination procedure and gather statistics on the number of stateless persons in the country. Please indicate whether the State party has a refugee status determination procedure.

Articles 5–9

24. Please provide information on the legislative or other measures taken to implement article 5 of the Convention. Please indicate whether acts of torture are considered universal

²⁵ CEDAW/C/LSO/CO/1-4, para. 4 (e).

²⁶ A/HRC/29/9, para. 114.21.

²⁷ A/HRC/29/9, para. 113.63.

²⁸ CMW/C/LSO/CO/1, paras. 29 and 31.

²⁹ A/HRC/WG.6/21/LSO/2, para. 65.

crimes under national law, wherever they occur and whatever the nationality of the perpetrator or the victim.

25. Please inform the Committee of any extradition agreements concluded with other States and specify whether the offences referred to in article 4 of the Convention are included as extraditable offences in such agreements.

26. Please clarify what mutual judicial assistance treaties or agreements the State party has entered into with other entities, such as countries or international tribunals or institutions, and whether such treaties or agreements have led, in practice, to the transfer of any evidence in connection with prosecution concerning torture or ill-treatment. Please provide examples.

Article 10

27. Please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, prison staff and border guards are fully aware of the provisions of the Convention and know that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please indicate whether the State party has developed methodology to assess the effectiveness of training and educational programmes in reducing cases of torture and ill-treatment and, if so, please provide information on the methodology.

28. Please provide information on any steps taken to improve methods of investigation and to use those that rely on scientifically based evidence, including by developing training programmes on non-coercive interrogation techniques. Also, are the provisions of the Convention, and in particular the absolute prohibition of torture, part of the specific training and instruction provided to public officials, such as police and law enforcement officers, investigators, members of the judiciary, military officers and prison staff. Is there a system in place to vet cases of previous abuse?

29. Please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting the physical and psychological sequelae of torture, including specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Article 11

30. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or any arrangements for custody, in particular that may have been introduced, reviewed or revised since the entry into force of the Convention for the State party. Please indicate the frequency with which they are reviewed.

31. Please provide information on the specific measures taken by the State party to improve the material conditions in all places of detention throughout the country, including to reduce reported prison overcrowding, poor sanitation and inadequate medical care, ventilation, lighting, heating/cooling, bedding, access to potable water and food quality, as well as on any measures taken to increase the use of alternatives to imprisonment, both before and after trial. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rates of all places of detention. Please inform the Committee of the measures taken to address reported concerns regarding the conditions of detention and health-care provision in prisons, including for prisoners with HIV/AIDS or tuberculosis.

32. Please provide updated information about the situation and conditions of detention of Lesotho Defence Force soldiers whose children marched in protest against their reported cruel, inhuman and degrading treatment, which included solitary confinement, shackling and the denial of food and specialized medical treatment. Please indicate whether disciplinary measures such as solitary confinement are used as a measure of last resort,

imposed for as short a time as possible and carried out under strict supervision and judicial review.

33. Please provide information on the efforts by the State party to meet the special needs of minors, women and persons with psychosocial and mental disabilities in detention. Please clarify the policy regarding the use of solitary confinement and the application of means of restraint to prisoners. Please indicate the measures taken to ensure that men are separated from women, pretrial detainees from convicted prisoners and adults from minors in all places of detention, including in police stations.³⁰

34. Please provide information on the frequency of inter-prisoner violence, including any cases involving possible negligence on the part of law enforcement personnel, the number of complaints made in this regard and their outcomes, as well as on any preventive measures that have been taken.

35. Please indicate whether corporal punishment continues to be practised in places of detention, provided that medical doctors are present, and on any concrete steps taken to abolish corporal punishment both in law and practice.³¹

36. Please provide information on the outcome of any investigations and prosecutions relating to the shooting in July 2013 of 13 prisoners at Maseru Central Prison by correctional officers as punishment for allegedly embarking on a hunger strike.

37. Please provide statistical data regarding deaths in custody during the period under review, disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased and cause of death. Please provide information on the manner in which these deaths were investigated, the results of those investigations and the measures taken to prevent similar cases from occurring in the future. Please indicate whether relatives received compensation in any of the cases.

38. Please provide information on the institutional framework for the implementation of recommendations made by national and international bodies that carry out visits to places of detention, as mentioned during the examination of the State party under the universal periodic review.

39. Please provide information regarding consideration given by the State party to the ratification of the Optional Protocol to the Convention.³²

Articles 12–13

40. Please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality, and place of detention, on complaints regarding acts of torture, ill-treatment and excessive use of force, including with regard to police brutality, and on whether cases of police brutality continue to be unreported.³³ Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions applied. Please provide examples of relevant cases and/or judicial decisions.

41. Please indicate whether the State party plans to set up an independent and impartial body to investigate allegations of acts of torture and ill-treatment by members of the security forces and prison personnel. Please also provide information on the measures taken to establish an effective complaints mechanism for persons deprived of their liberty, to make them aware of its existence, and to ensure that complaints do not go through the prison authorities.

42. Please provide the Committee with information on the results of the investigation by a joint task force commissioned by the Prime Minister to investigate the circumstances of the killing by soldiers of Lieutenant-General Maaparankoe Mahao in June 2015 following his dismissal from the Lesotho Defence Force and on any additional investigations that may have been commissioned. Please also provide information on any investigation into the

³⁰ CRC/C/LSO/CO/2, para. 59 (f).

³¹ CCPR/C/79/Add.106, para. 20.

³² A/HRC/29/9, para. 114.1–114.7.

³³ A/HRC/WG.6/21/LSO/2, para. 21.

death, as the result of an unexplained accident, of the medical doctor who examined detained soldiers after their arrest.

Article 14

43. Please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to the victims of torture or their families during the period under review. Such information should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including for the treatment of trauma, and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

44. Please provide information on the concrete measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture or cruel, inhuman or degrading treatment. Please also provide information on the specific steps taken to end the reported use of torture and ill-treatment by police officers as an interrogation tool. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

45. Please explain whether acts of cruel, inhuman or degrading treatment or punishment have been defined and prohibited in domestic law.

46. Please provide information about the implementation of the Children's Protection and Welfare Act (2011)³⁴ and on any measures taken to explicitly prohibit by law corporal punishment of children in all settings, including at home, in alternative care settings, in day care and in penal institutions,³⁵ and on the steps taken to implement the prohibition of corporal punishment in schools.

47. Please provide information on the steps taken to prevent the worst forms of child labour,³⁶ such as herding and domestic work, and sexual exploitation, and on the efforts to receive, monitor and investigate reported cases of child exploitation.³⁷ Please also provide information about the specific policies and steps taken to deal with children living in street situations.³⁸ In addition, please inform the Committee of the measures taken against the recruitment of child soldiers, which amounts to deprivation of liberty, and whether the State party has envisaged launching a public information campaign to ensure that all members of the armed forces are aware of the international obligations of Lesotho to prevent the use and recruitment of child soldiers in armed conflicts.

48. Please report on the specific measures taken to prevent the sexual abuse of schoolgirls and girls engaged in domestic work, as well as on the steps taken to prevent physical and sexual violence against children, and in particular girls, to which they are exposed when collecting water, bathing or using toilets at night.³⁹

49. Please provide information on the measures taken to prosecute, punish and sanction persons or groups exploiting migrant workers or subjecting them to forced labour and abuse, especially in the informal economy.⁴⁰ Please also provide information on the steps taken to prevent the alleged ill-treatment and violence against Chinese and other migrant workers

³⁴ CEDAW/C/LSO/CO/1-4, para. 4 (f).

³⁵ CRC/C/LSO/CO/2, para. 26.

³⁶ A/HRC/29/9, para. 113.81.

³⁷ CRC/C/LSO/CO/2, paras. 55 (a) and 56 (a) and (d).

³⁸ Ibid., para. 57.

³⁹ Ibid., para. 30.

⁴⁰ CMW/C/LSO/CO/1, para. 28 (a).

from Asia and against members of their families.⁴¹ In addition, please provide information on the steps taken to protect migrant women and children, and young girls in particular, from sexual exploitation.⁴²

50. Please provide information on the steps taken to protect human rights defenders and journalists, to investigate the crimes committed against them and to punish the perpetrators of acts of violence and intimidation directed at them.

51. Please provide information on any measures taken to combat attacks against people with albinism and on concrete measures taken to ensure that all crimes and acts of violence that target people with albinism are properly and promptly investigated and prosecuted. In addition, please provide information on the implementation of the protection programme for older persons, including in preventing the killing of those accused of witchcraft.

52. Please provide information on the measures taken to ensure that all crimes and acts of violence that target persons on the basis of their sexual orientation or gender identity are properly and promptly investigated and prosecuted.

Other issues

53. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that those measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to antiterrorism measures; and whether there have been complaints of the non-observance of international standards applying measures to combat terrorism and, if so, what the outcome was.

54. Please provide information on any consideration given by the State party to making declarations envisaged under articles 21 and 22 of the Convention to recognize the competence of the Committee to receive and consider communications

General information on other measures and developments relating to the implementation of the Convention in the State party

55. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken to implement the provisions of the Convention, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.

⁴¹ Ibid., paras. 27 and 28 (c).

⁴² A/HRC/WG.6/21/LSO/2, para. 23.