

OMCT E-bulletin – November 2014

53RD SESSION OF THE COMMITTEE AGAINST TORTURE

New Anti-Torture Blog

This month, the OMCT launched a new [blog](#).

Its objective is to provide greater awareness of the work of the Committee and to encourage civil society organisations, experts and other stakeholders to share their experience and learning in seeking an effective use of its procedures and mechanisms to foster the implementation of the UN Convention against Torture.

December Campaign

Join us in the “10 Days of Activism against torture and ill-treatment” [campaign](#).

In 2014, OMCT launched an initiative to mobilize and coordinate activities of civil society organizations in relation to the Convention against Torture and its Committee. We facilitate civil society engagement, including by building coalitions building, sharing information, ensuring timely and effective report submissions, advising on advocacy opportunities, and supporting access to the Committee against Torture in person. Find out more on our [website](#).

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During its 53rd session (3 November to 28 November 2014) the Committee against Torture considered the State reports submitted by **Australia, Burundi, Croatia, Kazakhstan, Sweden, Ukraine, USA, and Venezuela**. In accordance with article 19 of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the CAT Committee examined the progress made by the respective State parties in giving effect to the Convention and to identifying problem areas where compliance needs to be improved.

On November 4th, the Committee against Torture celebrated the 30th anniversary of the UN Convention Against Torture with the international community at the Palais des Nations. The [panels](#) discussed universal ratification and implementation of the Convention.

*Nothing can justify **torture** under any circumstances*

New OMCT handbook on UN remedies

On November 19, 2014, OMCT presented its New Edition of the “Handbook on the Individual Complaints of the UN Treaty Bodies: Seeking Remedies for Torture Victims” at the Palais Wilson to members of the Committee Against torture, the Sub-Committee for the Prevention of Torture, the Committee on the Elimination of Discrimination against Women, the Special Rapporteur on torture and other specialists.

The handbook series is available on our [website](#).



OMCT handbook on UN remedies welcomed by anti-torture experts at reception in Palais Wilson

Summary of CAT Consideration of State Reports

Australia – serious concerns about the treatment of migrants

The Committee welcomed legislative and other measures adopted by Australia in recent years, including on human trafficking and on domestic violence. It was nevertheless concerned about the persistence of violence against women, especially against indigenous women and women with disabilities, and the low rate of reporting such cases. The Committee recommended measures to facilitate the lodging of complaints; ensuring the investigation and prosecution of perpetrators in accordance with the gravity of their acts; and guaranteeing the protection of victims.

The experts raised a number of concerns with regard to the status and treatment of refugees and asylum seekers, namely: policies of intercepting and turning back boats without due consideration of obligations of *non-refoulement*; the mandatory immigration detention, including of children, for all unauthorized arrivals; and the policy of the offshore processing of asylum claims. At the review, the Committee stressed that legislation should not allow impunity for acts of torture committed in the framework of counter-terrorism, and recommended the adoption of a more precise definition of terrorist acts in accordance with international standards. Among the Committee's recommendations were the adoption of all necessary measures to guarantee the thorough examination of asylum claims and the opportunity to effectively challenge decisions on those claims; repealing the provisions establishing mandatory detention of persons entering the territory irregularly; and ensuring the same standards of protection under the Convention for all asylum seekers and persons under the effective control of the State, including those transferred to regional processing centers in Papua New Guinea and Nauru.

Other issues raised by the Committee included the disproportionately high representation of indigenous people in the criminal justice system; criminal investigations and prosecutions resulting from the work of the established Royal Commission into Institutional Responses to Child Sexual Abuse; the use of tasers by law enforcement personnel; and the conditions of detention in all places of deprivation of liberty.

Read More:

- [Concluding Observations of the CAT](#)
- [Webcast](#)

Burundi – extremely poor conditions in detention facilities

The Committee was alarmed by the deplorable conditions of detention facilities, especially because of the high level of overcrowding; the lack of separation between male and female, juvenile and adults, or remand and convicted prisoners; and the lack of a balance diet and basic medical care. It deplored the high level of deaths due to violence among inmates and the violence against women and children, and urged Burundi to take measures to reduce the prison population by various alternatives to detention and to ensure the proper separation of inmates. Serious allegations of extra-judicial killings, torture and ill-treatment by law enforcement officials and prison officials prompted the Committee to recommend a number of measures to combat impunity, including: prompt, impartial and effective investigations; prosecutions and sanctions for those found guilty; and adequate reparation to the victims or relatives. Committee members expressed concerns about the gaps in anti-torture policies and the implementation of domestic legal standards, citing the lack of basic training for judges and law enforcement officials as an impediment.

They welcomed the establishment of a national human rights institution and urged the authorities to ensure its independent and transparent operation in accordance with the Paris Principles. The Committee experts also encouraged the prompt launch of the Truth and Reconciliation Commission, emphasizing the need for a participatory and inclusive approach, open to all members of civil society, including NGOs active in the field of human rights.

Other issues were related to the independence of the judiciary; politically-motivated violence in the country; the situation of asylum-seekers; the high number of persons in pre-trial detention; and the lack of surveillance mechanisms, including through an independent body, for places of detention.

Read more:

- [Concluding Observations of the CAT](#)
- [Webcast](#)

Croatia – lacking fundamental legal safeguards for persons in detention

During the session, Committee Experts welcomed the adoption of the new Criminal Code in 2013 whose definition of torture includes mental and physical suffering. They also welcomed the establishment of a national preventive mechanism, but urged Croatia to strengthen its independent and effective operation, and to allow civil society organizations to conduct independent monitoring of places of deprivation of liberty. A principal subject of concern was the lack of fundamental legal safeguards against torture and ill-treatment of persons from the outset of detention, including prompt and unimpeded access to an independent lawyer, access to an independent medical examination, opportunity to contact a family member, and the separation of individuals in pre-trial detention from convicted prisoners. The Committee was also concerned about the lack of proper follow up on complaints of ill-treatment and the conduct of the police toward persons deprived of liberty. It stressed that all alleged acts of torture or ill-treatment, including verbal abuse and use of excessive force by law enforcement officials against persons belonging to ethnic minorities or LGBTI persons, should be subject to investigation.

Another concern raised during the discussion was the grave situation of individuals held in psychiatric care against their will and without a possibility of appeal, and the Committee recommended that means of restraint should be used only as a last resort to prevent the risk of harm to the individual or others and for the shortest possible time. After having received information about trainings and workshops for law enforcement officials and other personnel serving in the correctional system, the Committee also recommended gender-specific training for medical personnel especially dealing with pre-trial detainees on the identification signs of torture and ill-treatment pursuant to the Istanbul Protocol of 1999 and the UN Bangkok Rules.

Other issues raised at the review included the insufficient monitoring of places of deprivation of liberty; the facilities for women and juveniles in detention; war crimes prosecutions and amnesties for acts of torture; and the situation of refugees, including the lack of information regarding application of *non-refoulement* obligations.

Read more:

- [Concluding Observations of the CAT](#)

Kazakhstan – ineffective monitoring of detention facilities and investigations into allegations of torture

Despite noting positive legislative developments in laws and policy, such as the creation of a national preventive mechanism and a so-called zero-tolerance for torture policy, the Committee was concerned about their inconsistent implementation in practice. To combat torture and ill-treatment in detention and investigation facilities, including threats of sexual violence to obtain confessions, the Committee members recommended the transfer of detention authority away from the Ministry of Internal Affairs to the Ministry of Justice, the establishment of an effective independent body to carry out investigations into allegations of torture, the mandatory video recording of interrogations, and other measures to ensure investigation, prosecution and punishment of perpetrators. The Committee also expressed grave concern about the lack of effective investigations of torture allegations and forced confessions during events in Zhanaozen in 2011, calling for provision of redress and rehabilitation to the victims. Another grave concern were the reports of forced psychiatric detention of human rights defenders and anti-corruption activists. The Committee welcomed the ruling of the Supreme Court to implement the Committee's decision regarding the compensation for acts of torture to Mr. Gerasimov, but expressed concern about the lack of explicit provisions on the right of victims of torture and ill-treatment fair and adequate compensation, including the means for as full rehabilitation as possible, as required by Article 14 of the Convention.

Other issues of concern discussed during the session included: the high number of deaths in custody, especially of persons infected with HIV/AIDs; the high incidence of inter-prisoner violence and self-mutilation; the obstructions to monitoring of places of detention; and the lack of observance of the principle of *non-refoulement*.

Read more:

- [Concluding Observations of the CAT](#)

Sweden – restrictions on remand prisoners and wide use of solitary confinement

The Committee started by reiterating its recommendation from 2008 and urged Sweden to define and criminalize torture in domestic law as a distinct crime in accordance with Articles 1 and 4 of the Convention. The Committee expressed concern about the imposition of restrictions, including isolation, on remand prisoners. It urged Sweden to establish concrete guidelines for the use of restrictions only as exceptional measures and when strictly necessary in the interest of the criminal investigations. Members of the Committee were alarmed that minors continue to be subjected to pre-trial detention, especially in the absence of a maximum time limit and of a specialized system for handling them. They welcomed the adoption of a national action plan to address violence against women and of a broader legal definition of rape. Nevertheless, they call for intensified efforts to combat gender-based violence by setting up a complaints system, appropriately punishing perpetrators and assisting victims, and conducting public awareness-raising campaigns. The experts also acknowledged positive developments on migration policies, but noted remaining issues related the detention of asylum-seekers and the identification of victims of torture among asylum-seekers.

Other concerns raised by the Committee included setting up a juvenile justice system in compliance with international standards; the application of coercive measures in psychiatric institutions and hospitals, including physical restraints and isolation; and the reports of hate crimes against minorities and other vulnerable groups in Sweden, including Roma people.

Read more:

- [Concluding Observations of the CAT](#)
- [Webcast](#)

Ukraine – lack of accountability for arbitrary killings, enforced disappearances, torture and ill-treatment

The Committee experts started by urging Ukraine to include a definition of torture in its Criminal Code that is in conformity with the Convention. In light of recent events in the country, it expressed concern about the reported acts of killings, enforced disappearances, torture and ill-treatment and recommended the State to carry out complete, prompt, impartial, thorough and effective investigations into all allegations of the use of violence and to prosecute and punish perpetrators. For areas not under governmental control, the Committee recommended the State to keep thorough documentation on the victims in order to exercise its duties under the Convention when effective control is re-established. The experts also expressed concern at the large number of internally displaced persons as a result of the annexation of Crimea and armed conflict in parts of the country. In relation to the excessive use of force and killings of protesters by law enforcement officials during the Maidan demonstrations, members of the Committee expressed concern at the slow investigations and lack of accountability. They also reiterated the absolute prohibition of torture under all circumstances, including the situation in the eastern part of the country. They remained alarmed, as stated in previous concluding observations, at the poor conditions of detention and deaths in custody, including due to high incidence of suicide, which had increased over the last year. During the discussion, they also raised the issue of an independent complaint mechanism accessible to detained persons, as well as the access to medical care for detained persons whose health conditions are deteriorating, especially for HIV/AIDS and tuberculosis.

Other recommendations were related to redress for victims of torture and ill-treatment; trafficking in human beings; domestic violence; and the protection of asylum-seekers.

Read more:

- [Concluding Observations of the CAT](#)
- [Webcast](#)

USA – wrongful interrogation techniques and failure to implement the Convention in Guantanamo

The examination began with a satisfactory note on the statements made by President Obama to condemn torture unequivocally and to identify some “enhanced” interrogation techniques as acts of torture. The Committee then reiterated its view on extraterritorial obligations during previous examinations that, contrary to the reservation under article 16 of the Convention which could result in wrongful interpretation, the State should take effective measures to prevent acts of torture not only in its sovereign territory but also in any territory under its jurisdiction. This would include territories

under *de jure* and *de facto* control of the State and apply the Convention to the detention facility at Guantanamo Bay. In this relation, the experts called for the cessation of indefinite detention without charge or trial for individuals suspected of terrorism-related activities; the ending of force-feeding of detainees in hunger strike as long as they are able to make informed decisions; and inviting the UN Special Rapporteur on torture with full access to detainees, including in private meetings. The Committee also expressed concern over the ongoing failure to fully investigate allegations of torture and ill-treatment of suspects held in United States custody abroad. It urged the United States to ensure that interrogation methods contrary to the Convention are not used under any circumstances, including by abolishing the provision for prolonged physical separation techniques and sensory deprivation, and called for the declassification of torture evidence. The Committee also expressed concern over numerous reports of police brutality and excessive use of force by law enforcement officials, in particular against persons belonging to racial and ethnic groups and immigrants and LGBTI individuals, as well as the militarization of police.

Other issues discussed were asylum protection and immigrant detention; the use of the death penalty; solitary confinement not as a measure of last resort and against juveniles or intellectual or psychosocial persons with disabilities; violence, including sexual violence, in prisons; and sexual abuse in the military.

Read more:

- [Alternative Report](#) (from REDRESS, ICJ and OMCT)
- [Alternative Report](#) (from Global Justice Center and OMCT)
- [Concluding Observations of the CAT](#)
- [Webcast](#)

Venezuela – failure to investigate, prosecute and punish excessive use of force and acts of torture during demonstrations

The examination focused largely on the high number of detentions that took place between February and June 2014 in the context of the demonstrations held in this period. The Committee was particularly alarmed by reports indicating the arbitrary character of many of the detentions, the accompanying excessive use of force and acts of torture and ill-treatment. The Committee urged Venezuela to conduct prompt, effective and independent investigations on the reported acts of torture and ill-treatment, and to guarantee the safety of the complainants. Furthermore, the Committee criticized the participation of military officers in crowd control operations, as well as the worrying number of attacks perpetrated by pro-government armed groups during the protests. In this regard, the experts called upon the Venezuelan authorities to restrict the role of the military to extraordinary situations, such as states of emergency, and to design effective strategies for the disarmament, control and dismantling of civilian armed groups.

Other issues during the review included: the rising number of attacks and slander campaigns reported against human rights defenders and journalists, including defamation of human rights defenders Humberto Prado, Carlos Correa and Marino Alvarado by the President of the National Assembly after the dialogue of the Venezuelan authorities with the CAT Committee; the lack of independence of the judiciary in the case of Judge Afiuni; the increase in registered cases of violence against women, in particular, feminicides, and the lack of swift and adequate measures to prevent violence against women and to punish the perpetrators; and the overcrowding and the alarming level of violent deaths in prisons. Among its recommendations, the Committee urged prompt, thorough and impartial investigations leading to the prosecution and sanction of the perpetrators; requested the strengthening and extension of Specialized Courts for Violence against Women to all the states of the country; asked the authorities to accept without delay outstanding requested visit of the Special Rapporteur on torture and to allow access of non-governmental organizations to all the places where persons are deprived of liberty; and urged the improvement of living conditions of detainees; and asked for an exceptional and limited use of solitary confinement under strict monitoring and judicial control.

Read more:

- [Alternative Report](#) (Spanish) (from coalition of NGOs supported by OMCT)
- [Concluding Observations of the CAT](#)
- [Webcast](#)

Adoption of List of Issues and LOIPR

The Committee adopted **list of issues prior to reporting** for Armenia, Gabon, Qatar, Senegal and Togo.

Together with ACAT-Togo, FIACAT and CACIT, OMCT submitted a [report](#) (French) for the development of the LOIPR in relation to Togo's periodic report.

The Committee adopted **list of issues** for Slovakia.

Next Session

The **54th session** of the CAT will take place from **20 April to 15 May 2015**.

Consideration of State reports:

- [Colombia](#)
- [The Republic of the Congo](#)
- [Luxembourg](#)
- [New Zealand](#)
- [Romania](#)
- [Serbia](#)
- [Spain](#)
- [Former Yugoslav Republic of Macedonia](#)

The deadline for NGO submissions for the State report examination is **6 April 2015**.

List of Issues to be adopted:

- [China](#)
- [China \(Macao\)](#)
- [China \(Hong Kong\)](#)
- [Guatemala](#)
- [Japan](#)

List of Issues prior to reporting to be adopted:

- [Belgium](#)
- [Bahrain](#)
- [Cameroon](#)
- [Estonia](#)
- [Yemen](#)

The deadline for NGO submissions for the LOI or LOIPR is **9 February 2015**. If possible, NGOs are encouraged to submit reports by mid-January.

WEBCAST – Live Webcast of the CAT session

During the sessions, the live stream is available at www.treatybodywebcast.org

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