

OMCT E-Bulletin - August 2016

58th session of the Committee Against Torture

During its 58th session that took place from 25 July to 12 August 2016, the United Nations Committee Against Torture (CAT) reviewed the reports submitted by **Kuwait, Honduras, Burundi** and **Mongolia**. Pursuant to Article 19 of the [Convention](#) Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, every four years States must submit a report to the CAT on the measures taken to implement the Convention.

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

Non-governmental organizations (NGOs) are entitled to submit so-called "alternative reports" of their own on the human-rights situation in the country. NGO representatives are allowed to attend the public sessions but not to speak. NGOs that have submitted an alternative report can meet with the Committee the day before the State review during the private "NGO briefing" to raise their issues of concern. Each state review consists of two public sessions. During the first one, the Committee experts examine the State report, also drawing on other publicly available information including the NGO reports submitted, and ask the respective Government's representatives questions about it. During the second session, the latter provide their replies to the CAT experts. The CAT publishes its "[Concluding Observations](#)", which contain recommendations and issues for the State reviewed to [follow up](#) within one year.



Representatives from Burundian NGOs



The Committee at work

WHAT'S NEW

OMCT HAT Campaign



For its 30th anniversary, OMCT launched “Humans Against Torture” (HAT), a global awareness-raising campaign to honour all survivors of torture as well as those around the world who want to protect them. All funds raised will be distributed in the form of assistance to victims of torture. This campaign targets activists, anti-torture experts and the general public, celebrating their hard work and thanking them for keeping continued pressure on Governments to combat torture.

The CAT being a crucial and visible body of the anti-torture fight, OMCT invites all CAT members and followers to participate by putting a hat on and display their commitment on social media using the hashtag #HumansAgainstTorture. For more information, please visit www.joinhat.org.

Historical no-show of Burundi for special review

In an unprecedented move by any State Party to the Convention, the Burundian delegation did not show up last week to provide its replies to the CAT after the first of two sessions allotted per country reviewed. It instead sent the CAT a [letter](#), saying it was surprised the session had focused on examining information provided by civil society’s alternative reports that it had not been sent or consulted about. Representatives of the Burundian Government had attended the session on 28 July.

It is in the context of the acute political crisis that broke out in Burundi when President Pierre Nkurunziza in April 2015 announced he would run for President a third time in a row that the CAT had asked the Government, pursuant to Article 19, paragraph 1 of the Convention, to submit – two years ahead of the scheduled date – a special report on how it is fighting torture and ill treatment in the country. Only twice before has the CAT made such a request to any Government – in the cases of Israel in 1997 and Syria in 2012.

This surprise no-show was met with the CAT’s recommendations to stop fuelling ethnic violence, drop any reprisals against dissenting civil society members, cease the use of force against protesters, and report back by October on what it is doing to fight impunity. Representatives of the Burundian and international NGO coalition who had suffered Government reprisals after their contribution to the CAT review [welcomed](#) these.

OMCT SUBMISSIONS

Alternative Report on Honduras

OMCT in collaboration with UPR Platform and the International Platform Against impunity submitted to the CAT a [joint alternative report](#) on Honduras. The report focuses on the systematic use of torture by public and private security forces, undeterred by the passive attitudes of governmental and judicial authorities.

Alternative Report on Burundi

A coalition of Burundian and international NGOs including OMCT submitted to the CAT a [joint alternative report](#) on Burundi. The report addresses numerous allegations of torture, extrajudicial executions, arbitrary arrests and unlawful detentions, as well as enforced disappearances and sexual violence in the context of the political crisis that broke out in April 2015.

Alternative Report for the List of Issues Prior to Reporting on Ivory Coast

OMCT in collaboration with the Mouvement ivoirien des droits humains (MIDH) submitted a joint report for the purpose of the adoption of the [List of Issues Prior to Reporting \(LOIPR\)](#) to the CAT for the upcoming session. The report emphasizes issues of concern regarding the implementation of the Convention by Ivory Coast, including allegations of torture and ill-treatment during the post-electoral period in 2010 and the lack of independence of the judiciary.

SUMMARY OF THE CAT STATE REVIEWS

Kuwait

Migrant rights and detention conditions

During the review of Kuwait's *third periodic report*, a major concern was the situation of **migrant workers**, including their long working hours, deprivation of food and sleep, physical and sexual abuse, confiscation of passports, and forced labour akin to slavery. Experts also raised the alleged inhuman conditions for 4,000 workers from the Democratic People's Republic of Korea working as **forced labourers**. They recommended inspections of employers and investigations into allegations of abuses, provision of legal protection, shelters, and dedicated helplines to domestic workers.

Committee members expressed serious concerns about **detention conditions** and ill-treatment in places of deprivation of liberty. The poor conditions include reportedly inadequate sanitation and medical care, insufficient ventilation, overcrowding and unfit infrastructure. Punishments reportedly included the use of iron rods against detainees and of extremely small disciplinary cells. Additionally, minors are not always separated from adults. The Committee recommended Kuwait takes immediate

measures to improve detention conditions, ensures detainees can file complaints about the conditions, and ensures minors and adults are detained separately. The Committee further recommended that only female guards be in charge of women and girls.

The Committee raised the issues of the absence of effective legislation on citizenship for Bedoons and of their **non-refoulement**. At least 100,000 Bedoons, classified as “illegal residents”, lack any legal recognition and continue to be the target of discrimination and ill-treatment. The Committee said legal measures should be put in place to ensure every child is given the Kuwaiti nationality, and to facilitate their access to justice and social services. Administrative deportations in the interest of public order and the absence of regulations or laws governing refugees and asylum-seekers treatment were other issues of concern. The Committee urged the State party to establish a legal framework in accordance with the international standards of non-refoulement.

Other issues raised included domestic violence, lack of independence of the judiciary, the definition and criminalization of torture, reporting acts of torture and witness protection, and coerced confessions.

Issues for follow up are:

1. A public statement by the highest state authority condemning the use of torture and ill-treatment
2. Conditions of detention
3. Urgent reinstatement of the de facto moratorium on the application of the death penalty
4. Situation of foreign workers

Read more:

- [Concluding Observations](#)
- [NGO reports](#)
- [Webcasts](#)

Honduras

Militarization and allegations of grave human-rights violations by armed forces

During the consideration of the *second periodic report* of Honduras, Committee members said they understood the difficulties the authorities faced to fight against drug-gang violence and ensure security. However, they were profoundly concerned about the **militarization of policing tasks** and prison management, which have triggered an alarming increase in the number of human-rights violations including acts of torture, extrajudicial killings, sexual violence and arbitrary arrests since the 28 June 2009 coup d'état. The State has not put in place any independent oversight and accountability mechanisms for torture and ill-treatment perpetrated by military officers, the Committee pointed out.

The Committee also said it were concerned, if not alarmed, about **prison overcrowding rates**, reaching for instance an absolutely unacceptable 490 per cent in the Santa Barbara prison. The UN experts also considered a “matter of urgency” the shortage of doctors and nurses in penitentiary facilities. They noted the absence of uniform and systematic procedures to register detainees and of separation between pretrial and convicted detainees, as well as the precarious living conditions of female and juvenile prisoners. The Committee recommended to increase the use of non-custodial measures, strengthen the financial and human resources of the National Committee for the Prevention of Torture

and Cruel, Inhuman or Degrading Treatment (CONAPREV) and guarantee without delay the allocation of resources for the access to medical care for persons deprived of liberty.

During the review, questions were also asked about measures to protect **human rights defenders** – particularly those working on land issues, or lesbian, gay, bisexual, transgender and intersex individuals' (LGBTI) rights and freedom of expression – the target of unprecedented violence. The experts asked about the investigations into the murders and attacks against them, including prominent human rights advocates like Berta Cáceres, urging the authorities to ensure that high-ranking officials refrain from making any statement discrediting the work of human rights defenders, and to strengthen the national protection mechanism.

Experts also noted with deep concern the 20,000 allegations of **violence against women** filed every year and the emerging trend of rape, disappearance and mutilation of women. They also voiced their concern about the rise in the number of hate crimes committed against **LGBTI persons**. They recommended the State investigate thoroughly, prosecute and punishes the culprits of those crimes and guarantees women's sexual and reproductive rights – all the more so considering the country's absolute ban on abortion.

Issues for follow up are:

1. The transfer of the prison management to the National Penitentiary Institute and the dismantlement of preventive detention centres in military compounds
2. The reduction of prison overcrowding by promoting the use of non-custodial measures and greater prison security through training of prison personnel and the development of strategies aimed at curbing prisoner violence
3. The allocation of resources to CONAPREV and the review of its membership selection criteria
4. The protection of human rights defenders and effective investigations into all the threats and attacks against human rights defenders and journalists

Read more:

- [Concluding Observations](#)
- [NGO reports](#)
- [Webcasts](#)

Burundi

Impunity and allegations of serious human rights violations

In light of reports of politically or ethnically motivated torture in the country, the Committee conducted a *Special Review of Burundi* two years ahead of the next periodic review originally scheduled for 2018.

Experts expressed serious concerns regarding **numerous human rights violations** allegedly committed by police agents and members of the *Imbonerakure* militia and the National Intelligence Agency, including extrajudicial killings, arbitrary arrests, unlawful detentions, enforced disappearances and acts of torture. They denounced the **climate of impunity** that has been prevailing since the beginning of the crisis and the judiciary's blatant lack of independence. They urged the State party to establish an

independent inquiry commission to conduct prompt, impartial and independent investigations into all alleged human rights violations.

The Committee raised concerns about the close ties between the *Imbonerakure* militia and the ruling party. It urged Burundi to exercise control over the police, security agents and members of the *Imbonerakure* militia to prevent human rights violations. The Committee noted the alleged existence of at least **nine mass graves** in several areas of the territory and recommended Burundi establishes an independent inquiry commission to start the exhumation process and identify corpses. The UN experts also noted the existence of **secret places of detention**, urging Burundi to allow human rights observers to visit such places.

Experts raised concerns about the use of **sexual violence as a method of repression** by the members of the *Imbonerakure* militia and the National Intelligence Agency, including through songs inciting such crimes. The Committee recommended the State party puts an end to the impunity of the perpetrators of sexual violence and provides victims with adequate medical and psychological care.

Though they considered the nature of the conflict in Burundi was political, Committee members said they were alarmed about the hate speeches of certain government high-ranking officials, which could fuel **ethnically motivated violence**. They therefore asked Burundi to refrain from any public statements that could exacerbate ethnic tensions and violence.

Finally, experts expressed deep concern about cases of **harassment and intimidation of human rights defenders and journalists**, including the attempted murder of Pierre Claver Mbonimpa. They urged the authorities to end such acts of intimidation and reprisals and to ensure that victims obtain adequate reparation.

With regard to the issues for follow up, given the exceptional and urgent nature of the review, and considering the interruption of dialogue by the State party, the CAT invited Burundi to submit by October a special report on the measures adopted to implement all the recommendations it formulated in its Concluding Observations.

Read more:

- [Concluding Observations](#)
- [NGO reports](#)
- [Webcasts](#)

On 29 July, the same day that the Burundian delegation failed appear before the Committee, the Bujumbura Appeals Court Attorney General [requested](#) that four lawyers who had participated in the CAT review as civil-society representatives (Armel Niyongere, Lambert Nigarura, Dieudonné Bashirahishize and Vital Nshimirimana) be disbarred. In a [letter](#) to the Government, the CAT urged the Burundian authorities to drop what it qualified as reprisals.

Mongolia

Treatment of LGBTI people and absence of a comprehensive juvenile justice system

During Mongolia's *second periodic review*, the Committee welcomed the introduction of a definition of torture in the new Criminal Code though it regretted that it did not include acts of torture based on discrimination, and that penalties for the crime of torture are not commensurate to its gravity. Referring to the 2008 riots sparked by allegations of fraud during parliamentary elections, experts urged Mongolia to end **impunity** by ensuring that acts of torture and ill-treatment are promptly, effectively and impartially investigated and prosecuted and that those found guilty of such acts are promptly convicted.

Committee members brought to the State party's attention the necessity to ensure fundamental legal safeguards of detainees and to reduce **prison overcrowding**. They urged Mongolia to ensure that prison conditions are in line with international human rights standards. Experts also raised concerns about the **absence of a comprehensive juvenile justice system** and recommended that Mongolia ensures that juveniles are held in detention only as a last resort and separately from adults. Committee members further noted that reportedly 42 per cent of children have been subjected to **physical or psychological punishment** in home settings and suggested Mongolia should ensure the full implementation of the prohibition of corporal punishment in all settings.

While Mongolia abolished the **death penalty**, experts raised concerns about the situation of prisoners whose sentences had been commuted. They recommended the State party ensures that persons who were formerly on the death row are afforded all the protections provided under the Convention including fundamental legal safeguards.

Members were also particularly concerned about physical attacks and arrests of the **LGBTI community**. They encouraged Mongolia to take all necessary measures to bring perpetrators of such violent acts to justice.

Experts highlighted the prevalence of violence against women, including **domestic and sexual violence**. They asked Mongolia to ensure that all such allegations are registered by the police and are promptly and impartially investigated, and that the perpetrators are prosecuted and punished.

Other issues of concern raised by the Committee included human trafficking, the decreasing budget allocation to the National Human Rights Commission and the absence of legislation with regard to the granting of refugee status.

Issues for follow up are:

1. Fundamental legal safeguards of persons deprived of liberty
2. Impunity for acts of torture and ill-treatment

Read more:

- [Concluding Observations](#)
- [NGO reports](#)
- [Webcasts](#)

NEXT SESSIONS

The **59th session** of the CAT will take place from 7 November to 7 December 2016.

Consideration of State Reports:

- [Armenia](#)
- [Cape Verde](#)
- [Ecuador](#)
- [Finland](#)
- [Monaco](#)
- [Namibia](#)
- [Sri Lanka](#)
- [Turkmenistan](#)

List of Issues Prior to Reporting:

- [Australia](#)
- [Côte d'Ivoire](#)
- [Croatia](#)
- [Montenegro](#)
- [Sweden](#)
- [Ukraine](#)
- [United States of America](#)

The deadline for NGO submissions for these State report reviews is 17 October 2016.

The deadline for NGO submissions for the [List of Issues Prior to Reporting \(LOIPR\)](#) for the 59th session was 27 June 2016.

The **60th session** of the CAT will take place from 17 April to 12 May 2017.

Consideration of State Reports:

- [Afghanistan](#)
- [Argentina](#)
- [Bahrain](#)
- [Lebanon](#)
- [Pakistan](#)
- [Republic of Korea](#)

List of Issues Prior to Reporting:

- Colombia
- Luxembourg
- FYR of Macedonia
- New Zealand
- Romania

List of Issues:

- Rwanda

The deadline for NGO submissions for these State report reviews for the 60th session is 27 March 2017. The deadline for NGO submissions for the List of Issues and List of Issues Prior to Reporting (LOIPR) is 23 January 2017.

STAY UP-TO-DATE ON OMCT ACTIVITIES CONCERNING THE CAT

Global CAT Civil Society Programme

OMCT launched in 2014 its “Global CAT Civil Society Programme” to combat torture through the mobilization and coordination of activities for civil society organizations (CSOs) in relation to the United Nations Convention Against Torture and its Committee (CAT). OMCT facilitates civil-society engagement by building coalitions, sharing information, ensuring timely and effective report submissions, advising on advocacy opportunities and supporting effective access to the Committee during the private NGO briefings. Find out more on our [website](#).

OMCT Blog: Engaging with the Committee Against Torture

The OMCT [blog](#) entitled “Nothing can Justify Torture, engaging with the Committee against Torture” was launched on 3 November 2014, to mark the celebration of the 30th anniversary of the Convention.

The blog’s objective is to provide greater awareness the CAT’s work of and the Convention, to increase mobilization of civil society organizations around the CAT, as well as to use the CAT procedures to foster the implementation of the Convention. The OMCT invites and encourages anyone working on the Convention and with its monitoring Committee, including Committee members, representatives from CSOs, academics and journalists, to participate in this exchange of experience by submitting an article for the OMCT blog. Please contact Carin Benninger-Budel at cbb@omct.org for more information.

Recent articles include:

[Le Burundi se défile lors de l’examen spécial du Comité contre la torture : Quelles conséquences pour la société ?](#)

[Honduras](#): Video interview with representatives from Honduran civil society organizations attending the CAT

Follow the CAT sessions

During the sessions, the live stream is available at <http://webtv.un.org>. Sessions are also archived and can be viewed at a later date.

To follow the CAT’s latest session on Twitter, search **#UNCAT58**.

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