

## OMCT E-Bulletin - May 2017

### 60th session of the Committee Against Torture

This E-Bulletin is part of OMCT's "Convention Against Torture Programme". OMCT mobilizes and coordinates activities of civil society organizations during the sessions of the United Nations Committee Against Torture (CAT). It facilitates the engagement of civil society by building coalitions, sharing information, ensuring timely and effective report submissions, advising on advocacy opportunities and supporting effective access to the CAT. Find out more on our work on our [website](#).

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During its 60<sup>th</sup> session (12 April – 17 May 2017) the CAT considered the State reports of Afghanistan, Argentina, Bahrain, Lebanon, Pakistan and the Republic of Korea. In accordance with Article 19 of the Convention Against Torture, every four years State Parties submit a report to the CAT on any new measures taken to implement the Convention. These reports are reviewed in public sessions, in which the respective State Party has a constructive dialogue with the CAT. The day before the consideration of the report, NGOs that have submitted an alternative report can raise and discuss their concerns during a private NGO briefing with the CAT. At the end of each session, the CAT publishes its "Concluding Observations", which make specific recommendations for each State reviewed and issues for them follow up on within one year.



*OMCT reception for CAT "members, friends and family" at N'vy Hotel on April 19*

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## WHAT'S NEW

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### Discussion on the Draft Revised General Comment on non-refoulement

On 28 April 2017, the CAT held a general discussion on the draft revised General Comment « on the implementation of article 3 of the Convention in the context of article 22 » with the participation of representatives of States Parties, UN entities and specialized agencies, NGOs and other interested organizations. Debates revolved around the scope of extra-territoriality of the Convention, diplomatic assurances in the context of transferring a person from one State to another, the connection between article 3 and extradition treaties, and procedural safeguards, remedies and rehabilitation to guarantee the principle of *non-refoulement*. Find our joint NGO report.

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## OMCT SUBMISSIONS

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### Alternative report on Afghanistan

A coalition of four NGOs, led by the Civil Society and Human Rights Network (CSHRN) and with the support of OMCT, submitted a joint alternative report on Afghanistan. The joint report underscores the need to legally define and criminalize torture comprehensively in line with the Convention. It denounces the prevalence of torture in detention of torture by non-state actors particularly on women and girls, and of inhuman traditions such as Bachabazi – the enslaving and abuse of boys for sexual purposes. Full report.

### Alternative reports on Pakistan

OMCT contributed to two joint alternative reports on Pakistan. One report, written in collaboration with Justice Project Pakistan and Reprieve, denounces a number of violations: the recurrent use of torture on detainees; convictions to death penalty based on confessions obtained under coercion; the absence of a definition of torture in Pakistan's legislation; poor prison conditions on death row; and the execution of juvenile in conflict with the law and mentally-ill persons. Full report.

The other report, submitted with the Human Rights Commission of Pakistan (HRCP) and the Society for the Protection of the Rights of the Child (SPARC), focuses on impunity and lack of investigation into allegations of torture and extra-judicial killings; enforced disappearances; violence against women and children; and prison conditions amounting to cruel, inhuman and degrading treatment. Full report.

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## SUMMARIES OF THE CAT STATE REVIEWS

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### Afghanistan

#### Alleged perpetrators of torture hold top government positions

During the *second periodic review* of Afghanistan, the Committee welcomed some legal and political advances such as the establishment of the Afghanistan Independent Human Rights Commission (AIHRC) in 2002 or the adoption of the National Plan on the Elimination of Torture. The Committee said it remains concerned about the prevailing impunity allowing individuals responsible for gross human rights violations to hold top government positions and recommended that laws providing amnesty be repealed and that all perpetrators be prosecuted.

It also reflected on the many reports about serious torture and other ill-treatment of suspects, detained on national security grounds, while in custody of the National Directorate of Security or the Afghan national and local police. The situation is particularly worrisome in the Kandahar province, where General *Abdul Raziq*, ANP Commander, as being widely suspected of complicity, if not of personal implication, in severe human rights abuses.

The Committee also raised concerns about detention within prisons, particularly about reports that at Parwan (Bagram) detention facilities detainees are routinely tortured and have severely restricted access to their lawyers. The Committee also took note of reports that at least 160 children are detained just like adults, being punished rather than rehabilitated, and recommended that they be transferred to juvenile centres instead.

The Committee also condemned the high prevalence of domestic violence against women, as well as corporal punishment and death imposed by Jirga Courts, informal parallel judicial mechanisms which operate outside of the rule of law.

Other matters of concern included death penalty; the insufficient support given to the Afghanistan Independent Human Rights Commission; the threatening of human rights defenders and activists; the harmful practices against children such as child marriages and *Bachabaazi*, and the widespread use of forced confessions as evidence in trials.

Issues for follow-up are:

1. Ensure that all candidates for official executive positions have not perpetrated any human rights violation.
2. Impartial investigation and punishment of all cases of coerced confessions.
3. Immediate moratorium on executions and commutation of death sentences.

Read more:

- [Concluding Observations](#)
- [Webcast](#)

## Argentina

### State of emergency in prisons due to overcrowding

During the review of the *State's fifth and sixth reports*, the Committee noted that Argentina had adopted several laws and institutional initiatives to apply the Convention. Nevertheless, it regretted that key recommendations from the 2004 review, such as the creation of a national register on torture and ill-treatment or the establishment of a National Mechanism of Prevention, had not been implemented.

Torture and ill-treatment are still a common practice in places of detention at the hands of the security forces. Investigations are not being carried out efficiently, and victims are reticent to file complaints for fear of reprisals. The Committee recommended to establish a fully independent mechanism mandated to receive and investigate complaints as well as a system to protect and assist victims of torture and witnesses deprived of liberty.

The Committee pointed out the dramatic increase in the number of detainees since 2009 resulting in severe overcrowding and on-going degradation of conditions of detention. The situation in the Buenos Aires province has been qualified as an « emergency ». In this regard the Committee recommended the development of a methodology to assess the capacity of prisons and bring them in compliance with international standards. Concern was also raised about prolonged detention in police stations, the widespread use of solitary confinement, and the high number of deaths in custody.

With regard to *non-refoulement*, the Committee expressed concern about the recent decision of the Supreme Justice Court allowing extradition under diplomatic guarantees of persons in risk of being tortured or killed upon return. It also referred to the 3,470 complaints filed in 2016 on cases of discrimination of migrants, Afro-descendants and transgender persons, recommending the thorough investigation of arbitrary detentions on discriminatory grounds.

Other issues raised were the need to bring the definition of torture in the Penal Code in line with international standards; the use of violence and arbitrary detentions by federal and provincial security forces against socially marginalized young people and minors; the high number of pre-trial detainees, and the alarming increase in gender-based violence.

Issues to follow-up are:

1. Investigate all complaints of death, torture and ill-treatment by security forces
2. Create the National Prevention Mechanism
3. Establish a national register of complaints, investigations, prosecutions, penalties

Read more:

- [Concluding Observations](#)
- [Webcast](#)

## Bahrain

### Reports of torture of human rights defenders and journalists

During the review of the *second and third* periodic reports of Bahrain, submitted 12 years after the consideration of its initial report, the Committee remained concerned about reprisals and alleged torture and ill-treatment of human rights defenders, journalists and their families. The allegations received include serious acts of intimidation, threats, revocation of citizenship, as well as arrests and arbitrary detention in retaliation for their work. Specific concern was expressed with regard to the situation of Abdulhadi Al-Khawaja, Naji Fateel, Nabeel Rajab, Abduljalil Al-Singace, Hussain Jawad and Abdulwahab Hussain.

The Committee further condemned the widespread acceptance of forced confessions as evidence in courts, even in cases where persons are sentenced to 25 years of incarceration or the death penalty. Indeed, three persons were executed on 15 January 2017 whose sentences are reportedly based on confessions obtained under torture. The Committee urged Bahrain to ensure that evidence obtained through any form of coercion or torture is inadmissible in all judicial proceedings and enact legislation for inquiries on allegations of torture when brought to the attention of the judges by the defendant or their counsel.

Regarding the resumption of the application of the death penalty, the Committee recommended the prompt re-establishment of a moratorium on the use of the death penalty and to consider in this context to pardon, reprieve and commute sentences for persons on death row.

The experts said they were concerned about the prevailing impunity of torture crimes in Bahrain, as evidenced by the low number of convictions and sentences for perpetrators of torture resulting in, *inter alia*, death that were not commensurate with the gravity of the crime.

Other matters of concern included trials of civilians by military courts, violations of fundamental legal safeguards for persons deprived of their liberty, poor detention conditions, treatment of minors while in arrest, and domestic and sexual violence against women, including marital rape.

Issues for follow-up are:

1. Prompt re-establishment of a moratorium on the use of the death penalty
2. Regular visits of places of deprivation of liberty by independent monitoring bodies
3. Accept the visit of the United Nations Special Rapporteur on Torture

Read more:

- [Concluding Observations](#)
- [Webcast](#)

## Lebanon

### Initial report arrives over 14 years late

Lebanon submitted its initial report 14 years late, preventing the Committee from periodically reviewing the State's compliance with the Convention since its ratification in 2000. Over 2012 and 2013, the Committee conducted a confidential inquiry on Lebanon under Article 20 of the Convention including a visit to Lebanon ([A/69/44, Annex XIII, paras 38 and 40](#)).

During the review of Lebanon's *initial report*, the Committee called on the State to define torture in full conformity with article 1 of the Convention. Moreover, it added the absolute prohibition of torture ought to be incorporated into its legislation and that no exceptional circumstances should be invoked as a justification of torture.

While Lebanon articulated that torture is in no way a State policy, the Committee referred to the consistent reports describing that security and military forces routinely use torture against suspects in custody, including children, to extract confessions or as a form of punishment. The Committee insisted that the law should explicitly prohibit the non-validity at court of evidence obtained through torture. Furthermore, the Committee noted with concern that reportedly these allegations are not adequately investigated and reiterated that where there is an allegation that the statement was made under torture, the burden of proof does not lie with the victim, but with the State. In general, the Committee regretted the lack of information from Lebanon on complaints of torture and subsequent investigations.

Whilst recognising the extraordinary efforts to accommodate over 1,5 million refugees, the Committee is concerned about the detention policy applied to asylum seekers and refugees for migration-related reasons. The Committee also pointed out that refugees had reportedly been transferred contrary to the principle of *non-refoulement* under article 3.

Other matters of concern were the prisons' overcrowding and deplorable detention conditions; the lack of information on deaths in custody; trafficking in women and girls and the abuses of domestic labour workers due to the *kefala* visa-sponsoring system, as well as other forms of gender-based violence.

Issues for follow-up are:

1. Define and criminalize torture according to international standards
2. Ensure access to fundamental legal safeguards
3. Establish the National Commission for Human Rights and the National Preventive Mechanism.
4. Establish an internal prison complaints system

Read more:

- [Concluding Observations](#)
- [Webcast](#)

## Pakistan

### Torture and impunity in the context of counter-terrorism efforts

During this first review the Committee members expressed deep concern about the almost complete lack of criminal investigations and punishment of torture despite serious allegations of widespread torture by the police. The Committee further regretted the fact that police are charged with investigating allegations of torture committed by their own colleagues and that the Federal Investigation Agency is not sufficiently independent.

Referring to Pakistan's legislation, the Committee noted the absence of a definition of torture that incorporates all elements of article 1 of the Convention and recommended that the State Party adopt a comprehensive anti-torture bill.

The Committee further expressed concerns about Pakistan's counter-terrorism legislation and the very broad powers the army has to detain people suspected of involvement in terrorist activities. Not only can military courts try civilians for terrorism-related offences, but suspects of terrorism can be deprived of their liberty for up to three months without judicial oversight or the possibility of a *habeas* petition and be detained without trial of up to a year for being suspected of involvement in the activities of a proscribed organization (1997 Anti-terrorism Act (ATA), 1997). Provisions of the Actions in Aid of Civil Power Regulations 2011 provide for retroactive immunity for torture in internment centres by members of the military and paramilitary forces. It thus urged Pakistan to repeal or amend both texts.

The experts also noted the inadequate investigations into allegations that military and paramilitary forces and intelligence agencies have been implicated in a significant number of cases of extra-judicial executions, torture, and enforced disappearances.

Other matters of concern included access of justice for victims of torture, violence against women, human trafficking, respect of the principle of *non-refoulement*, conditions of detention, violations of fundamental legal safeguards for persons deprived of their liberty, the inability for the National Commission for Human Rights to carry out its mandate fully and in an effective and independent manner and redress.

Issues for follow-up:

1. Prosecute and punish police officers who engage in torture with penalties that are commensurate with the gravity of the crime of torture
2. Establish and effectively operate police oversight bodies
3. Investigate all allegations of torture or ill-treatment promptly, thoroughly and impartially, and duly prosecute and punish the perpetrators

Read more:

- [Concluding Observations](#)
- [Webcast](#)

## **Republic of Korea**

### **Excessive use of force by law enforcement officials**

During the *third* review of the Republic of Korea, the Committee members expressed concern about the excessive use of force by law enforcement officials, especially during demonstrations such as 2008 Candlelight Rally and 2015 Peoples' Rally. One person (Mr. Baek Nam-Gi) died as a result of being hit at the head by a blast from a police high-pressure water cannon. The Committee highlighted the lack of access to medical assistance to some of the wounded detained demonstrators and the lack of accountability for the injuries and death.

The experts noted with concern that death sentences continue to be imposed by courts despite the effective moratorium on the application of the death penalty since 1977. By the end of 2016, 61 persons were on death row. The Committee urged the State to abolish the death penalty and commute all death sentences to prison terms.

Concern was raised about the significant number of suicides and sudden deaths in correctional facilities. The Committee said it was seriously preoccupied that most deaths in custody are due to the absence of adequate medical treatment for inmates suffering from diseases and that the suicide cases may be a result of coercive investigation procedures by police and prosecutors. The Committee recommends that the Republic of Korea carry out an in-depth study in to the causes of sudden deaths and suicide in its correctional facilities.

In addition, the Committee is worried about reports of many cases of violence, including sexual, physical and verbal abuse among the military, which have resulted in deaths. "Guardhouse detention" as a disciplinary measure is alarming, as a soldier can be detained for 15 days without a warrant, based only on the decision of the commanding officer.

Other matters of concern included the absence of a definition of torture in the penal legislation conform to article of 1 in the Convention, violence against women, violence against migrant workers, corporal punishment against children, violations of fundamental legal safeguards for persons deprived of their liberty, involuntary hospitalization in psychiatric institutions.

Issues for follow-up are:

1. the outcomes of the investigations of the death of Mr. Baek Nam-Gi and of any proceedings in relation to the Sewol Ferry Accident
2. the closing of the remaining "substitute cells"
3. the establishment of the office of military Ombudsman as an independent entity

Read more:

- [Concluding Observations](#)
- [Webcast](#)



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## NEXT SESSIONS

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### **61<sup>th</sup> session of the CAT: 24 July - 11 August 2017**

**Consideration of State Reports:** Antigua and Barbuda, Ireland, Panama, and Paraguay

> 26 June 2017: Deadline for NGO submissions for the State report reviews

### **62<sup>th</sup> session of the CAT: 6 November - 6 December 2017**

**Consideration of State Reports:** Bosnia and Herzegovina, Bulgaria, Cameroon, Italy, Mauritius, Republic of Moldova, Rwanda, and Timor-Leste

**Lists of Issues prior to reporting:** Austria, Slovakia, Spain, Switzerland, Malawi, Serbia, and Somalia

**Lists of Issues:** Mauritania and Tajikistan

> 26 June 2017: Deadline for NGO submissions for the List of Issues and List of Issues Prior to Reporting

> 9 October 2017: Deadline for NGO submissions for the State report reviews

### **63<sup>th</sup> session of the CAT: 16 April -11 May 2018**

**Consideration of State Reports:** Belarus, Chile, Czech Republic, Norway, Qatar, and Tajikistan

**Lists of Issues prior to reporting:** Andorra, Azerbaijan, Denmark, Jordan, and Liechtenstein

> 22 January 2018: Deadline for NGO submissions for the List of Issues Prior to Reporting

> 19 March 2018: Deadline for NGO submissions for the State report reviews

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## STAY UP-TO-DATE

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### ***OMCT Blog: [Engaging with the UN Committee against Torture](#)***

Our blog "[Nothing can Justify Torture, engaging with the Committee Against Torture](#)" aims to provide greater awareness on the CAT and the Convention Against Torture and to increase mobilisation of NGOs against torture making a more effective use of the CAT procedures.

If you are working on the Convention Against Torture or the CAT (Committee members, representatives from NGOs, academics, journalists...), we encourage you to share your experience and learning by submitting an article. Please contact [cbb@omct.org](mailto:cbb@omct.org) for more information.

Recent articles include:

- [Francisca Ankrah \(ALEF\) : Torture on the Back Burner](#)
- [Grant Shubin \(GJC\): "Torture in plain sight: how national laws violate women's human rights"](#)
- [OMCT: "Human rights defenders are the heroes of human rights and of the CAT"](#)

## Live Webcast of the CAT sessions

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

And follow us



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## WE THANK

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