

## OMCT E-Bulletin - August 2017

### 61st 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 61<sup>st</sup> session (24 July – 11 August 2017) the CAT considered the State reports submitted by **Paraguay, Ireland and Panama**. It also reviewed **Antigua and Barbuda**, even though the State had not submitted its initial report, already due in 1994. 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, during which the respective State Party holds a constructive dialogue with committee members. The day before the consideration of the report, NGOs having submitted an alternative report can raise their concerns during a private NGO briefing with the CAT. At the end of each session, the CAT publishes its "[Concluding Observations](#)", specific recommendations for each reviewed State and issues for them to follow up on within one year.



Four of the ten CAT members left to right: Mr Sébastien TOUZE  
Mr Jens MODVIG, Mr Claude HELLER ROUASSANT, Ms Felice GAER.

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## WHAT'S NEW

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### Non-reporting and absentee Antigua and Barbuda reviewed

The Committee this 61st session opened with the review of Antigua and Barbuda even though the Caribbean nation has not only failed to submit its initial report in 23 years but also failed to send a delegation to attend the meeting. The Committee nevertheless issued a list of recommendations, hoping to engage a constructive dialogue with the State. During the opening of the session, CAT member Ms. Felice Gaer said that so far a total of 15 States Parties had failed submit initial reports. The Committee therefore again invited non-reporting States to use the simplified reporting procedure by which Member States respond to the so-called List of Issues Prior to Reporting, a set of questions adopted by CAT specific to the country situation to ease the process and encourage authorities' participation.

### More States providing speedy follow-up information

On the fringes of the country reviews, the CAT also [discussed the follow-up to individual communications under article 22, and follow-up to concluding observations and recommendations under article 19](#) of the Convention (watch the webcast [here](#)). The Rapporteur on follow-up to concluding observations, Mr. Abdelwahab Hani, welcomed the early submission of reports and diligent provision of additional information by several States. Generally speaking, he noted compliance with reporting and follow-up procedures had improved, even though this did not hold true for all States.

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## OMCT SUBMISSIONS

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### Follow-up report on Tunisia

The CAT adopted the concluding observations on Tunisia during its 57<sup>th</sup> session in May 2016. In order for the CAT to assess the degree of compliance with the [follow-up recommendations](#), OMCT submitted a joint follow-up report with ten other NGOs. This report denounces a number of ongoing violations such as allegations of torture and ill-treatment, poor conditions of detention, and insufficient transitional justice measures. [Read More](#).

### Follow-up report on Burundi

In follow up to the review of the special report of Burundi during the 58th CAT session in August 2016, a coalition of Burundian NGOs, with the support of OMCT, submitted a report which examines the implementation of the concluding observations adopted by CAT and counters information submitted by Burundi on follow up to the concluding observations. This report raises, among others, the following issues: extrajudicial killings, arbitrary detentions, enforced disappearances of political opponents, sexual violence, and the reprisals against Human Rights Defenders. [Read more](#).

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## SUMMARIES OF THE CAT STATE REVIEWS

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### Antigua and Barbuda Reviewed without State report or delegation

Though Antigua and Barbuda has ratified the Convention, it has never submitted its initial State report, which was due by 17 August 1994, over 23 years ago. By also failing to send a delegation to Geneva or participate in the review via videoconference, the State Party missed the opportunity of exchanging with the Committee about what it has done to combat torture in the country. Pointing out it was not just due to a lack of material and financial resources, Mr. Sébastien Touzé, Committee Expert and Co-Rapporteur for Antigua and Barbuda, said the silence was not a positive sign.

While welcoming the legislative and constitutional reforms the country achieved to date, the Committee expressed its concern over the deficient definition of torture in national legislation, which should therefore be revised. It said that in the [1993 Suppression of Torture Act](#), the definition of torture was not in line with all of the elements set out in article 1 of the Convention, as it did not incorporate the prohibited grounds for discrimination. Moreover, article 72 of the [Criminal Procedure Act \(CAP. 117\)](#) seems to include grounds for excluding criminal responsibility even in case of torture.

Furthermore, the experts call on the State Party to declare a formal moratorium on the death penalty with a view to abolish it. They expressed their concern about the serious overcrowding at Her Majesty's Prison. Inmate population at Antigua and Barbuda's sole prison facility has almost doubled since 2000, with tragic consequences on the conditions of detention, *inter alia*, inadequate sanitation and ventilation, lack of running water and proper toilets, and outbreaks of infectious diseases.

Other matters of concern included alleged police brutality, detention of asylum seekers and other migrants, juvenile justice, and violence against women, especially sexual violence.

#### Issues for follow-up:

1. Grant all detainees, in law and in practice, all fundamental legal safeguards from the outset of the deprivation of liberty;
2. Reduce the level of overcrowding and promptly improve material conditions in detention facilities;
3. Establish an asylum procedure that carries out an individualized assessment of each case and that identifies vulnerable persons.

#### Read more:

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

## Paraguay

### Severe prison overcrowding and excessive pre-trial detention

During the review of the *seventh periodic report of Paraguay*, the Committee welcomed the establishment of the National Preventive Mechanism (NPM) in 2013. It, however, regretted state authorities' limited commitment to fully implement the recommendations of the NPM. Experts were also concerned about budget cuts to the NPM. The Committee stressed the importance of appropriate funding to ensure the NPM's functioning.

The Committee was deeply disturbed by multiple reports pointing to the practice of torture and ill-treatment as "business as usual" by police officers and prison guards – a practice met with absolute impunity (zero convictions had resulted to date from the 873 complaints filed against law enforcement agents between 2013 and 2016). Experts therefore urged the State of Paraguay not only to investigate and prosecute alleged torture cases but also to publicly and unequivocally reaffirm the absolute prohibition of torture.

In relation to prison conditions, the Committee expressed concern over the deplorable living conditions resulting from severe overcrowding, which stood at 159 per cent. Beds, food, medicines and inmate access to hygiene were painfully lacking, according to independent sources. The experts also noted that the proportion of pre-trial detainees by the end of 2016 had reached 78 per cent, the highest rate in Latin American and fourth largest in the world. The Committee called upon the Paraguayan authorities to promote the use of non-custodial measures and abolish legal provisions establishing mandatory pre-trial detention for certain crimes.

Other issues raised include the militarization and *de facto* state of emergency declared in the north of the country with the deployment of the Joint Task Force (or *Fuerza de Tarea Conjunta*, consisting of members of the police, military and the National Secretariat against Substance Abuse) to allegedly combat armed groups operating in the region; the phenomenon of *criadazgo* (child domestic services); adolescents in detention; high rates of domestic violence; the absence of reparation programmes and excessive use of force, including extrajudicial killings; and arbitrary arrests of demonstrators.

#### Issues for follow-up:

1. Ensure that the NPM has sufficient resources to carry out its role effectively and independently, in accordance with the Optional Protocol to the Convention;
2. Ensure that all allegations of torture or ill treatment are promptly and impartially investigated;
3. Ensure that all human rights violations committed by the Joint Task Force are promptly, effectively and impartially investigated in ordinary jurisdictions.

#### Read More:

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

## Ireland

### Accountability and redress for historical abuses

During the review of Ireland's *second periodic report*, the Committee expressed concern over the fact that, 10 years after signing it, Ireland still had not ratified the Optional Protocol to the Convention ("OPCAT"), preventing the establishment of a National Preventive Mechanism (NPM).

Regarding historical abuses, the Committee welcomed the measures taken by Ireland to address allegations of abuse of thousands of unmarried pregnant women and girls in Magdalene Laundries between 1922 and 1996. These women and girls were sent to such religious confinement institutions in order to give birth, and suffered from continued physical and sexual abuse by the nuns. The State Party, however, has failed to undertake an effective investigation into those allegations. The experts are also concerned that not all victims were able to obtain redress, full compensation or rehabilitation for what they had suffered. Committee expert and Co-Rapporteur on Ireland, Ms. Felice Gaer asked why Ireland was not allowing certain women who had worked in the Magdalene Laundries to participate in the redress scheme. She also noted that women survivors living abroad may not be aware of the redress scheme resulting in the relatively low number of applications for redress received from victims.

In addition, the Committee expressed concern about inter-prisoner violence. Ms. Ana Racu, Committee Expert and Co-Rapporteur for Ireland, noted the existence of gangs, high prevalence of drug use, and the lack of meaningful activities. She also denounced the high rate of deaths in custody and urged the State Party to initiate an effective investigation into all acts of violence committed in prison facilities and detention centres.

Other matters of concern were deprivation of fundamental legal safeguards, absence of specific training for public officials on the absolute prohibition of torture, the situation of asylum seekers and other migrants, conditions of detentions, inter-prisoner violence, the reform of the abortion law, implementation on intersex children of unnecessary medical or surgical treatments, abuse of older persons in care homes, and female genital mutilation.

#### Issues for follow-up:

1. Ratification of the Optional Protocol to the Convention and establishment of a NPM;
2. Strengthening the independence of the *Garda Síochána Ombudsman Commission* (GSOC);
3. Investigation into allegations of ill treatment of women in the Magdalene Laundries and ensuring that all victims obtain redress.

#### Read more:

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

## Panama

### Questioned NPM independence and police brutality

During the review of Panama's *fourth periodic report*, submitted 16 years late, the Committee welcomed the establishment of a National Preventive Mechanism (NPM). It nonetheless expressed concern about the independence of the NPM, to be housed under the Ombudsman's office rather than functioning as an individual entity. Experts further encouraged Panama to provide the necessary resources for running the NPM, in accordance with the Optional Protocol to the Convention (OPCAT).

Furthermore, while criminalizing torture, the country's penal code failed to fully comply with article 1 of the Convention, experts said. Indeed the definition did not explicitly include acts of torture committed by third parties on behalf of a public official. The experts also asserted that torture and other human rights violations should not be subject to any statute of limitations.

With regard to excessive use of force by police, the Committee was worried about the mistreatment and arbitrary arrests of demonstrators during protests against mining operations and the hydroelectric plants in the indigenous-populated region of Ngäbe-Buglé and during riots of July 2010 in the city of Changuinola. Experts regretted that the Government had failed to investigate allegations of excessive use of force by police during these events, and that the police had not properly registered individual complaints. Experts also urged Panama to intensify its efforts to systematically train all law enforcement officials on the use of force, especially in the context of demonstrations.

The committee experts also expressed concern about the conditions of detention in Panama, the country with the second-highest rate of imprisonment in Latin America. While certain measures taken had decreased overcrowding, little had been done to improve current living conditions in detention centres. Inadequate medical services, lack of drinking water, and excessive use of force were issues of concern, reports revealed. The Committee urged the State to ensure that all detention facilities were in good conditions and offered adequate care to detainees, especially as new facilities were being opened in an effort to combat overcrowding.

Other issues raised included, deaths in custody, redress and rehabilitation of victims, enforced disappearances, universal jurisdiction, and fundamental legal safeguards.

#### Issues for follow-up:

1. Full development and independence of the NPM;
2. Impartial investigation and punishment of alleged police ill-treatment or torture;
3. Review of prison conditions and plans to improve current facilities.

#### Read more:

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

## NEXT SESSIONS

### 62<sup>nd</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: 23 April -18 May 2018

**Consideration of state reports:** Belarus, Czech Republic, Norway, Qatar, Senegal, and Tajikistan

**Lists of Issues Prior to Reporting:** Andorra, Azerbaijan, Denmark, Jordan, and Liechtenstein

> 29 January 2018: Deadline for NGO submissions for the List of Issues Prior to Reporting

> 26 March 2018: Deadline for NGO submissions for the state report reviews

### 64<sup>th</sup> session of the CAT: 23 July -10 August 2018

**Consideration of states:** Chile, Mauritania, the Russian Federation, and Seychelles (in the absence of a report)

> 25 June 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 mobilization 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.

### 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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This E-bulletin has been produced with the financial assistance of the European Union, Irish Aid, Swiss Federal Department of Foreign Affairs and the Sigrid Rausing Trust. The contents of this document are the sole responsibility of OMCT and can under no circumstances be regarded as reflecting the position of the European Union, Irish Aid, Swiss Federal Department of Foreign Affairs or the Sigrid Rausing Trust.



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