



OMCT E-Bulletin – July-August 2018

64th session of the Committee Against Torture

This E-Bulletin is part of the 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 about our work on our [website](#).

Table of contents

Introduction.....	1
What's up	2
OMCT submissions.....	3
Summaries of the CAT State reviews	4
Next Sessions	8
Stay up-to-date.....	9
We thank.....	9

Introduction

During its 64th Session (23 July – 10 August 2018), the Committee Against Torture (CAT) considered the State party reports of Mauritania, the Russian Federation, Seychelles and Chile. In accordance with Article 19 of the Convention Against Torture, every four years State Parties submit a report to the CAT on 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 the Committee Members. The day before the consideration of the report, NGOs having submitted an alternative report can raise their concerns during a private briefing with the CAT. At the end of each session, the CAT publishes its « [Concluding Observations](#) », which

are specific recommendations for each reviewed State and issues for them to follow up on within one year. During this session, the discussions covered a broad range of topics, from the poor detention conditions, the definition of torture in domestic law, police violence, ineffective investigations into torture allegations, and the abuse of anti-terrorist laws curtailing fundamental legal safeguards.



Left: Mapucha ambassador of the United Nations (Flor Rayen Calfunao), Right: Ukrainian activists
© Laura Parisotto

What's up

Seychelles: late reporting and state delegation participation through video conference

The Seychelles was scheduled for review as a non-reporting State, but just one week before the 64th CAT session started, the Seychelles submitted its first state report since its ratification of the Convention Against Torture 25 years ago. As a result of the tardy submission, NGOs had little time to consider the content of the state report and no alternative NGO reports were submitted. The lack of alternative NGO information on the compliance with the Convention against Torture by the Seychelles rendered the review more difficult for the CAT members. The Seychellois state delegation participated through video conference, which was a premiere in CAT's history.

Read more on our [OMCT blog post](#), "[It Takes Three to Tango – How Seriously are Late and Non-Reporting States Taking the Committee Against Torture?](#)".

Participation of Russian journalists

A group of nine Russian journalists attended the CAT review of the Russian Federation. The journalists, in preparation of the CAT's review of Russia, had participated in November 2017 in a workshop organized by the OMCT and its Russian SOS-Torture network member organization "Committee against Torture", about the media's role in promoting human rights and fighting torture that took place in Geneva. The Russian journalists played a key role in the 64th session for instance through their joint submission with the OMCT of an [alternative report](#), their oral presentation before the Committee and the publication of numerous articles in the Russian press on the CAT session.

OMCT conducted several interviews with human rights defenders and victims of torture from Russia and Ukraine. They are available on our [Facebook page](#).

Obstacles to the freedom of movement of five Mauritanian human rights defenders as they were to attend the 64th CAT session

Mauritanian authorities prevented five human rights defenders from attending the CAT session. Before their departure to Geneva, police at Oumtounsy International Airport arrested the human rights defenders and confiscated their passports on the grounds that they had to verify their visa. They were also requested to obtain a letter from the Swiss consular authorities in Senegal, from where they obtained their visas, to verify that the Swiss Embassy certified them. As a result of this delay, they were unable to board their flight. Despite having a valid Schengen visa and an invitation letter from the OMCT explaining the purpose of their trip, the human rights defenders were prevented from attending the CAT session.



Left : Superintendent Raymond St Ange representing the Seychelles, Right : Russian activists
© Laura Parisotto

OMCT submissions

The Russian Federation

The Russian [NGO Committee Against Torture](#), the OMCT and the aforementioned group of Russian journalists prepared and submitted a joint [report](#). The report highlighted cases of violence and pressure used against journalists in relation to their coverage of cases of torture and other ill-treatment.

[The Moldovan NGO, Promo Lex](#), and OMCT contributed to the review of the Russian Federation by submitting a joint alternative [report](#) on the positive obligations of the Russian Federation for ensuring that the prohibition of torture, cruel, inhuman and degrading treatment or punishment is fully respected in the Transnistrian region. The report considers a variety of issues including torture and ill-treatment in places of detention and psychiatric establishments, and the lack of investigations of torture allegations.

CAT state reviews summaries

Mauritania

Anti-terrorist law and poor detention conditions

During its consideration of Mauritania's second periodic [report](#), the Committee expressed concern that despite its precedent recommendation, the vague definition of terrorist acts in the anti-terrorist Act No. 2010-043 had not been amended. Suspects of terrorism are often detained incommunicado in informal detention facilities and are subject to torture to extract confessions. Mauritania denied the existence of these informal detention facilities, however the CAT noted that the Special Rapporteur on torture had been denied access to such facilities during his country visit.

The high number of persons in pre-trial detention (38 per cent) and the low rate of implementation of sentencing measures (8.7 per cent) has resulted in serious overcrowding in detention centres. According to the National Preventive Mechanism, 11 centres are residential houses transformed into prisons with sanitation, security, health and hygiene shortcomings. The Committee urged Mauritania to use alternative sentencing measures, such as conditional release, and the introduction of non-custodial alternatives to imprisonment.

The Committee also raised concerns about the use of corporal punishment authorised by the Penal Code of *Hudud* crimes by death through public stoning, flogging and amputation as well as the practice of *Diyya*, also known as blood money, which is financial compensation paid to the victim or the family in cases of murder, bodily harm or property damage. The Committee also noted with concern the recent amendment of Article 306 of the Penal Code introducing the mandatory death penalty for acts classified as apostasy without the possibility of repentance or appeal. While there is a de facto moratorium on the application of the death penalty and corporal punishment, their persistence in legislation is alarming.

The Committee noted with concern that at the airport, on the pretext of verifying visas, the authorities stopped five human rights defenders who planned to attend the CAT session during the consideration of the Mauritanian State report in Geneva. It requested the State to protect members of CSOs who have cooperated with the CAT from any acts of reprisals. Other issues raised by the Committee included lack of legal safeguards, excessive use of force by State agents, and the use of confessions obtained under torture.

Issues for follow-up relate to:

- ❖ Obligation to prosecute and punish perpetrators of torture and ill-treatment;
- ❖ Release of human rights defenders who are in arbitrary detention;
- ❖ National mechanism for the prevention of torture.

Read more: [Concluding Observations](#) (French only), [meeting summaries](#), [webcast](#) and [the Urgent Appeal by the Observatory for the Protection of Human Rights Defenders](#).

The Russian Federation

Ineffective investigation into torture cases and attacks against human rights defenders and journalists

During the review of the Russian Federation's sixth periodic [report](#), the Committee expressed its concern over consistent reports that fundamental legal safeguards against torture for detained persons are often not applied from the very outset of their deprivation of liberty. Free legal aid is not always available and legal counsels are often denied access to their clients in detention. Medical personnel in detention centers routinely fail or even refuse to conduct proper and confidential examinations of injuries sustained from torture or ill-treatment, and detainee's requests to receive an independent medical examination are often denied by the authorities.

The Committee further expressed concern about consistent and numerous reports indicating the lack of prompt, impartial and effective investigation into allegations of torture or ill-treatment. In the case of Yevgeny Makarov, evidence from video surveillance was suppressed for one year. Only after it was leaked to the media, did the authorities open a criminal case.

Physical violence, intimidation, and direct attacks on journalists and human rights defenders have become commonplace in Russia. The use of the "foreign agents law" and the "undesirable foreign and international organisations law" impede their professional activities. Human rights violations directed towards the LGBTIQ community have worsened, especially in Chechnya. Under the federal law prohibiting "propaganda of non-traditional sexual relations" journalists and activists have been found guilty for advocating the rights of LGBTIQ people. The CAT recommended the repeal of this law as it promotes the stigma and prejudice of LGBTIQ people.

The Committee also expressed its concern over the jurisdictional vacuum in the Transnistrian region where torture allegations and lack of investigation have become routine. The Committee recommends the state party to participate in the 5+2 talks to encourage the adoption of effective measures in promoting and preventing torture and ill-treatment in the region.

Issues for follow-up relate to:

- ❖ Effective investigation of acts of torture;
- ❖ Effective investigation of the Yevgeny Makarov case;
- ❖ Effective investigation of all reported acts of violence and harassment against human rights organisations, human rights defenders, lawyers and journalists

Read more: [Concluding Observations](#), [meeting summaries](#) and [webcast](#).

Seychelles

Definition of torture in national legislation and poor fundamental legal safeguards

After a 25-year delay, the Seychelles submitted its initial [report](#) and the Committee was finally able to review the State party's obligations under the UNCAT. As the provisions of the Convention against Torture are not directly enforceable by the national courts of the Seychelles, the CAT urged the state to incorporate the Convention into its national legislation. The Committee was particularly alarmed that no definition of torture or explicit prohibition of torture, cruel, inhuman or degrading treatment or punishment exists in the criminal laws of Seychelles and recommended the state to amend its Penal Code. The Committee further emphasised that no statute of limitations should exist for the crime of torture.

The CAT expressed concern about violations of fundamental legal safeguards, such as the practice of not being informed immediately of the reasons for one's arrest or detention; the 24-hour rule of bringing detained persons before a court is not always respected; and persons may be held by police without charges for up to 14 days.

The minimum age of criminal responsibility for certain offences stipulated in article 15 of the Penal Code in the Seychelles is 7 years old. Children can be held criminally liable if it is proven that they were aware of what they were doing. Furthermore, since the Children Act 1982 allows for the right to inflict "reasonable chastisement", corporal punishment of children is not explicitly and unequivocally prohibited. The State party is recommended to reform the juvenile justice system and amend the Penal Code in compliance with international standards.

The Committee was also alarmed by the high prevalence of hepatitis and HIV/AIDS amongst inmates, especially when acquired during incarceration. Measures to prevent inmates from being infected during incarceration must be taken, and access to medical doctors in detention facilities must be provided.

Issues for follow-up relate to:

- ❖ Fundamental legal safeguards;
- ❖ Prolonged pre-trial detention;
- ❖ Conditions of detention.

Read more: [Concluding Observations](#), [meeting summaries](#) and [webcast](#).

Chile

Abusive application of the anti-terrorist law, police brutality and sexual abuse; and deaths of children and adolescents in residential centres for minors

During the consideration of Chile's sixth periodic state [report](#), the Committee expressed its concern about the wide and vague definition of terrorist offences in national legislation, the limitation of fundamental safeguards and procedural guarantees provided for in the anti-terrorist law. The Committee was particularly concerned about the abusive application of the anti-terrorist law against Mapuche people.

The Committee expressed concern over reported police brutality and excessive use of force on demonstrators and members of the Mapuche people. Furthermore, the Committee regretted that the state did not provide information about the investigations into sexual abuses committed by the police against women and girls during student protests that have taken place since the last CAT review in 2009. The Committee noted with appreciation the proposed bill against gender-based violence, and urged the state to ensure that all cases of gender-based violence against women and girls are thoroughly investigated.

In recent years, there has been a high number of deaths of children and adolescents registered in the network of residential centers of the National Service for Minors (SENAME). According to information provided by the State, 256 minors died between January 2005 and June 2016 in centers administered or subsidized by SENAME. Reports of torture, ill-treatment and sexual abuse of children by staff and high rates of violence among the children are alarming. The Committee urged Chile to promptly and impartially investigate all cases of death, torture, ill-treatment and sexual abuses in the centers by an independent body.

Issues for follow-up relate to:

- ❖ Establishment or designation of a national preventive mechanism against torture.
- ❖ Deaths, torture, ill-treatment and sexual abuse of minors in SENAME centres
- ❖ Ill-treatment of people with disabilities and the elderly.

Read more: [Concluding Observations](#) (Spanish only), [meeting summaries](#) and [webcast](#).

Next Sessions

65th Session of the CAT

12 November – 7 December 2018

- ❖ Consideration of State party reports: Canada, Guatemala, Maldives, the Netherlands, Peru and Viet Nam.
- ❖ List of Issues Prior to Reporting: France, Israel, Philippines and Turkey.
- ❖ List of Issues: South Africa and Benin.
 - 25 June 2018: deadline for NGO submissions for the List of Issues and List of Issues Prior to Reporting.
 - 15 October 2018: deadline for NGO submissions for the State report reviews.

66th Session of the CAT

23 April – 17 May 2019

- ❖ Consideration of State party reports: Benin, Democratic Republic of the Congo, Germany, Mexico, South Africa, United Kingdom of Great Britain and Northern Ireland.
- ❖ List of Issues Prior to Reporting: Dominican Republic, Honduras, Kuwait, Lesotho and Mongolia.
- ❖ List of Issues: Burkina Faso and Uzbekistan.
 - 28 January 2019: deadline for NGO submission for the List of Issues and List of Issues Prior Reporting.
 - 22 March 2019: deadline for NGO submissions for the State report reviews.

67th Session of the CAT

22 July - 9 August 2019

- ❖ Considerations of State party report: Greece, Poland, Togo and Bangladesh.
 - 22 June 2019: deadline for NGO submission for the State report reviews.

Stay up-to-date

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 of the CAT and the Convention Against Torture, and increase the 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, etc.), we encourage you to share your experience and knowledge by submitting an article. Please contact cbb@omct.org for more information.

Live Webcast of the CAT sessions

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

And follow us



We thank

This E-bulletin has been produced with the financial assistance of the European Union, the Ministry of Foreign Affairs of the Netherlands, the 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 circumstance be regarded as reflecting the positions of the European Union, the Ministry of Foreign Affairs of the Netherlands, the Swiss Federal Department of Foreign Affairs or the Sigrid Rausing Trust.



Ministry of Foreign Affairs of the
Netherlands

SIGRID RAUSING TRUST



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra