



OMCT E-Bulletin April – May 2019

66th 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](#).

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Introduction

During its 66th Session (23 April – 17 May 2019), the Committee Against Torture (CAT) considered the State party reports of the Democratic Republic of the Congo, Mexico, Germany, South Africa, Benin and the United Kingdom of Great Britain and Northern Ireland. In accordance with Article 19 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, every four years States 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, non-governmental organizations (NGOs) who have 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 violence against children, gender-based violence, deaths in custody to detention of asylum seekers and migrants, and accountability for torture committed overseas.



NGO representatives from Mexico and IRCT and OMCT members with the two rapporteurs at the 66th CAT Session © Coalition of Mexican and international CSOs

What's up

OMCT and ACANU Press Conference with Mexican Activists

On April 24, during the 66th session of the CAT, the OMCT organized a press conference on the human rights situation in Mexico for members of the ACANU (Association of Accredited Correspondents at the United Nations). Stephanie Brewer, Coordinator of International Advocacy at [Centro Prodh](#), Olga Arnaiz Zhuravleva, Advocacy Coordinator at [Red Nacional de Organismos Civiles de Derechos Humanos - Todos los Derechos Para Todas y Todos](#), the organization that coordinated the drafting of the alternative report, and Olga Guzman Vergara, Director of Advocacy at the [Mexican Commission for the Defence and Promotion of Human Rights \(CMDPDH\)](#) spoke of the situation in Mexico with regard to torture. The three speakers responded to journalists' questions by providing an extensive overview of torture in Mexico and giving concrete examples from the field.

OMCT Preparatory missions

Democratic Republic of Congo

On the 11th and 12th December 2018, OMCT's Africa regional coordinator organised a consultation workshop in Kinshasa to prepare the DRC's review in front of the CAT, with 15 members of CSOs, including OMCT network members and other partners based in the capital and in the most violent hotspots in the Nord Kivu, Ituri and Kasai regions. The two-day discussions raised the main topics to be included in the alternative report. It was decided to focus on the issues of secret detention, human rights defenders, impunity and sexual violence, among others. The preparatory mission also included meetings with the president of the Human Rights Commission and the director of the United Nations Joint Human Rights Office (UNJHRO) in Kinshasa.



From left to right: Isidore Collins Ngueuleu, Africa Regional Coordinator of the OMCT; Mr. Henri Wembolua, AUDF ONG; and Mr. Mwamba Mushikonke Mwamus, President of the National Human Rights Commission (CNDH) © OMCT



Preparatory meeting with Congolese CSOs: ACAT RDC; Action femmes de valeur; AUDF; CCCT; CSCB; LIZADEEL; Lucha; SOS-IJM; SFVS; VSV and OMCT © OMCT

Mexico

To prepare the upcoming 7th review of Mexico by the CAT, the OMCT, along with the German Agency for International Cooperation (GIZ) and its partners on the ground organized, in January 2019, a three-day roundtable, with a very large presence of representatives of Mexican CSOs from different regions and backgrounds. This meeting was also dedicated to discussing the key elements of the soon to be adopted National Programme for the Prevention and Sanction of Torture. The OMCT also visited Chiapas, to conduct activities with its network member Frayba, including a visit to a local prison to meet with victims of torture.

Benin

In preparation for Benin's review by the CAT, two representatives of the OMCT and ESAM, a long-time partner, conducted a mission to Benin in February 2019. The mission led to a discussion workshop, with more than 30 representatives of Beninese CSO's, on the main challenges and issues related to torture and ill-treatment against children, to define the main issues to be included in the alternative report. The mission also allowed the OMCT and ESAM to visit several places where children are deprived of liberty, and to meet with government officials to discuss the main challenges related to the situation of detained children. The OMCT will continue to work closely with ESAM to ensure the implementation of the Concluding Observations made by the CAT to the State of Benin and to improve compliance with the Convention against Torture by Benin.



Representatives of the Beninese civil society who attended the preparation workshop on the alternative report for the CAT, organized by OMCT and ESAM © OMCT

OMCT submissions

Democratic Republic of Congo

AUDF, ADSKA and the OMCT prepared and submitted a joint [report](#) (available in English and French) to the CAT on torture and other ill-treatment in the country and, in particular, in areas of armed conflict. The report highlights the climate of silence and secrecy established by the Government, which benefits impunity. Violence against human rights defenders, sexual violence against women and acts of torture and ill-treatment against children are the key issues in this report.

Mexico

A coalition of approximately 100 Mexican CSOs and networks joined by international NGOs, including the OMCT, contributed to the review of Mexico by submitting a joint alternative [report](#) (available in English and Spanish) to the CAT. The report analyses different aspects of the systematic practice of torture in different contexts, whether in the pursuit of justice, public security, places of deprivation of liberty, healthcare institutions or in the context of migration. The report also points out that minority groups, such as women, LGBTIQ, indigenous people and children, are the target of widespread State violence or of the population.

Benin

The Beninese NGO ESAM and the OMCT contributed to the review of Benin by submitting a joint alternative [report](#) (available in French) on the situation of children facing torture, cruel, inhuman and degrading treatment or punishment and covering the period 2007 to 2019. It considers different issues including conditions of detention of children; violence against children by law enforcement officials in custody; child trafficking; sexual violence and genital mutilation against girls.

Summaries of the CAT State reviews

Democratic Republic of Congo

Torture and sexual violence encouraged by a general climate of impunity

During the review of the Democratic Republic of Congo's 2nd periodic [report](#), while welcoming the adoption of the Law from 9 July 2011 criminalizing torture, the CAT raised concern about its non-enforcement in a context of general impunity in the DRC, where 63% of the acts of torture and ill-treatment were committed by State agents. The CAT was particularly concerned about the implication of the armed forces (FARDC), of the national police and the National Intelligence Agency (ANR) in the acts of torture perpetrated against individuals suspected of being political opponents. The ANR was more specifically questioned for its implication in the practice of incommunicado detention in secret places without any control of the judicial authorities. This practice, combined with the immunities of ANR agents and the lack of impartial and effective investigation, raises serious concern about impunity in the country, the CAT stressed.

More generally, the Committee expressed its concerns about violence through arbitrary arrest and detention of political opponents or human rights defenders, such as Diomi Ndongala, and called for their immediate release. The Committee also requested prompt and impartial investigation regarding the excessive use of force by police and armed forces against members of civil society during demonstrations, especially those that took place between December 2017 and February 2018, during which it is stated that 19 people died and 251 were injured.

The Committee was also alarmed by sexual violence in the DRC, presented as “endemic” and used as a weapon of war by State agents as well as non-State armed groups in a climate of “total impunity”. Rape is often used as a sanction towards women in detention because of their political opposition or membership in CSOs. The fact that military courts still exercise their jurisdiction over cases of conflict-related sexual violence encourages a generalised culture of impunity. The CAT deplored that this leads to the absence of redress and rehabilitation for the victims.

Other issues addressed by the CAT include the excessive use of pre-trial detention, the National Human Rights Commission, conditions of detention and the abolition of death penalty.

Issues for follow-up:

- ❖ Fundamental legal safeguards and recordkeeping;
- ❖ Creation of the National Preventive Mechanism;
- ❖ Prompt and effective investigation of all cases of sexual violence;
- ❖ Prosecution of perpetrators of violence against children and redress for the victims.

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

Mexico

Endemic use of torture and lack of transparency

During the consideration of Mexico's 7th periodic [report](#), the CAT expressed concern about the systematic and widespread character of torture in the country. While welcoming the adoption of the General Law against Torture (LGPIST), the CAT was worried about its lack of implementation and of official data related to the cases of torture, ill-treatment and their prosecution. Thus, the CAT asked for the urgent adoption of the National Programme for the Prevention and Sanction of Torture and for the periodic publication of the results obtained by the National Survey of People Deprived of Liberty (ENPOL). The lack of transparency was considered a key underlying cause of the high levels of impunity observed in Mexico. This is why the national authorities have been asked, as a priority recommendation, to make a public statement to uphold the absolute prohibition of torture and to restate that the persons committing this crime will be punished.

With regard to impunity, the CAT also expressed serious concern about the shortcomings in the prosecution of alleged acts of torture and ill-treatment, asking for prompt, effective and impartial investigations by an independent body. The CAT was concerned about the significant delays in the performance of physical and psychological evaluations of the alleged victims, coupled with serious concerns regarding the impartiality of the Attorney General's Office (FGR) forensic experts. For this reason, the CAT called on Mexico to consider the creation of an independent institute of forensic sciences. Moreover, the CAT was preoccupied by the deeply rooted use of torture to obtain confessions and their use against the defendants as evidence in courts.

The CAT addressed the situation of automatic detention as well as violence and abuse committed by immigration officers against undocumented migrants and asylum seekers. The CAT emphasised that the children of undocumented migrants shouldn't be detained because of their status and recommended to review the Migration Law in order to repeal the mandatory deprivation of liberty of migrants and asylum seekers and to set a maximum legal period of detention.

Other issues raised by the CAT included the need to end pre-charge detention (*arraigo*), killings and attacks against human rights defenders, solitary confinement and redress through the Executive Commission for Victims Assistance (CEAV) and the collaboration of specialized CSOs.

Issues for follow-up:

- ❖ Public statement in favour of the absolute prohibition of torture;
- ❖ Periodic realisation and publication of ENPOL;
- ❖ National Programme to prevent and prosecute torture and ill-treatment;
- ❖ Fundamental legal safeguards for persons deprived of liberty;
- ❖ Conformity of medical evaluations with Istanbul Protocol.

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

Nothing can justify **torture under any circumstances**

Germany

Detention, treatment and violence against asylum seekers and migrants

During the consideration of the 6th periodic [report](#) of Germany, the CAT reiterated its concern that Germany had still not defined torture as a specific crime under its general criminal law, despite the CAT's previous recommendation. The discrepancy between the definition contained in the Convention against Torture and that in domestic law may create potential loopholes for impunity.

The CAT was alarmed to learn about the State party's continued practice of detaining asylum seekers and undocumented migrants in closed facilities for prolonged periods of time. Asylum seekers are obliged to stay in AnKER centres (Zentrum für Ankunft, Entscheidung, und Rückführung) for up to 18 months. These centres are usually situated in isolated locations, which restrains the liberty of its residents. In addition, medical examinations of detained asylum seekers to identify vulnerable persons, including victims of torture, are not systematically ensured. The experts called on Germany to ensure that asylum seekers are not routinely detained and only as a measure of last resort for the shortest period of time. The CAT also referred to reports of violence against asylum seekers and refugees based on xenophobia, racism, anti-Semitism and islamophobia.

The CAT further expressed concern that solitary confinement may be imposed as a disciplinary measure for up to 4 weeks for adult prisoners, and 2 weeks for juveniles in many *Länder*. The CAT thus recommended that this practice should only be used as a measure of last resort, for short periods of time and should be abolished for juveniles as a disciplinary measure. With regards to the use of physical restraints in detention and psychiatric facilities, the CAT was particularly concerned by the lack of information provided by the State on the use and regulation of physical restraint, including shackling in the form of metal or disposable handcuffs. The experts encouraged the State party to minimize and strictly regulate the use of physical restraints in all establishments.

Other concerns raised by the CAT included: counter-terrorism and national security, in particular the fact that the police have extensive powers with regard to electronic tagging and surveillance of "potential attackers"; the refusal of the State Party to extradite, investigate or prosecute the suspects of crimes of torture in the *Colonia Dignidad* in Chile; the insufficient resources allocated to the National Agency for the Prevention of Torture; and the lack of mechanisms for investigating allegations of criminal conduct by police officers in some *Länder* and at the Federal level.

Issues for follow-up:

- ❖ National Agency for the Prevention of Torture;
- ❖ Violence against asylum seekers and migrants;
- ❖ Training on the Istanbul Protocol.

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

South Africa

Violence and deaths in custody

During the consideration of the 2nd periodic [report](#) of South Africa, the Committee expressed its concern about the poor detention conditions in the country noting overcrowding, dilapidated infrastructure and sanitary conditions, inadequate food, limited access to health and medical services and inadequate working conditions for prison staff. An important reason for prison overcrowding is the worrying trend showing an increase in the number of prisoners serving life sentences. Regarding the conditions of segregation of detainees, the Committee stressed that this measure amounts to de facto solitary confinement and should only be used in the most exceptional circumstances and for a short period of time, in accordance with the Mandela Rules.

The Committee was further alarmed by the numerous incidences of violence in places of deprivation of liberty, including cases of excessive use of force, torture, sexual violence, etc. The number of deaths in custody is high in South Africa. They result, in particular, from police and prison officials' actions as well as from the absence of medical treatment. The low number of investigations and prosecutions perpetuates death in custody.

While the Committee was pleased to learn that South Africa is in the process of ratifying the Optional Protocol to the Convention and designating the South African Human Rights Commission as the coordination body for the national preventive mechanism, it remained concerned about the current limitations faced by oversight bodies in terms of mandates, budgets and institutional independence from the government departments they supervise. The reported lack of effective monitoring of police stations and their detention facilities as well as the lack of adequate safeguards to protect complainants from reprisal are of grave concern.

The CAT also voiced concern about the continuing gender-based and domestic violence affecting women and girls. Many cases continue to be under-reported or, when reported, fail to be investigated. Indeed, less than 20 % of cases are going to trial and only 8.6 % result in a guilty verdict. The CAT expressed concern at the limited access to care centres and shelters by victims of violence living in rural areas.

Issues for follow-up:

- ❖ Prompt investigation and prosecution of all deaths in custody;
- ❖ Ratification of the Optional Protocol to the Convention Against Torture;
- ❖ Ensure that all allegations of torture by law enforcement officials are referred by the Independent Police Investigative Directorate to the National Prosecuting Authority.

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

Benin

Extended pre-trial detention and violence against children

During the review of Benin's third periodic [report](#), the CAT welcomed the adoption of the new criminal code in June 2018, criminalizing torture as an autonomous offence, but expressed concern that several elements of the definition were missing (art. 2 UNCAT). The Committee also deplored the low penalties for the crime of torture and recommended the removal of statutory limitations.

The CAT further expressed serious concern about the maximum duration of police custody of eight days, which exposes detainees to a serious risk of torture and ill-treatment, and therefore recommended a maximum duration of 48 hours. Experts also recalled that detainees should be informed of their fundamental legal safeguards from the beginning of their deprivation of liberty. The CAT was alarmed by the excessive use of pre-trial detention, including for detained children, the majority of whom are currently awaiting judgment, and its renewals exceeding the length of the maximum sentence incurred. The experts also recommended an effective judicial monitoring of pre-trial detention, the respect of the standards that children should only be detained as a last resort and for the shortest time possible, and the use of alternative measures to detention.

Extensive discussions on the administration of juvenile justice during the review led the CAT to recommend, among others, the appointment of specialised juvenile justice judges and tribunals. The CAT was also alarmed by the conditions of detention, including for children detained, characterised by overcrowding, lack of food, hygiene and medical staff and treatment. The CAT recommended the urgent improvement of material conditions in prisons. The CAT recommended that authorised NGOs be granted permanent access to prisons and to put in place monitoring commissions in prisons. The CAT also asked to expedite the establishment of the National Preventive Mechanism, with a mandate in line with the OPCAT to which Benin acceded in 2006.

The Committee was concerned about the persistence of high levels of violence against children, which represent 25% of the cases brought before courts. This includes violence in detention, female genital mutilation, trafficking, sexual violence at school and infanticide of children accused of witchcraft. The experts were particularly concerned about the level of impunity for these crimes and recommended thorough and impartial inquiries on these acts of torture and ill-treatment and prosecution of their authors with appropriate sanctions.

Issues for follow-up:

- ❖ Prison registers;
- ❖ Control of pre-trial detention by judicial authorities;
- ❖ Monitoring of places of detention;
- ❖ Investigation on excessive use of force during demonstrations.

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

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United Kingdom of Great Britain and Northern Ireland

Abuse of children in detention and accountability for abuses in Iraq

In its review of the UK's sixth periodic [report](#), the CAT took note of the delegation's declaration that the UK would remain a party to the European Convention on Human Rights and that the Government has no plans to repeal or reform the Human Rights Act 1998, even after any prospective UK departure from the European Union. However, high-level officials of the State party made repeated contradictory statements in the past.

The CAT urged the UK to ensure that all cases of violence against children in detention, especially sexual assault, are investigated and, when substantiated, prosecuted and punished. Indeed, an investigation report revealed 1,070 alleged incidents of child sexual abuse in children's custodial estate in England and Wales between 2009 and 2017.

The CAT remained seriously concerned that no effective investigations have been carried out into the many allegations of torture, including waterboarding, ill-treatment and killings perpetrated in Northern Ireland in the context of 'the Troubles' (1968-1998). Only few of the perpetrators have been held accountable and victims have not obtained redress. The 2018 arrest of two journalists who worked on a documentary disclosing leaked documents allegedly revealing police collusion in a sectarian mass murder in 1994 deeply worried the CAT.

Although the Iraq Historic Allegations Team (IHAT) received around 3,400 allegations of unlawful killings, torture and ill-treatment committed by the UK Armed Forces in Iraq between 2003 and 2009, no prosecutions for war crimes or torture resulted from the investigations. The IHAT's work ceased in 2017, and the remaining cases were transferred to the Service Police Legacy Investigation (SPLI). The CAT is concerned that the SPLI has closed cases 'based on an arbitrary and conceptually under inclusive ranking of their severity'. It urged the UK to establish a single, independent, public inquiry to investigate these allegations.

Other concerns raised by the CAT included: overcrowding, deaths, and poor conditions in prisons; age of criminal responsibility in England, Wales and Northern Ireland (10 years old) and in Scotland (12 years old); disproportionate use of tasers by law enforcement against children, young people and minority groups; child abuse in children's homes and residential institutions in Northern Ireland between 1922 and 1995; cases of unnecessary surgery on intersex children.

Issues for follow-up:

- ❖ Sexual abuse of children in detention;
- ❖ Accountability for any torture and ill-treatment committed by UK personnel in Iraq;
- ❖ Accountability for conflict-related violations in Northern Ireland.

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

Next sessions

67th session of the CAT

22 July – 9 August 2019

- ❖ Consideration of the State Party reports: Greece, Poland, Togo and Bangladesh.
 - 22 June 2019: deadline for NGO submissions for the State report reviews.

68th session of the CAT

11 November – 6 December 2019

- ❖ Consideration of the State Party reports: Burkina Faso, Cyprus, Latvia, Niger, Portugal, Uzbekistan.
- ❖ List of Issues Prior to Reporting: Armenia, Ecuador, Finland, Monaco, Namibia.
- ❖ List of Issues: Cuba
 - 24 June 2019: deadline for NGO submissions for the List of Issues and List of Issues Prior to Reporting.
 - 14 October 2019: deadline for NGO submissions 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 work of the CAT and the Convention, to increase mobilisation of CSOs around the CAT, as well as to encourage CSOs, experts and other stakeholders to share their experience and learning in seeking an effective use of the CAT procedures to foster the implementation of the Convention.

OMCT invites and encourages persons working on the Convention Against Torture 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 blog. 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.

Follow us



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