

OMCT E-Bulletin
11 November – 6 December 2019

68th 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 68th Session (11 November – 6 December 2019), the Committee Against Torture (Committee) considered the State party reports of Uzbekistan, Burkina Faso, Cyprus, Portugal, Latvia and Niger. 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 Committee 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 who have submitted an alternative report can raise their concerns during a private briefing with the Committee. At the end of each session, the Committee 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 migrants' treatment, gender-based violence, the situation of human rights defenders to the excessive use of force by public security forces and detention conditions.

What's up

Experts Felice Gaer and Abdelwahab Hani left the Committee at the end of the 68th session, after respectively 20 and four years carrying out their vital work. Our gratitude goes to them both. We are inspired by their commitment to end torture, their broad vision of the protection and promotion of human rights, as well as by their strong support to civil society.



OMCT Preparatory mission

Niger

The OMCT conducted jointly with its partners CODDHD and Alternative Espaces Citoyens Niger a preparatory mission to Niamey and Agadez from 5 to 18 October 2019. During the mission we organised a workshop with civil society organisations to discuss Niger's compliance with the Convention Against Torture. The participants decided to focus, in their alternative report, on the nexus between torture and migration by analysing the laws and policies on migration and how they result in exposing migrants to torture at borders and in detention facilities. During the mission to Agadez, the OMCT representative had the opportunity to discuss directly with migrants, the authorities as well as with the UN and international NGOs, complementing the preparation of the report.



OMCT Submissions

Uzbekistan

The OMCT and the Uzbek League for Human Rights contributed to the review of Uzbekistan by submitting a [joint alternative report](#) on torture and ill-treatment in the country. It covers different issues such as persistent acts of torture by law enforcement agents; deplorable conditions of detention; failure to conduct effective investigations against the perpetrators, the situation of human rights defenders; lack of reparation and rehabilitation for victims of torture as well as violence against women and LGBTIQ.

Burkina Faso

The OMCT submitted an [alternative report](#) (available in French) ahead of the country review of Burkina Faso. The information was gathered during the OMCT mission to Niger, where its delegate met with a dozen migrants that had crossed Burkina Faso borders. The report denounces the recurrence of acts of torture and ill-treatment perpetrated by the security forces against migrants, especially at the border with Niger, as well as arbitrary detention, abuse and extortion of migrants.

Niger

The OMCT contributed to the review of Niger by submitting a [joint alternative report](#) (available in French) in cooperation with Alternative Espaces Citoyens Niger, CODDHD and CROISADE. This thematic report focusses on the situation of migrants in a country located at the crossroads of migration routes and terrorist threats. While bringing to light cases of torture and ill-treatment perpetrated against migrants that go unpunished, this thematic report also points to the need to improve the domestic definition of torture, conditions of detention and fundamental legal safeguards. The fragile situation of migrant women, children and the persistence of the traditional practice of *wahaya* have also been addressed.

Summaries of the CAT State reviews

Uzbekistan

Widespread use of torture, detention conditions, fundamental legal safeguards and violence against human rights defenders, women and LGBTIQ

During the review of the [fifth report](#) of Uzbekistan, the Committee expressed concerns at the substantial number of allegations of torture it continues to receive since the last review of the country in 2013. The experts were seriously alarmed by the persistent climate of impunity and asked for further revision of article 235 of the Uzbek criminal code because it does not criminalize all incidences of torture specified in the Convention Against Torture. The Committee stressed that there can be no amnesty for the perpetrators and

Nothing can justify **torture** under any circumstances

there should be independent and effective investigations in cases of torture.

The Committee was also alarmed by the conditions of detention as prisons revealed to be places where torture and sexual violence are recurrent, with difficulties for prisoners to make a complaint and access fundamental legal safeguards. Furthermore, national monitoring institutions are not independent and the access to places of detention for international and national actors remains complicated. In this regard, the Committee reaffirmed the need to redress and properly compensate the victims of torture and ill-treatment, including human rights defenders and political prisoners that have been released from prison.

Uzbekistan's delegation declared that "the country is different from the past", and that efforts are being made to be more open to cooperation with the international community and implement the Committee's recommendations. However, many reforms have not been properly implemented. For example, human rights defenders continue to face major obstacles to formally register an NGO and working without registration is a crime. They encounter serious difficulties to promote human rights, while constantly being victims of harassment and intimidation. The Committee called for more efforts to enhance the participation and the role of the civil society as a dynamic force for the prevention of torture.

Finally, the Committee also addressed the issue of violence against women, regretting the lack of data on prosecutions of domestic violence perpetrators and the absence of a definition of marital rape in current national legislation. The experts urged the State to revise its policies on domestic violence, including legislation defining and criminalizing marital rape. Further steps have to be made in the direction of gender parity and all cases of gender-based violence need to be investigated exhaustively.

Moreover, some issues regarding the LGBTIQ situation have not been fully addressed by the State. The experts pointed out that Article 120 of Uzbek criminal code still criminalises homosexuality, asking the State to adopt a legislation ensuring that such persons are protected from violence and abuse.

Issues for follow-up relate to:

- ❖ Investigations on all allegations of torture and ill-treatment;
- ❖ Prosecution and punishment for alleged perpetrators;
- ❖ Redress for victims and their relatives, including compensation and rehabilitation;
- ❖ Measures to ensure the independent monitoring of all places of detention;
- ❖ Fundamental safeguards for persons deprived of liberty.

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

Burkina Faso

Fight against terrorism, detention conditions, lack of effective investigation of acts of torture, pre-trial detention

During the review of the [second report](#) of Burkina Faso, the Committee expressed grave concerns over the general climate of terrorism and organized crime that enables torture, ill-treatment and massive displacement in the country. The Committee was particularly concerned about the self-defence group called 'koglweogo' created in 2015 through popular mobilisation, as public services and State security collapsed. Koglweogo, acting outside any legal framework, is accused of numerous abuses, including acts of torture and ill-treatment. The experts stated that the fight against terrorism, although a priority for the national security, can't be allowed to become a threat for the respect of fundamental human rights. In this regard, Burkina Faso was recommended to establish a mechanism of control on non-state armed groups acting in the name of the State and reinforce the presence and the effectiveness of the national security forces.

Further concerns were raised on the conditions of detention, stressing that the country must urgently adopt concrete measures to solve the problem of prison overcrowding. There are places of detention with occupancy of more than 400% of the regular capacity. The Committee recommended a reduction of the length of pre-trial detention, which seemed abnormally long and sometimes unjustified. Several other issues regarding detention were raised, such as the lack of access to medical care, health conditions, food quality, ineffective complaint mechanisms and the deplorable state of the infrastructure of some facilities. In the night from 14 to 15 July 2019, 11 persons died in prison under vague circumstances and no effective investigations have been conducted. The experts called on the State to improve the conditions of detention as well as take measures to effectively investigate all allegations of torture and promptly provide reparations to the victims.

Pointing out the important role of national institutions in the eradication of torture, the Committee also invited the State party to establish as soon as possible a National Preventive Mechanism (NPM) complying with the OPCAT, ratified by Burkina Faso in 2010. Finally, the experts addressed the systematic use of pre-trial detention in the country. Particularly, they were concerned that since 2016 there had been more than 700 people detained on the basis of terrorism related crimes. In this regard, the Committee urged the State to promptly and effectively investigate those cases and to not exceed the maximum legal length of pre-trial detention.

Issues for follow-up relate to:

- ❖ Refraining from encouraging and supporting the actions of non-state armed groups (Koglweogo) in maintaining security;
- ❖ Providing an adequate budget for the reform of the penitentiary system and improvement of the material conditions of detention;
- ❖ The urgent establishment of a national preventive mechanism.

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

Latvia

Detention conditions and inter-prisoner violence, asylum seekers, human trafficking and domestic violence

During the review of the [sixth report](#) of Latvia, the Committee denounced the deplorable living conditions in some detention facilities with regard to material conditions such as hygiene, sanitation, humidity, ventilation and access to natural light. In addition, the phenomenon of inter-prisoner violence, a consequence of criminal subcultures, remains a considerable challenge for the Latvian prison administration. Therefore, the Committee asked that the government take serious measures to improve material conditions of detention and reduce the occupancy rate, considering alternative measures to detention. The experts also underlined the need to ensure fundamental legal safeguards for all persons deprived of liberty and to ensure the right of victims of torture and ill-treatment to receive comprehensive reparation, including compensation.

Further concerns were raised on the situation of juveniles in detention, notably on the practice of solitary confinement for children. The Committee stated that, even if minors are rarely placed in solitary confinement, this practice should be abolished for juveniles according the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

With regard to asylum seekers, the Committee was deeply concerned about the lack of adequate procedural safeguards, the absence of free legal aid to enable them to appeal refusals of entry or registration, and the frequent detention of asylum seekers. In addition to the review of its immigration detention policies, the experts called the State to put in place procedural safeguards against refoulement and stressed that detention of children should be a measure of last resort used for the shortest appropriate period. The Committee was also concerned that Latvia remains a country of origin of victims who are trafficked for the purposes of sexual and labour exploitation. The experts asked that the State party take effective measures to prevent and eradicate human trafficking as well as carry out prompt, effective, and impartial investigations to prosecute and punish perpetrators.

Finally, the Committee welcomed legislative improvements to protect victims of domestic violence and include marital rape as an aggravating circumstance, but remained concerned that neither domestic violence nor marital rape was defined as a specific crime under criminal law. The experts further stressed the difficulties victims have in filing complaints and accessing protection measures. Therefore, the Committee asked that the State party take measures to investigate all gender-based violence, punish perpetrators, and that victims receive redress including compensation, counselling and rehabilitation.

Issues for follow-up relate to:

- ❖ Ratification of the Optional Protocol to the Convention;

- ❖ Increasing the amounts of State compensation provided to each victim of torture or ill-treatment;
- ❖ Strengthening the effectiveness of complaints mechanisms for reporting cases of violence and providing adequate health care to persons in detention.

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

Portugal

Deaths in prison, asylum and non-refoulement, immigration detention, and excessive use of force, including racially motivated violence

During the review of the [seventh periodic report](#) of Portugal, the Committee against Torture expressed concern over the 177 deaths in Portuguese prisons that occurred in less than three years, including 35 cases of suicide. High occupancy rates in some penitentiary establishments also remain a source of concern, along with shortages of healthcare personnel in prison, deficiencies in mental health services and cases of non-separation of adults and minors.

Concerning the national asylum system, the Committee noted the increase from 25% to 54% of the asylum recognition rates, while remaining concerned over the lack of information on eventual appeals lodged against deportation or return of 1,048 persons between 2016 and 2018, and thereby putting into question the effectiveness of procedural safeguards against refoulement. The Committee further remained concerned that Portugal had failed to meet its commitment to relocate 4,274 asylum seekers from Italy and Greece under an EU relocation programme, since Portugal only accepted 1,552 asylum seekers between 2015 and 2017 under this programme.

Concerns were also expressed over reports of excessive and non-individualized immigration detention decisions, not taking into account alternatives to detention. The Committee recommended that children and families should never be deprived of liberty solely because of their immigration status.

Excessive use of force by law enforcement officers was discussed in detail, in particular with respect to the *Cova de Moura* case in 2015, where persons belonging to certain racial and ethnic groups had been victims of excessive use of force and police abuse. While compensation was granted to all victims, the Committee noted with concern that no public officer was sentenced for torture and/or racist motivation. Enhanced training of law enforcement personnel on the use of force and effective investigations into allegations of torture and racially motivated crimes are therefore recommended.

During the dialogue, other crucial issues were discussed such as human trafficking, the domestic definitions of torture and victim, effective and impartial investigations, sexual and gender-based violence, and training of armed forces on human rights and the use of firearms.

Issues for follow-up relate to:

- ❖ National preventive mechanism;
- ❖ Allegations of excessive use of force, including racially motivated violence;
- ❖ Conditions of detention.

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

Cyprus

Domestic violence, asylum seekers and irregular migrants, early identification of torture victims, police abuses and rights of detained persons, and missing persons

During the review of the [fifth periodic report](#) of Cyprus, the Committee against Torture welcomed ongoing efforts to adopt a legislation to criminalize harassment, stalking and all forms of domestic violence. However, the Committee remained concerned at the low number of investigations, prosecutions and convictions for domestic violence. It stressed the need to ensure that victims benefit from effective protection, medical, psychosocial and legal aid, including the right to a residence permit. In the same vein, the Committee expressed concern over the reported high incidence of violence, including sexual violence, against refugee and irregular migrant women and girls occurring in Cyprus.

The criminalization and routine protracted detention of asylum seekers and irregular migrants remains a source of serious concern for the Committee, as well as the lack of comprehensive identification procedures to ensure sufficient and timely identification of vulnerable persons prior to detention. Similarly, effective procedures to identify victims of torture, assess and address their specific needs are not in place. On the principle of non-refoulement, the return of individuals to countries where they may be subjected to torture and the very low rate of refugee status recognition compared to the granting of subsidiary protection were other sources of concern. Effective judicial reviews should have automatic suspensive effect on the deportation of asylum seekers and irregular migrants.

Furthermore, the Committee stressed the need to combat the problem of police abuses, including sexual abuses, and the lack of safeguards to ensure the confidentiality of complaints lodged by detainees for torture and ill-treatment. Efforts to ensure in practice the detainees' access to immediate legal aid prior to initial interrogations were recommended.

The State was recommended to make efforts to ensure that the detainees' access to immediate legal aid prior to initial interrogations takes place in practice.

Turning to missing persons, the Committee stressed the importance of providing full support to the work of the Committee on Missing Persons (CMP) and ensuring the right to truth on the circumstances of disappearance, by guaranteeing the sharing of information on the progress and outcomes of investigations with relatives of missing persons, providing them with access to judicial remedies and legal aid, prosecuting

those responsible and granting appropriate redress.

Issues for follow-up relate to:

- ❖ Measures to combat the problem of police abuses, in particular during investigations;
- ❖ Ensuring legal recourse for asylum seekers and irregular migrants who have lost the protection of suspensive effect;
- ❖ Improving the screening system to ensure early identification, referral, assistance and support for vulnerable asylum seekers, in particular for victims of torture and ill-treatment.

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

Niger

Fight against terrorism and state of emergency, migration and non-refoulement, traditional harmful practices, violence against women and children

During the review of the [initial report](#) of Niger, the Committee against Torture, while being fully aware of transnational challenges posed by non-State armed groups, expressed serious concern over the unclear and ambiguous definition of terrorism leading to arbitrary arrests and sentencing. In connection to this, the non-respect of fundamental legal safeguards, prolonged pre-trial detention, including the detention of adults with children allegedly affiliated with terrorist groups, the excessive use of force, the arbitrary detentions of journalists, human rights defenders and members of the opposition are of utmost concern, including the potential inobservance of the Convention Against Torture by foreign armed forces operating on Niger's soil with its consent.

With huge numbers of migrants, asylum seekers and internally displaced persons fleeing from violence spread by armed and terrorist groups, Niger's responsibility to protect all these persons from torture and ill-treatment is more than crucial. The Committee expressed serious concern over extraditions or expulsions exposing foreigners to risks of torture and ill-treatment, such as the case of Saadi Kaddafi and the deportation of 145 Sudanese asylum seekers to Libya. In this respect, the Committee stressed the crucial importance of maintaining absolute respect of the principle of non-refoulement. Not only Niger's legislation governing asylum and expulsion, but also the numerous mutual assistance and extradition agreements concluded by Niger should explicitly enshrine the principle of non-refoulement.

On the traditional harmful practice of *wahaya*, the lack of prosecutions and heavy sanctions for this tradition of purchasing a young girl for purposes of sexual slavery as fifth wife remains of utmost concern, including the persistence of early marriage, other forms of slavery based on ancestry, and protracted detention of minors accused of terrorism.

During the interactive dialogue, other crucial concerns were raised, such as the imperative need to abolish any amnesty and statute of limitations relating to any offence of torture and ill-treatment, poor conditions

of detention and flaws in fundamental legal safeguards, the lack of explicit legal provisions prohibiting confessions obtained through torture and ill-treatment, and redoubling efforts to effectively prevent, investigate and prosecute slavery, human trafficking and violence against women.

Issues for follow-up relate to:

- ❖ Fundamental safeguards relating to medical certificate procedures;
- ❖ Release of persons in preventive detention;
- ❖ Establishment of a National Preventive Mechanism;
- ❖ Prevention of deaths in custody.

Read more: [Concluding observations](#) (available in French), [meeting summary](#) and [webcast](#)

Next Sessions

69th session of the CAT

20 April – 15 May 2020

- ❖ Consideration of the State Party reports: Cuba, Iceland, Kenya, Montenegro, United Arab Emirates, Uruguay
- ❖ List of Issues Prior to Reporting: Afghanistan, Argentina, Bahrain, Ireland, Mali, Panama, Paraguay, Republic of Korea
- ❖ List of Issues: Bolivia (Plurinational State of)
 - 27 January 2020: deadline for NGO submissions for the List of Issues and List of Issues Prior to Reporting.
 - 23 March 2020: deadline for NGO submissions for the State report reviews.

70th session of the CAT

13 July – 24 July 2020

- ❖ Consideration of the State Party reports: Belgium, State of Palestine, Ukraine
 - 22 June 2020: deadline for NGO submissions for the State report reviews.

71st session of the CAT

9 November – 04 December 2020

- ❖ Consideration of the State Party reports: Bolivia (Plurinational State of), Kyrgyzstan, Lithuania, Nigeria, Serbia, Sweden
- ❖ List of Issues Prior to Reporting: Bosnia and Herzegovina, Botswana, Bulgaria,

Cameroon, Italy, Mauritius, Republic of Moldova

- ❖ List of Issues: Iraq, Nicaragua
 - 2 June 2020: deadline for NGO submissions for the List of Issues and List of Issues Prior to Reporting.
 - 9 October 2020: 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.

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