



ADVOCATING FOR ANTI-TORTURE LEGISLATION

STRATEGY INSIGHTS AND
EXPERIENCES OF OMCT'S NETWORK
MEMBERS AND PARTNERS

ABOUT THE OMCT

The OMCT works with around 200 member organisations which constitute its SOS-Torture Network, to end torture, fight impunity and protect human rights defenders worldwide. Together, we make up the largest global group actively standing up against torture in more than 90 countries. Helping local voices be heard, we support our vital partners in the field and provide direct assistance to victims. Our International Secretariat is based in Geneva, with offices in Brussels and Tunis.

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TABLE OF CONTENT

I.	INTRODUCTION	4
II.	CONTEXT AND POLITICAL MOMENTUM	6
III.	LEVERING AND BUILDING NETWORKS	8
IV.	EMBLEMATIC CASES AND STRATEGIC LITIGATION	12
V.	TESTIMONIES FROM VICTIMS AND FAMILIES OF TORTURE SURVIVORS	14
VI.	MEDIA CAMPAIGNS – REGULAR AND SOCIAL MEDIA	16
VII.	INTERNATIONAL AND REGIONAL PRESSURE	18
VIII.	QUIET DIPLOMACY	22
IX.	LEGISLATIVE STRATEGIZING	24
X.	CONCLUSION	26

I. INTRODUCTION

Pushing for the adoption of anti-torture legislations is often a key priority for anti-torture organizations. The World Organisation against Torture (OMCT) gathers more than 200 organizations working together to eradicate torture worldwide through a set of different tools including through advocating for the adoption of anti-torture laws. This report sets out a range of different advocacy strategies employed by our members in their work towards the adoption of the criminalization of torture in their respective countries. It builds on a webinar organized on 30 November 2023, where organizations from the SOS-Torture Network and partners from the following countries participated: Pakistan, Kenya, Russia, Togo, the Democratic Republic of Congo (DRC), Thailand, Philippines, Kazakhstan, Kyrgyzstan, Türkiye, Bolivia, Nepal, Moldova, as well as a representative from the UN Committee against Torture (CAT). It also builds on a set of follow-up interviews that were conducted between January and April 2024. The aim of the report is to highlight advocacy strategies that have proven successful in different contexts and regions. While the report is not exhaustive, it strives to showcase some examples of advocacy strategies employed by OMCT members. The quality and substance of the respective anti-torture legislations will not be addressed.

Different countries have different legal systems that will impact the design of the legislation; however, some core elements can be traced back to the UN Convention against Torture¹. A core and strategic question for a civil society actor working towards the enactment of an anti-torture law is: what else to include in the law for the prevention and fight against torture in order to make it more effective beyond the actual criminalization?

It is also important to emphasize that the adoption of anti-torture legislation is not an end in itself, but rather a starting point for working towards the prevention, prosecution and punishment for torture and to always strive for the law's implementation and improvement.

The experiences of OMCT members show that advocating for anti-torture legislations can be both dangerous and time-consuming. The physical security of those involved in the advocacy, including their families and friends, must be carefully considered as this work that can sadly lead to harassments, detention and even loss of life. OMCT members experiences also demonstrate that civil society organizations (CSOs) and their staff are familiar with their respective contexts and the limits of their advocacy effort, yet it remains crucial to prioritize the security of everyone involved. Security plans are most effectively developed at the national and local level, and experience shows that adopting a multipronged approach involving various stakeholders is a key safety measure. It is also an undertaking that may take many years, as it is important that civil society actors build momentum and networks to strengthen resilience around the project. States are often reluctant to enact anti-torture legislation as it provides legal grounds and arguments to continue the fight against torture at the national level. This places significant responsibility on the State, as once enacted, the law must be implemented, requiring resources and commitment.

¹ For some core elements of an anti-torture law see <https://www.apr.ch/sites/default/files/publications/anti-torture-guide-en.pdf> and a model law drafted by Redress <https://redress.org/wp-content/uploads/2012/04/Draft-Model-Bill-on-the-Prohibition-of-Torture.pdf>.

Article 4 of the UN Convention against Torture (CAT Convention) establishes that State parties shall “ensure that all acts of torture are offences under its criminal law”. While the UN Convention does not require the criminalization of torture as a separate offence, there is an emerging customary norm suggesting that this entails criminalizing torture as an autonomous crime in alignment with Article 1 of the UN Convention against Torture². The CAT routinely recommends to State Parties to criminalise torture as an autonomous crime in their periodic State reviews. In her 2023 report on good practices of national criminalization, the UN Special Rapporteur against Torture noted that 108 countries worldwide have adopted an autonomous crime of torture in their respective national legislations, and that almost all countries globally prohibit torture in their constitutions.³

Before delving into the advocacy strategies, it is crucial to highlight two key aspects. Firstly, it is crucial to always consider the context in which one is working to develop a successful advocacy strategy; otherwise, it risks failure. Therefore, this report will start with outlining experiences from OMCT members illustrating the importance of assessment of context and political momentum. For instance, while blaming and shaming may be effective in some situations (as seen in Mexico), quiet diplomacy might yield better results in others (such as Pakistan). The effectiveness of the approach depends entirely on the context. Secondly, it is essential to ensure that torture victims and survivors and their families are included in the advocacy efforts. They are the primary beneficiaries of anti-torture legislations and possess crucial experiences to contribute to legislative work. Their involvement is indispensable for crafting comprehensive and effective advocacy strategies.



This report outlines eight advocacy strategies. It is important to emphasize that achieving a favourable environment for passing an anti-torture law requires a combination of various advocacy strategies. Civil society actors are encouraged to carefully select and refine their advocacy approaches to ensure success. Each strategy can play a vital role in influencing decision-makers and garnering support for anti-torture legislation. By employing a diverse range of tactics and adapting them to the specific context, civil society actors can increase their chances of success in advocating for laws against torture.



² “State practice to criminalise torture in alignment with article 1 and as an autonomous crime points to an emerging customary norm”, UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment, ‘Good Practices in National Criminalization, Investigation, Prosecution and Sentencing for Offences of Torture’, A/HRC/52/30, 16 February 2023, para. 38.

³ Ibid., para. 36.

II. CONTEXT AND POLITICAL MOMENTUM

The experiences of Thailand, Kenya and Togo illustrate the strategic importance of context in advocating for anti-torture legislations. Moreover, these examples highlight how personal experiences can shape policymakers' perspective and influence their stance on human rights issues such as torture. When politicians themselves have endured torture, they often exhibit greater empathy and understanding of its severity, leading them to champion the adoption of an anti-torture legislation. By recognizing and leveraging such contextual factors, advocates can effectively engage with policymakers and build momentum for anti-torture initiatives.

In Thailand, the opportunity to advocate for an anti-torture legislation arose in 2019 following significant political changes. The military coup in 2014 was followed by unrest and repression of dissidents.⁴ When general elections were eventually held in 2019, new members of Parliament got elected who were receptive to civil society's advocacy to pass an anti-torture bill. Many parliamentarians in the new setup had themselves been subjected to torture in connection with the 2014 coup d'état. The first-hand experience made them particularly attuned to making the bill a priority, which ultimately came into force in 2023.

Kenya's adoption of anti-torture legislation in 2017, followed two decades of constitutional reform aimed at breaking with a history of extra-judicial killings, torture and enforced disappearances of political dissidents. Human rights protection, including the prohibition against torture, was central to the new constitution. Political leaders at the time had also been victims of State repression and torture, leading to a sense of urgency in adopting a legislation in order to deal with the past.

Similarly, in **Togo**, the passing of anti-torture legislation in 2015 was driven by a combination of factors. Many politicians had themselves been former detainees and experienced the powerlessness of detention and torture. This gave significant impetus to the anti-torture movement. Additionally, the CAT reviewed Togo's compliance with the CAT Convention in 2012 and recommended that the State party criminalize acts of torture.⁵ Thus, international actors and a strong local civil society movement exerted pressure to adopt anti-torture legislation contributing to its eventual passage.

⁴ BBC, *Thailand military seizes power in coup*, see; <https://www.bbc.com/news/world-asia-27517591>; The Diplomat, *Thailand's Escalating Crackdown on Dissent*, see <https://thediplomat.com/2021/10/thailands-escalating-crackdown-on-dissent/>.

⁵ CAT, *Concluding Observations on Togo*, UN Doc. CAT/C/TGO/CO/2, 11 December 2012, paras. 7–8.

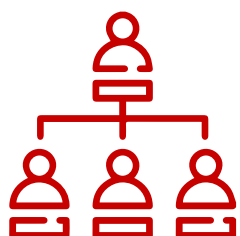
TOOLS USED:

- **Understand the context and recognize significance of political and social context:** analyse historical events such as coups, repression, and constitutional reforms to shape attitudes towards anti-torture legislation.
- **Leverage political views and personal experience:** Identify politicians with first-hand experience of torture or repression. Use their empathy and understanding due to personal experiences to garner support for anti-torture legislation.
- **Utilise political shifts:** Seize opportunities presented by political changes, transitions, or power dynamics. Capitalize on openings created by new political setups or transitions to push for anti-torture legislation.

III. LEVERING AND BUILDING NETWORKS

Networks are crucial as we are stronger, safer, and more resilient together. Collaborating towards a common goal, taking turn and leveraging different capacities, knowledge and contacts is more sustainable in the long term. Networks can also enhance safety, as it prevents any single organisation or individual to be targeted as the sole responsible for advocating against torture. The OMCT itself has recognised and utilised the power of collaborative networks as a rallying point and a source of strength ever since its establishment in 1986. The networks employed by OMCT members vary in form and composition. Some consist solely of civil society actors, providing a safe space and platform for exchange and strategizing. Others include representatives from parliament, government, ministries and international bodies – crucial stakeholders in the legislative process. Moreover, some networks consist solely of local actors, while others include both local and international members of civil society. The structure and composition of these networks are tailored to the specific context and the strategy best suited for each country's specific circumstances.

In **Mexico**, the anti-torture movement joined forces with the strong and well-connected movement against enforced disappearances, sharing a common goal of establishing a normative framework. A key challenge faced by both movements in a federal state like Mexico was the inconsistency in anti-torture laws across various states; some states had their own anti-torture laws, while others had no laws criminalizing torture at all. Civil society led advocacy for nation-wide legislation on torture and were supported by allies from ministries, the congress and the government. They provided policymakers with crucial information about the importance of passing an anti-torture law, including provisions to be included and comparisons with international conventions such as the UN Convention against Torture and the Inter-American Convention to Prevent and Punish Torture. There was minimal political opposition to passing the anti-torture law, and its enactment in 2017 was widely recognised as a necessary step for Mexico to fulfil its obligations under international law.



In several countries, including Mexico, Thailand, Pakistan and the Philippines, extensive efforts were made by civil society coalitions to map the roles of different stakeholders in passing the law. By doing so, they gained a better understanding of who to engage with at each stage of the process, whether for garnering political support or conducting media campaigns.



In **Thailand**, civil society created a draft law which was presented to political parties and the House and the Legal Committee of the Parliament. They formed a network comprising of civil society and political actors to advocate for anti-torture legislation, but also to build momentum and create a civic oversight mechanism post-adoption. This mechanism includes representatives from civil society, government agencies and forensic science experts.

In **Kenya**, civil society actors formed a task force on anti-torture legislation, leveraging diverse expertise and connections as some had connections with policymakers whereas others were closer to grassroots movements or the general public. Building on these different competencies became key in the advocacy work. The task force in Kenya drafted the anti-torture law and strategically named it “Prevention of Torture” law, to make it more acceptable to politicians. Unlike the term “prohibition against torture”, which could imply potential responsibility for past and present actions, “prevention of torture” positioned politicians as proactive agents in preventing torture from occurring in the future. This framing appealed to politicians, aligning with their desire to be perceived as taking positive steps to address societal issues. After the adoption of a new constitution in 2010, organisations with different mandates and expertise rallied together to codify key rights, including the prohibition of torture, into national law. Bringing together different organisations and rights holders to the anti-torture movement was crucial to show the added value such a legislation would bring to numerous groups in the Kenyan society. Additionally, an existing victim survivors’ network prioritising reparation and truth-telling, significantly contributed to the anti-torture efforts. CSOs utilised their legal and technical expertise to provide comparative studies on the effects of passing an anti-torture law in other contexts, as well as show casing documented experiences of reparations and transitional justice processes. Furthermore, CSOs linked the work on the anti-torture legislation to the need for institutional changes, such as reforming the security sector to ensure that law enforcement agencies and personnel could effectively implement the anti-torture law. The formation of the CSO coalition occurred when actors gathered to draft the actual law. Key allies included the National Human Rights Commission state organs such as the Ministry of Justice and the Attorney General’s office. The CSO initiative also received significant support from various international actors, providing political, diplomatic and financial support.

Following the passing of the anti-torture law in 2017, the work within the CSO coalition continued. They engaged politicians and legal professionals to sensitise them on the content and implementation of the law. As mentioned earlier, the political context was ripe for anti-torture work as many sought to move away from a violent past of which several politicians themselves were victim.

In **Togo** the network of civil society actors received support from a range of different stakeholders, including parliamentarians and journalists, as well as international CSOs. The CSO network in Togo was described as informal in character, with different civil society actors gathering around the common cause of anti-torture work. Alongside efforts to pass an anti-torture bill, establishing a National Preventive Mechanism, as required by the Optional Protocol to the CAT Convention, and strengthening the legislative and institutional framework in place for better implementation of the law were considered priorities by the coalition in 2015. This work was reinforced by the constitutional protection of the prohibition against torture, which already had a prominent place in the constitution. Additionally, the work of the CSO coalition was bolstered by the visit of the UN Special Rapporteur against Torture in 2007,⁶ and the review of Togo by different human rights mechanisms, such as the CAT⁷ and the Universal Periodic Review⁸.

⁶ GA, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Togo, UN Doc. A/HRC/7/3/Add.5, 6 January 2008.

⁷ CAT, Concluding Observations on Togo, UN Doc. CAT/C/TGO/CO/2, 11 December 2022, para. 7.

⁸ GA, Report of the Working Group on the Universal Periodic Review of Togo, UN Doc. A/HRC/19/10, 14 December 2011.

In **Türkiye** rallying support for the criminalisation of torture was a gradual process for the CSO coalition which recognised the need to plan in different stages – short-term, mid-term and long-term and to expand the coalition to enhance its resilience over time. The coalition required support from actors both at the national as well as the international level. Diversification of the groups supporting anti-torture work and financial support played crucial roles in enabling long-term advocacy efforts. A significant lesson learned from the Turkish experience was that security was enhanced when working in a large coalition. This was particularly necessary in Türkiye, where the anti-torture movement faced judicial harassment, death threats, physical assault and even killings.

In the **Philippines**, an ambitious CSO coalition called United against Torture Coalition (UATC) was formed in 2000, bringing together civil society actors, individuals as well as governmental agencies, such as the Public Attorney's Office (PAO) and the National Human Rights Institution (NHRI), i.e. the Commission on Human Rights (CHR). Every 26th of June, the International Day in Support of Victims of Torture, the coalition organizes a running event called BRAT – Basta! Run against Torture.⁹ Various actors, including police officers, priests, and cycling organisations, participated in the running competition. The event was accompanied by talks on the prohibition against torture, involving victims and their family members. The UATC successfully rallied support and interest from many stakeholders, including members of Parliament, the presidential human rights committee, and the Bureau of Correction and Penology. This led to a favourable perception of the law, with the understanding that nothing would be lost by passing it. Even high-ranking officials from the armed forces spoke out in favour of the bill.

⁹ Amnesty International, Torture, BURAHIN – sa ISIP, ssa SALITA at sa GAWA!, 26 June 2008, <https://www.amnesty.org.ph/2008/06/torture-burahin-sa-isip-sa-salita-at-sa-gawa/>.

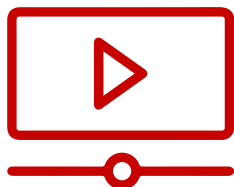
TOOLS USED:

- **Build broad coalitions:** Establish broad coalitions comprising diverse civil society organisation, NHRIs, governmental agencies, members of parliament. This collaborative approach can enhance sustainability, broad expertise, and safety for all involved overtime.
- **Map stakeholders:** Conduct a thorough mapping of stakeholders who are crucial to the advocacy process. Adapt the advocacy strategy based on the roles and interests of these stakeholders.
- **Align with other CSO movements:** Collaborate and align with CSO movements working on a broad range of human rights issues, such as enforced disappearances, the death penalty, rights of the child, women's rights, and economic, social, and cultural rights. Strengthening solidarity across movements enhances collective advocacy efforts.
- **Push for institutional changes:** Seize the opportunity to push for institutional changes that support the enforcement of the law. This may include advocating for security sector reform, establishing a NPM or conducting broader reviews of the criminal law system.
- **Use creative campaigns:** Organise innovative events to attract attention to the advocacy on anti-torture legislation. Creative approaches, such as fun-runs or art exhibitions can effectively raise awareness and mobilise support for the cause.
- **Provide expert resources:** Prepare resources and serve as expert for government agencies and members of parliament involved in the legislative process. Offering expertise and guidance strengthens the understanding and implementation of anti-torture laws.

IV. EMBLEMATIC CASES AND STRATEGIC LITIGATION

A common strategy in human rights work involves using emblematic cases or strategic litigation to illustrate specific problems and push for change. It is often easier to convey the message when it is exemplified by an individual's story. Such cases not only shed light on the plight of the victim but also highlight broader issues and possible solutions beyond the individual experience to impact other cases and institutional efforts needed to meet the victims' needs.

In **Thailand**, leading up to the passage of the anti-torture law, a video clip emerged showing police officers putting a plastic bag over the head of a suspected drug dealer to coerce confession. The clip garnered widespread attention in the national media, raising public awareness about the use of such torture methods used by the police, which had previously been doubted by many. Additionally, the video served as a catalyst for parliamentarians, many of whom had themselves been subjected to the very same treatment during the military coup d'état in 2014. With the aid of this video clip and the testimonies of survivors and their families, the bill transitioned from being a low priority to a pressing issue. Consequently, the anti-torture law was successfully passed in October 2022.



In 2018 and 2021 a significant number of videos from body cameras worn by Russian prison guards were leaked, revealing detainees being subjected to physical assault, harassment, humiliation and blackmail. The circulation of these videos sparked a public debate and is considered one of the catalysts for the government's call for proposals on a draft law criminalizing torture in early 2020. The ruling party was among those who presented a draft law that was eventually supported by the President and came into force 2022.



In **Italy**, strategic litigation played a pivotal role in the eventual criminalization of torture. In December 2004, two prisoners were subjected to brutal beatings, isolation, and degrading conditions for several weeks. When the case was eventually tried before court, CSOs were granted plaintiffs status due to their expertise and the public interest in the trial. The 2012 judgment was significant as the judge stated that the actions met the definition of torture as of Article 1 of the CAT Convention. However, due to severe gaps in the criminal code, including the statute of limitations, none of the four perpetrators could be punished. The judgment was upheld by the Court of Cassation and eventually brought before the European Court of Human Rights, which rejected a friendly settlement proposal citing public interests in elaborating on the issue. It concluded, inter alia, "that the criminal legislation which was applied in the instant case proved, [...] both inadequate in terms of its capacity to punish the acts of torture in issue and devoid of any deterrent effect capable of preventing similar

future violations of Article 3.”¹⁰ A second case arose from events at the 2001 G8 summit in Genoa, where protestors were assaulted and severely injured by law enforcement. The trial, involving more than 30 members of security forces, did not result in a single conviction. The European Court of Human Rights addressed the case in 2015 and found the gaps in Italy’s legislation to be a “structural problem”. It urged the government this time to introduce “legal mechanisms capable of imposing appropriate penalties on those responsible for acts of torture and other types of ill-treatment under Article 3”.¹¹ These two court rulings were decisive in garnering parliamentary support for the criminalisation of torture.

In numerous other countries emblematic cases have been used to propel the anti-torture agenda forward; in the DRC, the killing of prominent human rights defender Floribert Chebeya Bahizire by the police in 2010 spurred the passage of an anti-torture bill in 2011. Similarly, in Pakistan, a series of custodial deaths highlighted in the media preceded the passage of an anti-torture bill.

In numerous other countries emblematic cases have been used to propel the anti-torture agenda forward; in the **DRC**, the killing of prominent human rights defender Floribert Chebeya Bahizire by the police in 2010¹² spurred the passage of an anti-torture bill in 2011. Similarly, in **Pakistan**, a series of custodial deaths highlighted in the media preceded the passage of an anti-torture bill.

TOOLS USED:

- **Use emblematic cases of torture** to illustrate the critical need for anti-torture legislation. These cases serve as powerful examples to mobilize public support and raise awareness about the prevalence and severity of torture.
- **Use strategic litigation** as a mean to garner political support and drive legislative change. Select impactful cases with strong legal standing to advocate for reforms and hold perpetrators accountable.
- **Publicize high-profile torture cases** that spark public outrage and capture media attention to motivate political action.

¹⁰ Cirino and Renne v. Italy, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-177917%22%5D%7D>

¹¹ Cestaro v. Italy, <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%226884/11%22%5D%2C%22itemid%22:%5B%22001-153901%22%5D%7D>

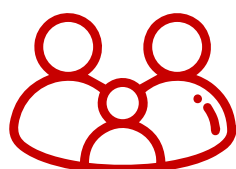
¹² ICJ, *RD Congo: Floribert Chebeya Bahizire, défenseur des droits humains, retrouvé mort*, 4 June 2010, <https://www.icj.org/rd-congo-floribert-chebeya-bahizire-defenseur-des-droits-humains-retrouve-mort/>.

V. TESTIMONIES FROM VICTIMS AND FAMILIES OF TORTURE SURVIVORS

Including victims and torture survivors in the work towards adopting an anti-torture legislation can arguably be the most crucial aspect of advocacy. In many countries, there has been a growing emphasis on a victim-centred approach to advocacy, directly including victims, survivors and their families.

In **Thailand**, civil society actors built strong relationships with victims and survivors, enabling the families to present their grievances directly to the parliamentarians – a tool that proved to be highly effective. The CSO coalition extensively worked with affected communities and families, representing them in court and in their participation in various platforms, such as media and international arenas. Working with communities enabled them to demonstrate the broader negative societal impact of torture, extending beyond the individual directly affected. Families and communities were profoundly affected by these incidents on a structural level, resulting in a loss of trust in state institutions, law enforcement, and the judicial system, among others. Additionally, there was a need to create a support group for victims and their families, encompassing both technical support to effectively advocate with policymakers and the media, and psychosocial support to prevent re-traumatization.

In the **Philippines**, the UATC included victims and families of victims, including children and spouses of torture victims, inviting them to share their experiences with members of Parliament and other key stakeholders. The coalition also produced video materials providing a historical perspective on torture with testimonies by survivors that illustrates the devastating effects of torture on individuals, their families and the broader society. These videos depicted the stigma faced by victims and communities, as well as how the enduring impact of past torture shape their everyday lives.



The inclusion of victims, survivors and their families, and the exposure of their experiences to various stakeholders, both nationally and internationally, are key elements of the anti-torture work undertaken by many OMCT members.



TOOLS USED:

- **Engage survivors:** Build relationships with victims, survivors and their families, and involve them directly in advocacy efforts to ensure their voices are heard and their perspective are considered. Simultaneously, address their psychosocial and other needs.
- **Use individual testimonies:** through individual stories exemplify the broader structural negative impacts on families and communities, highlighting the risk of torture eroding confidence in state institutions.

VI. MEDIA CAMPAIGNS – REGULAR AND SOCIAL MEDIA

Media campaigns are central elements to a successful advocacy strategy. In advocating for an anti-torture legislation, many OMCT members underline the importance of avoiding vilifying the government or politicians and creating an adversarial atmosphere. Instead, the focus is on conveying a collaborative approach, emphasizing that civil society and government share common goals from different perspectives. This approach was particularly emphasised by OMCT members in Togo and Pakistan. They highlighted the importance of sensitizing the media to avoid creating a hostile advocacy environment. They aimed to prevent politicians from feeling targeted, as if they were put in the dock, guilty as charged, as such approach was not conducive to gaining political traction for passing an anti-torture bill.

In **Togo**, before the passage of anti-torture legislation in 2015, social media usage was limited, so CSOs relied on written press, radio and television. Conversely, in Pakistan, where the anti-torture bill was passed in 2022, the use of social media played a prominent role in their advocacy campaign. Pakistani CSOs engaged the public through mobile games that allowed users to navigate the criminal justice system.¹³ Additionally, they developed escape room games, requiring participants to solve puzzles based on clues within a certain amount of time.

In contrast, CSOs in **Mexico** used public condemnation to create political pressure. The approach aimed to demonstrate that failure to engage in the anti-torture efforts would come with a political cost for politicians. It was believed that avoiding engaging with the topic would lead to unfavourable portrayals of legislators and politicians, indicating a failure to meet international obligations. This strategy played a crucial role in the media campaign. Various communication materials such as graphics and social media explanations were disseminated to raise awareness about the necessity of a torture law. The CSO coalition played a crucial role in this media campaign, drawing upon the expertise of different organisations to produce accessible and comprehensible information for diverse audiences. Some organisations had closer ties in congress to advocate for the cause, while others had well-established connections with journalists.



In Thailand, both traditional and social platforms were used to educate the public about the anti-bill bill. Victims, survivors and their families played a central role in these media campaigns, giving interviews and engaging with social media platforms. Consequently, both local and social media outlets began to shed light on the issue of torture and enforced disappearances, emphasizing the critical need for their criminalisation.



¹³ <https://jpp.org.pk/notagame/>.

In **Russia**, CSOs developed a campaign in 2021 called “There is no torture in Russia”, highlighting the absence of legal provisions prohibiting torture despite it being widespread. For this campaign CSOs collaborated with a famous Russian rapper who produced a song that got more than one million views on YouTube.¹⁴ In the same year, a famous Russian journalist, Yury Dud, who has more than ten million subscribers on his YouTube channel, did an interview with a civil society actor and torture expert discussing the prevalence of torture in Russia (why they torture people in Russia).¹⁵ The interview received more than 13 million views and was another puzzle piece in the campaign to have torture criminalized.

In **Kazakhstan**, CSOs partnered with journalists, photographers, and videographers to create a campaign called “Bir Kirpish” showcasing victims’ stories and successful legal cases. Through a dedicated website,¹⁶ this campaign featured videos highlighting the experiences of victims of torture and other ill-treatment who had won their case before the CAT or the Human Rights Committee. The campaign aimed at illustrating how each victim can contribute to the development of more advanced legislation in the fight against torture. Additionally, detailed roadmaps were provided to the government to guide the implementation of these decisions.

In **Kenya**, the CSO coalition used various materials such as op-eds, postcards, posters, and radio clips to disseminate their message and advocate for anti-torture legislation.

TOOLS USED:

- **Use constructive messaging:** Utilize constructive messaging techniques to engage politicians effectively. Avoid adversarial approaches that may alienate them and instead emphasize common goals and shared perspective.
- **Tailor media tools to audience:** Adapt media tools to the preferences and habits of the target audience. Whether it is social media, television, radio, or the written press, tailor your message to resonate with the specific demographics you aim to reach.

¹⁴ <https://www.youtube.com/watch?v=D2a4ggoGK54> (This video contains potentially disturbing situations that may be harmful to some viewers).

¹⁵ https://www.youtube.com/watch?v=E_2Vy9B8hic.

¹⁶ <https://birkirpish.kz/#main>.

VII. INTERNATIONAL AND REGIONAL PRESSURE

Many OMCT members underline the pivotal impact of international and regional pressure in advancing the process forward towards the adoption of an anti-torture legislation. International allies can offer various forms of support, ranging from drawing international attention to the urgency of passing such laws to providing technical expertise in drafting legislation. Among the international allies mentioned by OMCT members are the UN, the OHCHR, the UN Special Rapporteur on Torture, the UN Committee against Torture, the Human Rights Committee, the Human Rights Council, the EU, other international NGOs including OMCT itself. Visits from the UN Special Rapporteur on Torture and monitoring by the UN Committee against Torture were particularly cited as effective tools in advocacy. As for regional allies, the following actors were mentioned: The Inter-American Commission and Court for Human Rights, the African Commission and Court of Human and People's Rights, the Economic Community of West African States (ECOWAS) Community Court of Justice.

In **Togo**, the visit of the UN Special Rapporteur against Torture in 2007,¹⁷ was a significant catalyst for advocating for an anti-torture legislation. Following the visit, Togolese civil society collaborated with then-former UN Special Rapporteur, Manfred Nowak to develop an EU-funded project aimed at adopting an anti-torture law and establishing a National Preventative Mechanism (NPM). Togolese civil society actors underlined that the CAT review in 2012 had been particularly important. The OMCT and its Togolese network members and partners actively participated in the review process, ensuring that contextually relevant recommendations were made. The alternative report highlighted that torture was not yet criminalized in Togo. However, the government had drafted provisions for the revision of the Penal Code and the Code of Criminal Procedure, with definitions of torture mirroring Article 1 of the CAT Convention.¹⁸ The alternative report urged the CAT to recommend that Togo submit these draft provisions to the National Assembly and support their adoption. In its concluding observations, the CAT criticized the fact that “25 years after ratifying the Convention, the State party has yet to adopt criminal legislation explicitly defining and criminalizing torture.” In line with the recommendations of the alternative report, the CAT advised Togo to “take the necessary measures to incorporate in the Criminal Code all the elements of the definition of torture contained in Article 1 of the Convention.”

The OMCT and its Togolese network members and partners participated in the review and made sure that there were good context relevant recommendations. The alternative report indicated that torture was not criminalized in Togo but that the government had developed relevant draft provision for a revision of the Penal Code and Code of Criminal Procedure. The definition of torture in these draft provisions mirrored the terms of Article 1 of the CAT Convention. The alternative report asked that the CAT recommend Togo to submit

¹⁷ OHCHR, Statement from the Special Rapporteur on Torture on Visit to Togo, <https://www.ohchr.org/en/statements/2009/10/special-rapporteur-torture-visit-togo>.

¹⁸ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FNGO%2FTGO%2F13032&Lang=en.

the relevant draft provisions to the National Assembly and support their adoption. In its concluding observation, the CAT criticized that “25 years after ratifying the Convention, the State party has yet to adopt criminal legislation explicitly defining and criminalizing torture” and therefore, in line with the asks by the alternative report, the CAT recommended that “take the necessary measures to incorporate in the Criminal Code all the elements of the definition of torture contained in article 1 of the Convention.”¹⁹ Several other factors were catalyst of the legislative change: the Universal Periodic Review in 2011, during which several states recommended that Togo criminalize torture;²⁰ the support by international CSOs like the OMCT; the physical presence of an OHCHR office in Togo; a 2013 decision by the ECOWAS Community Court of Justice finding that the Togolese government was responsible for acts of torture on a group of detainees and ordered reparation for the victims.

In **Pakistan**, the process of obtaining General Scheme of Preferences+ Status (GSP+ Status) was proven key in the anti-torture work. The GSP+ Status grants a preferential trade status with the EU, contingent upon compliance with core human rights obligations, including the prohibition against torture. The progress in advocating for an anti-torture law in Pakistan aligned with the access to the GSP+ status, which was granted in 2014. In its evaluation and GSP+ assessment reports, the EU consistently emphasised the absence of criminalization of torture and listed “adopting legislation on criminalising torture” as one of the monitoring priorities for Pakistan under the GSP+.²¹ According to civil society actors, economic considerations were among the primary motivations for advancing the legislative process among political actors.

In **Kenya**, OMCT members highlight the role of African human rights system (OAU) and the ECOWAS Community Court of Justice, to amplify the impacts of torture in Kenya. The African Commission’s regional working group on torture was particularly pivotal. Periodic reviews of Kenya by treaty bodies and human rights council review mechanisms served to remind the government of its obligations, contributing to advocacy efforts. Recommendations by the CAT in 2013 urged the government “to table, as a matter of urgency, the Prevention of Torture Bill (2011) in Parliament, so that its provisions, which include a comprehensive definition of torture in line with article 1 of the Convention and render all acts of torture punishable by appropriate penalties, become the applicable law”.²² This became an important reference for civil society actors in their advocacy and messaging. Torture had been a State policy in repressing political dissent, and the reparations movement garnered significant support for their claims. This vocal advocacy also facilitated progress with the anti-torture bill. The national movement received support by international networks, such as the OMCT, which contributed their expertise in fact-finding, and donors who provided financial resources to carry out campaigns and fact-finding missions.

In **Mexico**, the visit of the UN Special Rapporteur against Torture in 2014²³ revealed a culture of impunity,²⁴ shocking both the Mexican authorities and the general public. One of the recommendations in the report was to create a general law against torture, given the scattered legal framework at different federal levels. The annual reports of the Inter-

¹⁹ CAT, Concluding Observations on Togo, UN Doc. CAT/C/TGO/CO/2, 11 December 2012, paras. 7–8.

²⁰ GA, Report of the Working Group on the Universal Periodic Review of Togo, UN Doc. A/HRC/19/10, 14 December 2011.

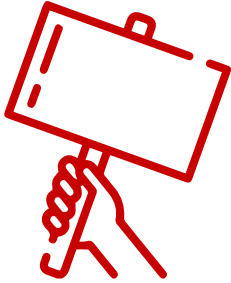
²¹ <https://op.europa.eu/en/publication-detail/-/publication/e01fc63a-5327-11ea-aece-01aa75ed71a1/language-en>.

²² CAT, Concluding Observations on Kenya, UN Doc. CAT/C/KEN/CO/2, 19 June 2013, para. 6.

²³ GA, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, mission to Mexico, UN Doc. A/HRC/28/68/Add.3, 29 December 2014.

²⁴ Ibid para. 31.

American Commission for Human Rights, along with the review of Mexico by the CAT in 2012 and the Universal Periodic Review in 2013, similarly played a crucial role. They criticized Mexico for the absence of a proper legal framework to combat torture.²⁵



The OHCHR in Mexico became a key ally in advocating for the adoption of an anti-torture law and providing technical guidance on aligning national legislation with international standards. International pressure was also heightened by NGOs submitting communications to the International Criminal Court, alleging crimes against humanity committed in Mexico since 2006 under the pretext of “the war on drugs”.²⁶

In **Thailand**, civil society actors also stress the significance of the support from foreign Embassies in Bangkok. Actions taken include tweeting about issues of torture and enforced disappearances at strategic times, aligning with the timing of CSOs’ advocacy strategy. Moreover, various UN bodies, such as the CAT, the Working Group on Enforced or Involuntary Disappearances, the OHCHR office in Bangkok urged Thai authorities to criminalize torture and enforced disappearance and to ensure meaningful redress to victims and their families.²⁷

²⁵ Committee against Torture, Concluding Observations on Mexico, UN Doc. CAT/C/MEX/CO/5-6, 11 December 2012.

²⁶ See e.g. BBC, Mexico activists seek ICC investigation of drugs war, 25 November 2011, <https://www.bbc.com/news/world-latin-america-15899687>.

²⁷ See e.g. CAT, Concluding Observations on Thailand, UN Doc. CAT/C/THA/CO/1, 20 June 2014, paras. 8-9; <https://bangkok.ohchr.org/news-release-un-human-rights-office-urges-thailand-to-enact-torture-and-disappearance-law/>; <https://www.amnesty.org/en/wp-content/uploads/2023/02/ASA3964692023ENGLISH.pdf>.

TOOLS USED:

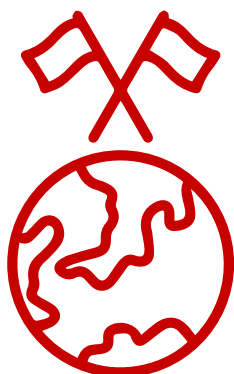
- **Leverage international and regional pressure:** Engage with international allies, including the UN, OHCHR, and regional bodies such as the Inter-American Commission and Court for Human Rights, to amplify advocacy efforts. Seek support ranging from drawing attention to the urgent need for anti-torture legislation to providing technical expertise in drafting laws.
- **Utilize key advocacy moments:** Identify strategic opportunities for advocacy, such as visits from UN Special Rapporteurs or State reviews by international bodies like the UN Committee against Torture. These moments can catalyse efforts towards legislative change and garner attention from relevant stakeholders.
- **Utilize human rights mechanisms' reports and recommendations:** Capitalize on reports and recommendations by bodies like the UN Committee against Torture, Universal Periodic Review, and annual reports from human rights commissions. These documents can provide critical leverage in advocating for the adoption of anti-torture laws by highlighting gaps in legal frameworks and emphasizing the need for legislative action.
- **Harness diplomatic channels:** Seek support from foreign embassies and diplomatic missions to advocate for anti-torture legislation.
- **Gain international attention:** Highlight the urgency of passing a law and address institutional obstacles by drawing attention to the issue through various platforms
- **Partner with international CSOs like the OMCT and its network:** Engage with international CSOs to leverage their support in drawing international attention to the urgency of passing anti-torture laws, in providing technical expertise in drafting legislation, and amplifying pressure through international and regional mechanisms.

¹⁴ <https://www.youtube.com/watch?v=D2a4ggoGK54> (This video contains potentially disturbing situations that may be harmful to some viewers).

¹⁵ https://www.youtube.com/watch?v=E_2Vy9B8hic.

¹⁶ <https://birkipish.kz/#main>.

VIII. QUIET DIPLOMACY



In some countries, the importance of quiet diplomacy and pragmatic political dialogue, which may not always be highlighted in national media, was stressed as a crucial factor in successful advocacy efforts. Sometimes, a more effective advocacy strategy entails holding closed-door meetings with politicians to underscore the significance of implementing an anti-torture law. If politicised, the advocacy process may not yield good result as the government or certain politicians may feel pressured and publicly criticised. Instead, quiet diplomacy aims at putting the accent on the technical aspects of the legislation, its benefits and the rationale for adoption.

In Pakistan and Togo, civil society actors also utilized quiet diplomacy to build trust and establish bonds with political actors. In Togo, civil society was mindful that some actors might attempt to co-opt the process, politicising the issue and using it as a platform for political opposition. Therefore, the focus of advocacy efforts was on the technical aspects of the law, fostering an atmosphere of cooperation and collaboration rather than confrontation and criticism including in their media strategy.

In the Philippines, civil society perceived a risk of advocacy work escalating in an adversarial atmosphere. Some governmental actors were very suspicious towards civil society and believed that advocacy efforts aimed to undermine state power by accusing the government of torture. Therefore, alongside public advocacy, quiet diplomacy and discussions were conducted with sceptical stakeholders to explain the rationale behind an anti-torture legislation, present data, and make factual arguments in support of the legislation. This approach was instrumental in advancing the cause in a positive spirit, portraying the government in a favorable light by demonstrating compliance with their international human rights obligations.

TOOLS USED:

- **Use quiet diplomacy:** Arrange closed-door meetings with politicians and other relevant stakeholders, focusing on the technical aspects of anti-torture legislation and present factual arguments supporting its adoption.
- **Build confidence:** Use these meetings as an opportunity to build trust and confidence with political actors by fostering an atmosphere of cooperation and collaboration.
- **Avoid Politicization:** Keep the focus of discussions on the technical merits of the legislation, steering clear of politicization that may hinder progress. Offer data, statistics and other evidence to support the need for anti-torture laws and emphasize the positive impact it can have on society.

IX. LEGISLATIVE STRATEGIZING

For many civil society actors, there was a need to strategize from a legislative standpoint. The future anti-torture legislation must align with a country's national legislative framework, legal culture, and context. It is important that the new legislation does not contradict the existing normative logic of a country, but rather builds upon it, incorporating constitutional provisions on the prohibition against torture. Experiences from countries like Kenya, Togo and the Democratic Republic of the Congo show the importance of this approach. In Kenya, for example, the adoption of anti-torture legislation is an obligation derived directly from its constitution.



Another effective strategy is to incorporate other international human rights obligations into the advocacy efforts, such as the ratification of the Rome Statute. This approach builds a comprehensive argument for the adoption of a coherent national legislative framework protecting human rights and humanitarian law. In Kenya, the criminalisation of torture was also included in advocacy efforts on related thematic issues such as children's rights, gender-based violence or even economic, social and cultural rights.



A useful exercise undertaken by networks, as experienced by many OMCT members, involves drafting their own anti-torture laws²⁸ Key questions to address when taking on this exercise are: What are the different components of the law. How does it integrate with the existing judicial system? Are there any missing mechanisms or institutions for supporting victims, implementing redress schemes or collecting evidence? Reaching a consensus on the content of the law is key to gain clarity on what to advocate and fight for collectively. Furthermore, this exercise serves to strengthen the network by generating a joint action plan and roadmap agreed upon by all members. Some civil society actors who contributed to this report acknowledged that while the end result may not be perfect and fully aligned with the initial vision of the civil society coalition, having an anti-torture law with imperfections is deemed preferable to having none at all.

In **Thailand**, the inclusion of the prohibition against torture and enforced disappearances in the same act was a strategic move. The law combines provisions from both the UN Convention against Torture and the UN Convention against Enforced Disappearances. The rationale behind this merge was that the general public often perceived torture as justified, especially when directed towards criminals, such as drug offenders or rapists. However, there is a greater empathy towards victims of enforced disappearances, perceived as innocent and deserving of protection. By intertwining these two offences, it became more palatable for both the general public and certain politicians to accept and endorse the law.



²⁸ See for instance the Association for the Prevention of Torture Guide on anti-torture legislation, 2016, available in English, French, Spanish, Portuguese and Arabic here: <https://www.ap.t.ch/knowledge-hub/publications/guide-anti-torture-legislation-2016>.

In certain countries, such as **Togo** and the **Philippines**, there has been considerable debate regarding the inclusion of non-state actors as perpetrators within the definition of the torture prohibition. In Togo, the law initially included non-state actors as perpetrators, alongside public officials or individuals connected to an official capacity. However, an amendment was later passed to align more closely to the UN Convention against Torture's definition. Similarly, in the Philippines, some civil society actors and lawmakers advocated for the inclusion of torture by non-state actors in the anti-torture bill, arguing for inclusivity and the universal application of the prohibition. However, concerns were raised about potential implications, including shifting focus from state perpetrators and providing a tool for the state to bolster counterinsurgency efforts against groups like the New People's Army, the armed wing of the Marxist–Leninist–Maoist Communist Party of the Philippines. It was also stressed that other complementary national provisions could cover acts of torturous violence committed by non-state actors, including norms from international humanitarian law. Ultimately, non-state actors were not included as perpetrators in the Filipino Law.

In **Moldova**, civil society emphasized the importance of including certain safeguards in the procedural provisions of the law. For instance, they stressed that the police should not be involved in the investigation; instead, the mandate to investigate should lie with the prosecutor. This is self-explanatory as the police officers or their colleagues may have been involved in the torture and thus lack impartiality in the investigation. Additionally, in Moldova, state agents are obligated to report any injuries during custody within 24 hours.

In **Pakistan**, various actors were involved in efforts to abolish the death penalty. However, given the unfavourable political climate, many civil society actors assessed that a more viable approach to improving the situation regarding the death penalty in Pakistan would be to advocate for an anti-torture legislation, as many individuals on death row are subjected to torture.

TOOLS USED:

- **Use emblematic cases of torture** to illustrate the critical need for anti-torture legislation. These cases serve as powerful examples to mobilize public support and raise awareness about the prevalence and severity of torture.
- **Use strategic litigation** as a mean to garner political support and drive legislative change. Select impactful cases with strong legal standing to advocate for reforms and hold perpetrators accountable.
- **Publicize high-profile torture cases** that spark public outrage and capture media attention to motivate political action.

X. CONCLUSION

This report sheds light on the experiences of OMCT's Network members and partners who operate under challenging and dangerous circumstances. We acknowledge their extraordinary courage and expertise. Their experiences show the importance of a multifaceted and strategic approach that encompasses political momentum, collaborative networking, impactful legal strategies, victim-centered approaches, media campaigns, international and regional pressure, quiet diplomacy, and legislative strategizing. Drawing insights from diverse experiences across continents and countries, including Thailand, Kenya, Togo, Mexico, Pakistan, the Philippines, Russia, Kazakhstan, Italy and others, reveals key insights and actionable strategies for effective advocacy efforts.

Political momentum emerged as a crucial driver in the advocacy for anti-torture legislation. Shifting political landscapes can create windows of opportunity for legislative change, as seen in Thailand, Kenya, and Togo. Personal experience and collaborative efforts play pivotal roles in prioritizing anti-torture legislation on political agendas. Anticipating when a favourable climate will arise can be unpredictable, prompting many OMCT members to prepare advocacy strategies well in advance to be ready to act swiftly when the opportune moment arrives.

Incorporating victims, survivors, and their families into the advocacy was reported as a cornerstone of comprehensive and victim-centered advocacy efforts. Across various countries, the inclusion of these voices has been instrumental in highlighting the human impact of torture, fostering societal empathy, and compelling legislative action.

Collaborative networking among various civil society actors but also other stakeholder is another linchpin in advocacy. By forging alliances with diverse stakeholders, including governmental agencies, international partners, and victims, advocates can amplify their voices and ensure sustained momentum for change. Broad-based coalitions foster resilience and mitigate risks of targeting by authorities.

It is imperative to recognize that the enactment of anti-torture legislation signifies not the end but rather the beginning of the journey. Implementation becomes the focus of attention point, requiring concerted efforts from all stakeholders – law enforcement, the judiciary, civil society and the general public. Ensuring widespread awareness of the legislation, its mechanisms, and its implementation is essential for its effective enforcement.

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