

OMCT E-Bulletin - May 2016

57th session of the Committee Against Torture

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

During its **57th session** that took place from **18 April to 13 May 2016**, the UNCAT considered the reports submitted by **France, Tunisia, Saudi Arabia, the Philippines, Turkey and Israel**. In accordance with Article 19 of the Convention, State parties must every four years submit a report to the CAT on measures taken to implement the Convention. These reports are reviewed in public sessions, in which the respective State party has a constructive dialogue about its report with the CAT experts. The day before the review of the report, non-governmental organizations (NGOs) that have submitted an alternative report have the opportunity to meet for a private NGO briefing with the CAT to raise and discuss their concerns. At the end of each session, the CAT publishes its "Concluding Observations" with recommendations for each State reviewed, including issues for follow up within one year.

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The CAT at work



OMCT-APT reception on the occasion of the 57th session, 21 April 2016

WHAT'S NEW

Election of New Chairperson

The Committee Against Torture elected Mr. Jens Modvig on 18 April 2016 as its new Chairperson for the next two years. Mr. Modvig has been part of the CAT since 2013. For over 20 years, he has used his

medical background in the fight against torture, working for the Danish Institute Against Torture, DIGNITY, and the International Rehabilitation Council for Torture Victims, IRCT. In addition to his position as Chief Medical Officer at DIGNITY, Mr. Modvig is a Clinical Associate Professor in Social Medicine and Rehabilitation at the Faculty of Health Sciences, University of Copenhagen.

To learn more about him, read OMCT's latest blog post: [An interview with Jens Modvig: Keeping the Committee Against Torture on its toes](#)

CAT Members & Mandates

Vice-Chairpersons: Ms. Essadia Belmir

Ms. Felice Gaer

Mr. Claude Heller Rouassant

Rapporteur: Mr. Sébastien Touzé

Rapporteur on reprisals: Mr. Alessio Bruni

Rapporteur on follow-up to concluding observations: Mr. Abdelwahab Hani

Rapporteur on follow-up to individual complaints: Ms. Sapana Pradhan-Malla

Rapporteur on new communications and interim measures of protection: Mr. Kening Zhang

OMCT SUBMISSIONS

Alternative report on Tunisia

OMCT and 12 partner organizations submitted an [Alternative Report](#) on Tunisia to the CAT. The report focuses on the gaps within the country's current legislation regarding torture, living conditions in places of deprivation of liberty and the difficulties for victims of torture to claim reparation.

Two Alternative Reports on Israel

The Public Committee Against Torture in Israel (PCATI) in consultation with OMCT, submitted a joint [Alternative Report](#) on Israel to the CAT. The report addresses the fact that Israel's legislation does not include a definition of torture, and raises serious questions about the use of the "necessity defence" to justify torture in Israel Security Agency interrogations, the lack of investigation into allegations of torture and the lack of reparations, especially for Palestinian victims of torture.

OMCT, in collaboration with the Defence for Children International-Palestine (DCI) submitted an [Alternative Report](#) on ill-treatment and torture of Palestinian children while in Israeli military detention and the use of excessive force by Israeli forces.

Alternative Report on the Philippines

OMCT, in collaboration with the Children's Legal Rights and Development Center (CLRDC), submitted an [Alternative Report](#) on the Philippines containing an analysis of the situation of children in conflict with the law in the country, focusing particularly on cases of torture and ill treatment in the Manila metropolitan area and Mindanao.

SUMMARY OF THE CAT STATE REVIEWS

France

Asylum seekers' safeguards and prison overcrowding

During the review of France's *seventh periodic report*, the Committee expressed concern about a large variety of topics related to **refugees and asylum seekers**. While Committee members welcomed the adoption of new asylum legislation, they expressed concerns about the definition of a "safe country" and recommended that France ensure it does not systematically place individuals originating from these so-called "safe countries" in the "accelerated procedure" when seeking asylum, as this procedure has limited legal safeguards. Experts were also preoccupied by the allegations of violence by police forces against asylum seekers and migrants as well as the poor living conditions in Calais and its region.

The endemic problem of **prison overcrowding** was also highlighted, especially in Marseille, Nimes, French Polynesia and other overseas territories, as was the need to implement alternative measures to imprisonment. Bad hygienic conditions, allegations of ill-treatment by prison personnel, prolonged isolation, which can enhance suicide in detention, as well as full-body searches were of particular concern. Members recommended that France strengthen its prevention policy against **suicide in detention**, by avoiding the use of prolonged isolation for vulnerable individuals and by providing inmates with psychiatric care.

The Committee also stressed that France's **counter-terrorism** measures taken in the framework of the state of emergency must fully comply with human rights standards, including the absolute character of the prohibition of torture. Of particular concern were: the excessive use of force by police officers, house arrests, searches and denial of access to a lawyer up to 72 hours for persons accused of organized crime or terrorism. The Committee recommended that France ensure legal safeguards for all persons arrested, and reparation for victims.

Other issues raised included the involuntary medical treatment of **intersex children** and allegations of **sexual abuse of children by French soldiers** in the Central African Republic.

Issues for follow up are:

1. Prosecution of excessive use of force
2. Access to psychiatric care in prisons
3. Investigation into allegations of sexual abuse in the Central African Republic

Read more:

- [Concluding Observations](#)
- [NGO Reports](#)
- [Webcasts](#)

Tunisia

On-going torture despite transitional justice

The Committee's review of Tunisia's third periodic report raised major points in the wake of the 2010 Revolution. Committee members acknowledged that the transition period in Tunisia will take time and that the evolution from the systematic use of torture to the full respect of human rights will be a long process. However, experts were concerned about allegations of continuing **regular use of torture** by police forces, particularly by **counter-terrorism** units, and the use of secret detention. They were concerned about overall detention conditions, reports of excessive use of solitary confinement and pre-trial detention, overcrowding and unsanitary conditions. The Committee recommended that Tunisia reaffirm the absolute prohibition of torture, conduct prompt and effective investigation into allegations of torture, take legislative measures to ensure fundamental legal safeguards for persons in custody, and eliminate all forms of secret detention.

The establishment of the **Truth and Dignity Commission** to deal with violations perpetrated during the dictatorship was welcomed, but its broad mandate and lack of resources raised concerns among the Committee members who highlighted the on-going **impunity** for cases of torture and ill-treatment and the lack of means of redress for torture victims. In particular, the Committee suggested that Tunisia provide the Commission with sufficient means and resources.

Moreover, experts were concerned about the **lack of independence** of both the judiciary and the national human rights institution, as well as the continued use of military courts to the detriment of ordinary courts. They suggested the State party speed up the enactment of new legislation regarding the creation of new judiciary organs and ensure their independence according to international standards.

Other issues of concern brought to the attention of the State party included the need for Tunisia to protect **human rights defenders** and journalists from threats and attacks, to adopt legislation to criminalize violence against women, including domestic violence, and to abolish criminalization of **same-sex relations**.

Issues for follow up are:

1. Allegations of torture and ill-treatment
2. Detention conditions
3. Mandate of the Truth and Dignity Commission

Read more:

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

Saudi Arabia

Corporal punishment and death penalty

In their review of Saudi Arabia's *second periodic report*, the Committee expressed great concern about the lack of criminalization of torture in Saudi Arabia and the frequent use of **corporal punishment**, including flogging, stoning and amputations of limbs. The Committee considers that these practices constitute torture or cruel, inhuman or degrading treatment or punishment and asks that the State party put an immediate end to them. The Committee noted with concern the increase in **executions**, including of minors or persons with mental health issues and for drug-related offences, and encouraged the State party to establish a moratorium on executions, commute all existing death sentences, and become a party to the International Covenant on Civil and Political Rights, in particular its Second Optional Protocol aimed at the abolition of the death penalty.

With regards to **legal safeguards** of detainees, the Committee is concerned that the law does not guarantee the rights of persons deprived of their liberty prompt access to a lawyer of their choice or independent medical assistance, and does not contain a timeframe providing the detained person the right to contact a person of their choice to inform them of their arrests and whereabouts. The Committee further noted with concern that the law allows detained persons to be held without charge up to six months. Given the many allegations of **use of torture** in prisons, detention centres and police custody, the Committee recommended that the State party conduct prompt, effective and impartial investigations into such cases, prosecute and sentence the perpetrators in accordance with the gravity of their acts, and ensure both in law and practice the upholding of the fundamental legal safeguards. The Committee expressed concern about the small number of complaints filed by torture victims because of fear of reprisals as well as the use of coerced confessions as evidence in court. The Committee recommended that Saudi Arabia strengthen the independence of the judiciary as well as of the Bureau of Investigation, which monitors and visits detention facilities.

Members suggested that Saudi Arabia revise the overly broad **definition of terrorism** in the 2014 Law of Terrorism and its Financing. In its present form the law has led to incidents of repression and reprisals against **human rights defenders**, such as in the cases of Waleed Abu Al-Khair, Abdulkareem Al-Khoder, Abdelrahman Al-Khoder, Mohamed Salih Al-Bajadi and Raif Badawi. In particular, the Committee recommended that the State party release individuals detained solely for peaceful criticism or human rights advocacy.

Finally, Committee members recommended that Saudi Arabia provide legal protection to migrant workers including **women**, and afford protection to **children** at risk of being trafficked. Referring to allegations of persons being deported to places like Somalia, South Sudan or Eritrea, experts pointed out the need for the Kingdom to adopt legislation against refoulement.

Issues for follow up are:

1. Corporal punishment
2. Reprisals against human rights defenders and journalists
3. Death penalty

Read more:

- [Concluding Observations](#)
- [NGO reports](#)

- [Webcast](#)

Turkey

Impunity for acts of torture and numerous concerns about the treatment of refugees

Impunity for torture and ill-treatment is a major problem in Turkey. Highlighted during the review of Turkey's *fourth periodic report* were the disparities between the high number of allegations of torture reported by the NGOs and the information provided by Turkey as to whether those allegations have been investigated. The Committee further noted that when the State party undertook an investigation into the allegations of ill-treatment and excessive use of force by its officials, this resulted in very few (and limited) sanctions. For example, none of the State party's investigations into the allegations of excessive use of force in the context of the 2013 Gezi Park protests in Istanbul and Ankara have resulted in any prosecution.

The Committee expressed serious concerns about allegations of torture, ill-treatment and extra-judicial killings in the context of **counter terrorism operations in the south-eastern part of Turkey**, as well as about the strict curfew measures put in place in the context of security operations as these undermine the populations' ability to access water, food and healthcare. It recalled that the absolute prohibition of torture contained in Article 2 of the Convention stipulates that no exceptional circumstances whatsoever can justify torture. The Committee recommends prompt, impartial and effective investigations into the allegations of torture, ill-treatment and extra-judicial killings committed by the State authorities in the south-eastern part of Turkey and that the perpetrators be held accountable and receive appropriate sentences.

The absence of systematic examination of **asylum** applications and international protection for refugees were deemed particularly worrying given the presence of 2.7 million Syrian refugees in Turkey. Deportations of Syrian refugees, including unaccompanied minors, as well as deportation of refugees to Afghanistan, Eritrea, Iraq and Sudan were of great concern. The Committee recommended that Turkey ensure that all returnees have the opportunity of an individual review and be protected from **refoulement**.

The Committee expressed serious concern about the numerous reports of **human rights defenders, journalists and medical doctors** who have been subjected to intimidation, harassments, arbitrary detention and killings as a result of their work. The Committee urged the State party to protect human rights defenders, journalists and medical doctors against threats and attacks and to refrain from detaining and prosecuting them as a means of intimidation.

Issues for follow up are:

1. Use of counter-charges as a means to intimidate detained persons from reporting cases of torture
2. Extra-judicial killings and ill-treatment in counter-terrorism operations
3. Individual review and protection of returnees from refoulement and collective returns
4. Detention and prosecution of journalists and human rights defenders

Read more:

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

The Philippines

Impunity for acts of torture and overcrowding in prisons

During the Committee's review of the Philippines' *third periodic* report, members noted the **culture of impunity** regarding cases of torture. There has been only one conviction under the Anti-Torture Law since 2009, despite the growing number of complaints on torture. The Committee also noted with great concern the lack of investigations into cases of extra-judicial killings and enforced disappearances and recommended that the State party prevent such acts.

The Committee asked the State party to put an end to the practice of **warrantless** arrests, deemed incompatible with the rule of law, and recommended that the Philippines ensure that all detained persons are guaranteed legal safeguards from the outset of their deprivation of liberty.

With regards to **detention conditions**, Committee members expressed concerns about overcrowding, currently exceeding 300 per cent, which exacerbates sexual and inter-detainee violence, as well as the spread of infectious diseases. It asked the Philippines to take measures to shorten the duration of pre-trial detention, which should be exceptional. Experts highlighted the need to provide the national Commission on Human Rights, in charge of monitoring places of detention, with sufficient functional and financial support.

The Committee expressed great concerns about the existence of secret detention facilities, including in the **Laguna province**, where acts of torture are routinely inflicted upon individuals including children. It therefore asked the Philippines to immediately close all secret places of detention, conduct investigations and prosecute all persons responsible for acts of torture.

Members noted that abortion is still banned without exception, and recommended that the Philippines review its legislation in order to provide for exceptions in cases of rape or incest and when the pregnancy endangers the life of the woman.

Finally, the Committee expressed deep concerns about the detention in holding centres of children in conflict with the law, and asked the State party to ensure that detention of children is used as a measure of last resort and that their conditions of detention are in conformity with international standards. Experts also recommended that the State party withdraw the pending bill aiming to lower the age of criminal responsibility from 15 to nine years.

Issues for follow up are:

1. Pre-trial detention and overcrowding
2. Measures taken with regard to torture and ill-treatment
3. Closing of secret places of detention

Read more:

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

Israel

The loophole of the “necessity defence” and lack of investigations

During Israel's *fifth periodic* report review, the Committee reaffirmed at the outset that the Convention Against Torture applies to all territory and persons under the jurisdiction of the State party, including the Occupies Territories.

Highlighting with concern **interrogation techniques** used by Israeli Security Agency interrogators, such as stress positions and sleep deprivation, the Committee asked Israel to ensure that these methods are not used under any circumstances. Despite previous recommendations of the Committee, there is still no **criminalization of torture** per se in Israel and the State party did not provide the information requested on the necessity defence in the context of interrogations. The Committee recommended that Israel incorporate into domestic law a specific offense of torture in full conformity with the definition provided in Article 1 of the Convention as well as the principle of the absolute prohibition of torture in conformity with Article 2 of the Convention. It further recommended to completely remove **necessity** as a possible justification for torture.

Referring to allegations of torture reported during the arrest and transfer to the place of detention as well as the **excessive use of force** by security officers, the Committee highlighted with great concern the lack of accountability for perpetrators of torture and recommended that Israel conduct prompt, effective and impartial investigation into all allegations of torture or ill-treatment.

Members expressed concerns about the 2014 Unlawful Combatants Law, under which individuals can be held in detention indefinitely without charge and based on secret evidence not made available to them. At the time of the dialogue, 700 persons, including 12 minors, were in **administrative detention**. Israel was urged to repeal this legislation and put an end to the practice of administrative detention. Members were particularly concerned about the **imprisonment of Palestinian children** and allegations of torture and ill-treatment of children in Israeli custody.

Concerns were raised about the use of **solitary confinement** and other forms of isolation for long periods of time for interrogation purposes or security reasons, especially where children are concerned. According the Committee, solitary confinement should only be used in exceptional cases and never in the case of juveniles and persons with intellectual or psychological disabilities. Regarding forced feeding of prisoners on hunger strike, the Committee stressed that Israel should guarantee that persons deprived of liberty are never subjected to feeding against their will as this may amount to torture or ill-treatment.

Referring to allegations of **refoulement** of refugees, the Committee stated that Israel should refrain from removing any person without previously conducting a thorough risk assessment of situations covered by Article 3 of the Convention. The Committee also pointed out the need for Israel to put an end to the policy of **punitive house demolitions** and the need to return the bodies of Palestinians to their families.

Issues for follow up are:

1. Independent medical examinations of persons deprived of liberty
2. Administrative detention

3. Solitary confinement and other forms of isolation
4. Allegations of torture and ill-treatment through interrogation methods

Read more:

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

ADOPTION OF LISTS OF ISSUES AND LISTS OF ISSUES PRIOR TO REPORTING

Lists of Issues

- [Sri Lanka](#)
- [Turkmenistan](#)

Lists of Issues Prior to reporting

- [Cyprus](#)
- [Lithuania](#)
- [United Kingdom of Great Britain and Northern Ireland](#)
- [Uruguay](#)

NEXT SESSIONS

The 58th session of the CAT will take place from 25 July to 12 August 2016.

Consideration of State Reports:

- [Kuwait](#)
- [Honduras](#)
- [Mongolia](#)
- [Burundi](#)

The deadline for NGO submissions for these State report reviews is 4 July 2016.

The 59th session of the CAT will take place from 7 November to 7 December 2016.

Consideration of State reports:

- [Armenia](#)
- [Cape Verde](#)
- [Ecuador](#)
- [Finland](#)
- [Monaco](#)
- [Namibia](#)
- [Sri Lanka](#)
- [Turkmenistan](#)

The deadline for NGO submissions for these State report reviews is 17 October 2016

The deadline for NGO submissions for the List of Issues is 27 June 2016

The 60th session of the CAT will take place from 7 November to 7 December 2016

Consideration of State reports:

- [Afghanistan](#)
- [Argentina](#)
- [Bahrain](#)
- [Lebanon](#)
- [Pakistan](#)
- [Republic of Korea](#)

The deadline for NGO submissions for these State reviews is 27 October 2017. report

STAY UP-TO-DATE ON OMCT ACTIVITIES CONCERNING THE CAT

This E-Bulletin is published within the framework of OMCT's "Global CAT Civil Society Programme" launched in 2014 to mobilize and coordinate activities of civil society organizations (CSOs) in relation to the United Nations Convention Against Torture and its Committee (CAT). OMCT facilitates civil-society engagement by building coalitions, sharing information, ensuring timely and effective report submissions, advising on advocacy opportunities and supporting effective access to the CAT during the private NGO briefings. Find out more on our [website](#).

OMCT Blog: Engaging with the Committee Against Torture

The OMCT blog entitled "[Nothing can Justify Torture, engaging with the Committee Against Torture](#)" was launched on 3 November 2014 to mark the celebration of the 30th anniversary of the Convention Against Torture.

The blog's objective is to provide greater awareness of the work of the CAT and the Convention Against Torture, to increase mobilization of civil society organizations (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.

Recent **OMCT blog posts** include:

[An interview with Jens Modvig: Keeping the Committee Against Torture on its toes](#)

[The Committee Against Torture should take a stronger stance against the death penalty](#)

The OMCT invites and encourages anyone 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 [OMCT blog](#). Please contact Carin Benninger Budel at cbb@omct.org for more information.

Follow the CAT sessions

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



To follow the CAT's latest session on Twitter, search **#UNCAT**.

OMCT

This e-bulletin is published within the framework of [OMCT's](#) "Global CAT Civil Society Programme" launched in 2014 to facilitate information sharing among NGOs in relation to the Convention Against Torture and its Committee.

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SIGRID RAUSING TRUST