

Public consultation on CAT draft General Comment n°3 on article 14 22 November 2011, Geneva

OMCT oral statement (as read)

Thank you Mr Chair

Based on its experience in providing personalized assistance to victims of torture and ill-treatment as well as on its longstanding engagement with the CAT, the OMCT has already submitted written comments.

The OMCT would like to take the opportunity of this consultation to reiterate its appreciation for the interpretation of article 14 in the draft General Comment in light of broader general international law, in particular the endorsement of the overriding concept of the right to remedy and reparation as well as the clarification that the right to redress entails both substantive and procedural obligations. The OMCT equally commends the Committee for having defined rehabilitation as a holistic concept, including social, legal and medical rehabilitation.

Please allow me to briefly point out 5 issues that, according to the OMCT, could be strengthened in the final version of the General Comment.

Firstly, with regard to **remedy and reparation of child victims**, the OMCT considers that the Committee should further take into account in its General Comment the best interests of the child victim, its right to participation and child-sensitiveness. In application of these principles, the OMCT believes the General Comment should include guidance to the States parties on child victims' access to justice, involvement in judicial proceedings and specific rehabilitation.

Secondly, in the framework of torture perpetrated in the name of the **fight against terrorism or other national security doctrines**, the OMCT welcomes the recognition in the draft general comment that national security exceptions can be an impediment for the access to the right to an effective remedy and reparation. The OMCT, however, suggests a more detailed guidance to ensure that state secrecy or other national security invocations are not having the intent or effect of depriving the victim of the essence of his/her right to an effective remedy and reparation.

In the same vein, the OMCT also believes that the General Comment should clarify that the obligation to provide redress can incur on more than one State in situations in which agents of another State have committed, authorized, participated in or were otherwise complicit in acts of torture.

Thirdly, the fact that States hire **private military or security companies** raises multiple practical and legal challenges for individuals subjected to torture and ill-treatment in enjoying their effective right to remedy and reparation. Therefore, private military or security companies and the States hiring them should be held accountable so that victims of torture and ill-treatment obtain reparation.

Fourthly, to the OMCT, the General Comment n°3 should contribute to the emerging consensus that the answer to the crime of torture requires a **judicial remedy**. In this regard, the OMCT would welcome the inclusion of references not only to the role of the police but also to the responsibilities of the prosecuting authorities.

Lastly, as an organisation submitting **individual communications** to the CAT, the OMCT strongly believes that the CAT individual communications' system should play an important role for victims' right to remedy and reparation. In this regard, it is important to ensure that those who use international remedies are safe from any reprisal. Moreover, States parties should give effect to the required remedies and measures of reparation indicated by the Committee in its case work. Providing for domestic reception of the CAT decisions constitutes a particularly faithful implementation of the Convention that would foster the provision of remedies and reparation to the victims.

Thank you for your attention.