

OMCT E-Bulletin - April-May 2018

63rd 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 on our work on our [website](#).

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Introduction

During its 63rd Session (23 April – 18 May 2018), the Committee Against Torture (CAT) considered the State party reports of Norway, Senegal, Belarus, Qatar, Czech Republic and Tajikistan. In accordance with Article 19 of the Convention Against Torture, every four years State parties submit a report to the CAT on new measures taken to implement the Convention. These reports are reviewed in public sessions, during which the respective State party holds a constructive dialogue with the Committee Members. The day before the consideration of the report, NGOs having submitted an alternative report can raise their concerns during a private briefing with the CAT. At the end of each session, the CAT publishes its « [Concluding Observations](#) », which are specific recommendations for each reviewed State and issues for them to follow up on within one year. During this session, the discussions covered a broad range of topics, from the poor conditions in detention and the treatment of migrants, to gender-based violence.

What's up

Welcoming of three new members

During the opening of the 63rd session of the CAT, three new experts joined the Committee: Ms. Honghong Zhang (China), Mr. Diego Rodríguez-Pinzón (Colombia) and Mr. Bakhtiyar Tuzmukhamedov (Russian Federation).

CAT members and mandates

- ❖ Chairperson: Mr. Modvig.
- ❖ Vice-Chairpersons: Ms. Gaer, Ms. Belmir, Mr. Heller Roussant.
- ❖ Committee Rapporteur: Mr. Touzé.
- ❖ Rapporteur on follow-up to concluding observations: Mr. Hani.
- ❖ Rapporteur on follow-up to individual communications: Mr. Heller Roussant.
- ❖ Rapporteur on follow-up to reprisals: Ms. Racu.
- ❖ Rapporteur on new communications and interim measures: Mr. Touzé.



CAT member Abdelwahab Hani and Chairperson Jens Modvig, and OMCT Secretary General Gerald Staberock during the annual OMCT reception on the occasion of the 63rd session of the CAT.

OMCT briefing on how the Convention applies to children and whether CAT should address aspects of it more robustly

During the 63rd session, OMCT organized a thematic briefing on 'How the Convention Against Torture applies to children and whether CAT should address aspects of it more robustly' for the Committee. Various experts from different disciplines took part in the discussion. OMCT highlighted children's vulnerability to torture and ill-treatment and made concrete recommendations on how to improve the international framework for their protection. During its closing remarks, the Committee expressed interest in working more closely with other treaty

bodies, especially the Committee on the Rights of the Child, to harmonize and improve standards so as to better protect children against torture.



Carolina Barbara, Child Rights Coordinator at OMCT and expert Luis Pedernera, member of the Committee on the Rights of the Child.

OMCT submissions

Senegal

The [Rencontre Africaine pour la Défense des Droits de l'Homme](#) (RADDHO) and OMCT contributed to the review of Senegal by submitting a joint alternative [report](#) on torture and ill-treatment in the country. It considers different issues including the on-going penal reform, the definition of torture, the new counter-terrorism law, detention conditions, Talibé children, and the lack of redress mechanisms.

Tajikistan

The [International Partnership for Human Rights](#), [Notorture.tj.org](#) and the [Helsinki Foundation for Human Rights](#) and OMCT submitted a joint alternative [report](#) on Tajikistan for the CAT's consideration. The report covers a variety of issues including the abuse of LGBTI people, domestic violence and the prohibition and punishment of torture and ill-treatment.

CAT state reviews summaries

Norway

Prolonged detention in police cells and coercive measures in psychiatric health care

During the 63rd session of the CAT, the Committee reviewed the State party [report](#) submitted by the Norwegian delegation. The Committee expressed its concern about the systematic confinement of suspects in police detention cells for pretrial detention beyond the 48-hour limit prescribed by law as a result of insufficient space and staff in detention facilities. Such detention, de facto amounting to solitary confinement, is often the result of a discretionary assessment, which therefore cannot be legally challenged.

Furthermore, the Committee extensively addressed the excessive use of coercive measures in psychiatric healthcare facilities. The widespread use of restraints and electroconvulsive therapy (ECT) can lead to lasting and irreversible physical and mental sequela. Norway should ensure that involuntary psychiatric treatment is only used in exceptional cases as a measure of last resort and strict criteria for its use must therefore be established. Besides that, effective procedural safeguards for patients should be established, such as assisted decision making by proxy, complaints mechanisms and free legal aid.

The Committee was particularly concerned about the reported ineffective or inappropriate investigations into rape cases, the small number of criminal convictions for rape and the high incidence of violence against Sami women in Norway. The Committee asked the State party to amend the Penal Code in order to ensure the legal distinction between rape and non-consensual sexual activity (in section 291 of the Penal Code) so that rape cases can be punished proportionately instead of as a minor sexual offence. Norway should focus on training the police, prosecutors and judges in order to better investigate and prosecute cases of violence against women.

The Committee also urged the State party to amend its definition of torture to bring it in line with that contained in the Convention. Other issues mentioned included access to fundamental legal safeguards; solitary confinement of prisoners; mental healthcare for prisoners; missing minors from reception centres; immigration detention facilities; training of law enforcement and prison officials; and Norgerhaven Prison in the Netherlands.

Issues for follow-up relate to:

- ❖ Prolonged detention in police cells;
- ❖ Mental healthcare for prisoners;
- ❖ Situation in immigration detention facilities.

Read More: [Concluding Observations](#), [meeting summaries](#) and [webcast](#).

Senegal

Lack of legal safeguards and poor detention conditions

During the consideration of the [fourth periodic report of Senegal](#), the Committee expressed its concern about the fundamental legal safeguards of detainees. The duration of police custody can be extended to 8 days for offences against state security. In cases related to terrorism it can be prolonged up to 12 days. Even children in conflict with the law can be deprived of their liberty for the same period of time during custody. The law nominally affords suspects a meeting with a lawyer limited to 30 minutes, but due to the small number of Senegalese lawyers, most prisoners fail even to get such legal assistance. The Committee urged Senegal to ensure that regardless of the reason, the maximum period of custody does not exceed 48 hours, or 24 hours for children, and be renewable only once, in exceptional circumstances. Furthermore, Senegal should, from the outset of their deprivation of liberty, grant all detainees legal safeguards, including the right to inform relatives, to independent legal assistance, and to request and obtain a medical examination. Moreover, Senegal should take measures to increase the number of lawyers throughout the country.

The Committee expressed concern over the deplorable sanitary conditions in prisons, the lack of personnel, decent food, and medical care resulting from prison overcrowding. The experts noted that the proportion of pre-trial detainees represents 45 per cent of the prison population and, in the case of women, 72 per cent. Persons accused of acts of terrorism are allegedly submitted to particularly severe conditions of detention, including solitary confinement and denial of access to medical care.

The Committee noted that allegations of torture or ill-treatment are rarely investigated and when so, the investigations do not result in holding the perpetrators accountable or punishments proportional to the gravity of the crime of torture.

Other issues the Committee raised included an increase in the exploitation of Talibé children; the offences committed during the Casamance conflict; the delayed penal reform process;

deaths in custody; the lack of independence of the judiciary and the National Human Rights Institute.

Issues for follow-up relate to:

- ❖ National mechanism to prevent torture;
- ❖ Fundamental legal safeguards;
- ❖ Abuse and children trafficking.

Read More: [Concluding Observations](#) (French only), [meeting summaries](#) and [webcast](#).

Belarus

No effective investigation of allegations of torture and violence in detention

Torture and ill-treatment continue to be widespread in Belarus and are met with impunity. According to the [fifth periodic report of Belarus](#), of the 614 reports of acts of torture or ill-treatment the Investigative Committee and other relevant officials received, only 10 were the object of a criminal investigation and none had resulted in a criminal conviction as of 2018. The Committee expressed concern at allegations that law-enforcement officers often resort to torture and ill-treatment to extract confessions from suspects and that courts seldom declare inadmissible confessions obtained under duress and rarely investigate allegations of torture. Thus, the UN experts urged Belarus' Investigative Committee to ensure that all complaints of torture and ill-treatment are promptly, effectively and impartially investigated. The experts also asked Belarus to provide, in its next report, information on cases in which confessions obtained through torture had been deemed inadmissible.

The Committee expressed its concern at Belarus prisons' detention conditions and overcrowding. In particular, it cited reports of public officials and fellow inmates abusing and stigmatizing LGBTI persons in detention and of placement of transgender women with male detainees, and of juvenile suspects held in pre-trial detention facilities cells with adults. The Committee lamented the absence of a comprehensive juvenile justice system in Belarus especially considering the many reports of violence, including sexual violence, against incarcerated minors and of solitary confinement of minors detained in closed schools.

Although Belarus has created Public Monitoring Commissions (PMCs), its members in actual fact cannot carry out unannounced visits, are not entitled to visit temporary detention facilities, pre-trial prisons or psychiatric hospitals, and are controlled by the Ministry of Justice. The

Committee thus urged Belarus to strengthen the independence of the PMCs, to ensure their diverse and qualified composition and to grant them unannounced access to all detention facilities in the country.

Lastly, the Belarusian Criminal Code still provides the death penalty for 13 criminal offences. Some individuals were executed while their requests were pending before the UN Human Rights Committee. Persons on death row are placed in solitary confinement in deplorable detention conditions. Furthermore, their dates of execution or places of burial are not communicated to their families.

Other issues raised before the Committee included the identification of law enforcement officers; psychiatric hospitalization; death in detention; violence against women; enforced disappearances; harassment of lawyers and human rights defenders.

Issues for follow-up relate to:

- ❖ Fundamental legal safeguards;
- ❖ Effective investigation of allegations of torture and ill-treatment;
- ❖ Human rights defenders.

Read More: [Concluding Observations](#), [meeting summaries](#) and [webcast](#).

Qatar

No absolute prohibition of torture and abuse of migrant workers

In its consideration of [Qatar's third periodic report](#), the Committee pointed out that Qatari law does not explicitly prohibit torture. The Committee urged Qatar to reaffirm the absolute prohibition of torture and publicly declare at the highest level that torture is formally prohibited. It should also amend article 48 of the Penal Code so that public officials cannot invoke orders of a superior as justification for an act of torture.

During the session, the Committee also expressed its concern about the independence of the judiciary. The Emir holds the exclusive authority to appoint judges, who can also be dismissed 'in the public interest'. Additionally, foreign judges work under temporary contracts that have to be renewed every year, which could affect their independence.

The Committee asked the State party to say what measures it would take to replace corporal punishments such as flogging, stoning and amputation with alternative penalties acceptable under international law such as fines and custodial sentences. Also, the Committee said it was particularly concerned that minors could be subjected to corporal punishment both at home and at school.

In addition, migrant workers are still abused in Qatar in spite of the reported removal of the *kafala* (sponsorship) system. The new labour law does not abolish exit permits, meaning migrants still need their employers to sign off their departure, which often leads to exploitation. Employers' de facto confiscation of migrants' passports and their failure to renew their residence permits and health cards leave them at risk of being arrested for unlawful presence in Qatar. The Committee therefore welcomes the agreement signed by the State and the International Labour Organization to bring its laws and practices in line with international labour standards.

Other concerns related to the criminalization of torture; prolonged periods of administrative detention on national security grounds; coerced confessions; the breach of the non-refoulement principle; training on detection of torture; death penalty; redress; human trafficking; the criminalization of domestic violence, including marital rape; and harassment of human rights defenders and journalists.

Issues for follow-up relate to:

- ❖ Fundamental legal safeguards;
- ❖ Prompt, thorough and impartial investigations;
- ❖ Asylum and non-refoulement.

Read More: [Concluding Observations](#), [meeting summaries](#) and [webcast](#).

Czech Republic

Deterioration of conditions of detention, detention of asylum seekers and discrimination of Roma communities

During the review of the [sixth periodic report of Czech Republic](#), the most examined issues in the review had to do with the need to respect fundamental legal safeguards, improve conditions of detention and increase the use of non-custodial measures. The Committee pointed out the Czech Republic's high incarceration and recidivism rates, and urged it to conduct a fundamental review of its penal system, in particular to reduce the prison overcrowding by implementing non-custodial measures as alternatives to detention. It also stressed the need to improve access to effective legal aid and health care services, including psychiatric care. Furthermore, the Committee noted the relatively small number of complaints of torture and ill-treatment from persons deprived of liberty that resulted in prosecutions, and urged the State party to strengthen the investigative capacity and the independence of the General Inspection of Security Forces.

In relation to the situation of asylum seekers and other foreign nationals, the Committee expressed its concern at the State party's practice of detaining individuals seeking international protection, including those in particularly vulnerable situations. It invited the State party to end this practice, to ensure the provision of alternative accommodation for families with children, to provide free legal assistance at all reception and detention centres, and to develop and implement a standard procedure for the identification and protection of persons in vulnerable situations including victims of torture.

While noting the measures taken by the State party to increase the number of Roma children in the mainstream education, the Committee said it was still concerned that Roma children are still overrepresented in the specialized educational programs for children with mild mental disabilities. It called on the State party to strengthen its efforts to eradicate the segregation of Roma children in its educational system. Furthermore, the Committee drew attention to the continued occurrence of hate crimes against minorities, including Roma and Muslim communities, and urged the State party to publicly condemn threats and attacks on these groups and to ensure their investigation. It also invited the State party to implement effective training of law enforcement officials and the judiciary on hate-motivated crimes, as well as awareness-raising measures to counter prejudice and stereotypes, and policies to prevent racially motivated crimes and discrimination.

Other issues raised include the definition of torture; redress provided to victims of torture and ill-treatment; involuntary sterilization; surgical castration of sex offenders; treatment of persons in psychiatric institutions; the mandate of the Public Defender of Rights; and training provided to public officials in the areas covered by the Convention.

Issues for follow-up relate to:

- ❖ Strip-searching in detention centres;
- ❖ Hate crimes against minority groups including Roma and Muslims;
- ❖ Treatment of persons in psychiatric institutions.

Read More: [Concluding Observations](#), [meeting summaries](#) and [webcast](#).

Tajikistan

Domestic violence and harassment of LGBTI people

In its review of [Tajikistan's third periodic report](#), the Committee expressed concern that, in practice, the Ombudsman does not have access to all places of detention, while the delegation had said the Ombudsman enjoyed unimpeded access. The Committee said it was also concerned about the insufficient guarantees of independence in the Ombudsman's staff selection process and the institution's inadequate funding.

Another point of concern was domestic violence in Tajikistan. Between 2015 and 2017, 454 criminal cases of violence against women had been opened, but it remains unclear how many of these cases were charged and prosecuted as torture. Many police officers allegedly refuse to record complaints of violence against women. Often, they do not investigate further and favour reconciliation with the perpetrators over investigation. Prosecutions and convictions are especially rare in rural areas and remote regions. So far, the State party has failed to criminalize marital rape and domestic violence as a separate offense in the Criminal Code.

LGBTI people are highly stigmatized in Tajikistan. Homophobia and transphobia run deep in the society. LGBTI people run the risk of being subjected to torture, ill-treatment, sexual abuse, arbitrary detention and extortion, often by the police or at the instigation of a public official. In the rare cases when victims lodge complaints, they often face reprisals. According to the Committee, Tajikistan should publicly condemn torture and other abuse of LGBTI people, promptly investigate and prosecute complaints and provide the victims with redress.

Other matters of concern include impunity for torture and ill-treatment; sanctions for acts of torture; inadequate access to independent lawyers; retaliation against victims of torture and their families, human rights defenders and journalists; deaths in custody; coerced confessions; lack of respect for the principle of non-refoulement; the poor conditions of detention; the especially harsh conditions for prisoners serving life sentences; the juvenile justice system's non-compliance with international standards; inadequate redress and rehabilitation; and the lack of prohibition of corporal punishment of children.

Issues for follow-up relate to:

- ❖ Investigation of acts of torture;
- ❖ Fundamental legal safeguards;
- ❖ Hazing, ill-treatment and torture in the armed forces.

Read More: [Concluding Observations](#), [meeting summaries](#) and [webcast](#).

Next sessions

64th Session of the CAT

23 July – 10 August 2018

- ❖ Consideration of State party reports: Chile, Mauritania, the Russian Federation and Seychelles (in the absence of a report).
 - 25 June 2018: deadline for NGO submissions for the State report reviews.

65th Session of the CAT

12 November – 7 December 2018

- ❖ Consideration of State party reports: Canada, Guatemala, Maldives, the Netherlands, Peru and Vietnam.
- ❖ List of Issues Prior to Reporting: France, Israel, Philippines and Turkey.
- ❖ List of Issues: South Africa and Benin.
 - 25 June 2018: deadline for NGO submissions for the List of Issues and List of Issues Prior to Reporting.
 - 15 October 2018: deadline for NGO submissions for the State report reviews.

66th Session of the CAT

22 April – 17 May 2019

- ❖ Consideration of State party reports: Benin, Democratic Republic of the Congo, Germany, Mexico, South Africa, United Kingdom of Great Britain and Northern Ireland.
 - 25 March 2019: deadline for NGO submissions for the State report reviews.

Stay up-to-date

OMCT Blog: Engaging with the UN Committee Against Torture

Our blog « [Nothing can justify Torture, engaging with the Committee Against Torture](#) » aims to provide greater awareness of the CAT and the Convention Against Torture and increase the mobilization of NGOs against torture making a more effective use of the CAT procedures.

If you are working on the Convention Against Torture or the CAT (Committee Members, representatives from NGOs, academics, journalists, etc.), we encourage you to share your experience and knowledge by submitting an article. 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.

And follow us



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