



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**  
**Fifty-first session**

**Summary record (partial)\* of the 1171st meeting**

Held at the Palais Wilson, Geneva, on Monday, 28 October 2013, at 3 p.m.

*Chairperson:* Mr. Grossman

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\* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention**

*Initial report of Mozambique (CAT/C/MOZ/1)*

1. *At the invitation of the Chairperson, the delegation of Mozambique took places at the Committee table.*

2. **Ms. Levi** (Mozambique) said that her country had achieved stability since the 1992 general peace accords that had ended years of devastating warfare. It had thus far done everything in its power to underpin the rule of law and to safeguard the rights of all its citizens. Under the Constitution, all citizens were entitled to the same rights and subject to the same duties, irrespective of race, place of origin, gender, or political or religious beliefs. The State party had signed most of the international and regional human rights treaties and had made considerable progress in promoting economic freedom, transparency and good government.

3. In addition to the establishment of the Office of the Ombudsman and the National Human Rights Commission, a national human rights plan would, it was hoped, be adopted in the near future. The State party had ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and invested the Commission with the authority to conduct regular visits to places of detention. Its work would complement that of the police and the Office of the Attorney-General. Prisons were already accessible to NGOs, notably, the Human Rights League.

4. The Constitution expressly prohibited the death penalty, the use of torture and other cruel, inhuman or degrading treatment. Domestic legislation was being reviewed but currently persons found guilty of excessive use of force or torture faced criminal, civil and disciplinary penalties, particularly if they were public servants. Court cases involving such offences were, as a rule, public. All training and capacity-building programmes for law enforcement officials, prison staff and justice officials contained a human rights component.

5. Much remained to be done to improve the quality of policing and prison conditions. The recently passed Police Act represented an important step in efforts to improve police conduct. The Government had approved new prison regulations, under which warders would receive training on prison management, staff conduct and human rights. The material and human resources allocated to the Prisons Service had been increased. As a result, the overall level of hygiene in prisons had improved. New district prisons had been built and others had been renovated. Vocational training for prisoners had been introduced in all prisons with a view to their rehabilitation and reintegration into society. A prison school for underage offenders had been opened in Maputo Province. In an effort to relieve overcrowding, prisoners nearing the end of their sentences were moved to open prisons. In addition, the amended Criminal Code would provide for alternatives to prison sentences.

6. The Legal Aid and Support Institute had been set up to provide legal aid for defendants and convicted offenders who could not afford the services of a lawyer. Its network covered 90 per cent of the country, including all provincial capitals. Measures were being taken to reinforce the independence of the judiciary. Since 2000, the State had invested considerable resources in the training of judges and prosecutors. Around 35 law students graduated annually, and many of them worked in the provincial capitals and districts. New justice centres had been built in various districts as part of a pilot project. They brought courts, prosecution and criminal investigation offices, and legal aid services under one roof, thereby making justice more accessible to all. More centres would be built in other districts and provincial capitals.

7. Recently passed Acts on family law, domestic violence and the rights of the child included provisions aimed at combating violence against women and children and harmful customs such as early marriage. The Ministry of the Interior had established crisis centres for victims of violence, with 260 branches in police stations around the country. Special units had also been set up in provincial capitals and some districts, and police officers specializing in those matters were being trained.

8. It was true that the State party had yet to include a definition of torture in its Criminal Code. It had also been unable thus far to produce the kind of disaggregated statistics requested by the Committee. Much remained to be done to combat organized crime.

9. **Mr. Mariño Menéndez** (Country Rapporteur) said that the State party was showing goodwill by embarking on legislative reform. He would like more information on the mandates of the National Human Rights Commission and the Office of the Ombudsman, and on the State party's implementation of the Optional Protocol to the Convention.

10. He asked why, given that torture was expressly prohibited by the Constitution, the offence had not been defined in the Criminal Code, and whether the Constitution could, in the absence of such a definition, be invoked before the courts. There was considerable evidence of widespread use of violence by law enforcement agencies and prison personnel. He would like to know whether the police code of conduct would be updated and, if so, when. He asked whether it was true that complaints about the use of torture by police officers were investigated by the police, and that similar charges levelled at civil servants could be investigated only with the authorization of the Minister of the Interior. Such a situation would clearly lend itself to impunity for the offenders. The failure of the State party to provide detailed information suggested that such crimes were never investigated. Was that the case?

11. He wished to know more about arrest and custody procedures and whether or not a detention register was kept in police stations. By law, it appeared that pretrial detention should not exceed 5 days, and yet there were credible reports before the Committee of persons being held for much longer. He would like to know how the use of pretrial detention was monitored. He also asked what was the extent of prison overcrowding and whether deaths in prison were investigated and, if so, with what results. He wondered whether the establishment of the Legal Aid and Support Institute had served to make up for the dearth of lawyers outside Maputo and other major cities.

12. Reports suggested that around 4,500 refugees and 10,000 asylum seekers were currently present in Mozambique. He asked whether foreign nationals in fact had a legal right to request asylum in the State party and whether it was considering lifting its reservations to the 1951 Convention relating to the Status of Refugees and acceding to the 1954 Convention relating to the Status of Stateless Persons. According to information before the Committee, asylum seekers had been known to wait for as long as eight years to have their requests considered. There were also reports of ill-treatment of asylum seekers at the border. He would like to know whether the principle of non-refoulement was applied and whether asylum seekers enjoyed any protection from being sent back to a country in which they had well-founded fears of facing torture or death. Had the courts or other bodies confirmed the principle of non-refoulement in any specific case? It appeared that responsibility for immigration issues was spread across too many bodies, including the Immigration Department of the Ministry of Women and Social Action, the Ministry of Foreign Affairs and the Ministry of Defence. He wished to know whether Mozambique was a party to any regional extradition treaty, and whether the law stipulated how to deal with foreign nationals who were accused of having committed acts of torture abroad and were present in the territory of Mozambique.

13. He requested clarification on which organs were empowered to consider compensation claims by victims of torture, and whether Government bodies investigated harmful traditional practices, such as early marriage, initiation rites, the pawning of children to pay off debts, child prostitution and the obstacles to inheritance experienced by widows. Could the delegation comment on the State party's apparent refusal to heed recommendations made during its universal periodic review regarding the protection of the rights of homosexuals?

14. **The Chairperson**, speaking as Country Rapporteur, said that he would like to know whether article 40 of the Constitution had been applied directly by the courts. He asked what was being done to curb the use of pretrial detention, what resources had been allocated to efforts to reduce prison overcrowding and when alternatives to imprisonment might be introduced. He would like to know whether all forms of sexual abuse constituted criminal offences under recently passed legislation on domestic violence, and whether the State party intended to decriminalize all sexual acts between consenting adults. The Committee would welcome statistics on domestic violence and discrimination on the basis of sexual orientation. He asked what had been done to implement legislation to combat human trafficking. Had offenders been brought to justice and, if so, with what results?

15. He asked whether violence against children, including corporal punishment in all settings, had been prohibited and whether mechanisms had been established to investigate such acts and sanction offenders. He wished to know whether independent investigation mechanisms had been established to investigate allegations of torture and inhuman treatment by State officials and whether training on human rights and the prevention of torture had been provided as part of the State party's efforts to combat terrorism. He enquired whether training manuals and manuals outlining methods for investigating suspects were readily available and whether standards had been established throughout the country for the introduction of modern investigation techniques.

16. Turning to the issue of extradition, he asked whether the State party had ever relied on diplomatic assurances when returning a person to another State and whether extradition decisions had ever been overturned on the basis of such assurances. In the light of the fact that the State party did not extradite its own nationals, he wished to know whether there were any provisions in place to investigate and prosecute Mozambican citizens who had committed acts of torture in other States and whether those provisions extended to the investigation and prosecution of acts of torture committed by non-nationals.

17. In relation to the training of judges and prosecutors, he asked the delegation to provide more details of the materials used to train public officials on human rights and the prevention of torture, and to state whether a system had been introduced to evaluate the effectiveness of that training. He also wished to know whether such training was mandatory, whether provision, such as paid leave, had been made to encourage attendance, whether civil society organizations were involved and how many persons had taken part.

18. Noting the reports of lynching and extrajudicial executions perpetrated by police and military personnel, he asked whether any investigations had been initiated and, if so, whether they had resulted in any prosecutions and sanctions. He wished to know what specific measures had been introduced to eradicate such practices.

19. Turning to pretrial detention, he asked the delegation to clarify the special circumstances in which persons could be held without charge and to state whether there were any plans to introduce an independent monitoring body for detention and investigations. He wished to know whether the State party planned to amend the Code of Criminal Procedure so as to introduce an adversarial rather than inquisitorial system of justice and whether pretrial detainees were held separately from convicted detainees. In the light of reports concerning public officials' impunity from prosecution, he enquired

whether the State party had established a follow-up procedure to monitor the progress of complaints relating to acts of torture committed by public officials. He requested data on the investigation and outcome of such complaints, particularly in cases involving pretrial detainees, and wished to know whether all detainees were informed of their right to submit a complaint. Lastly, he asked what proportion of the national budget had been allocated to providing legal assistance and whether sufficient lawyers were available to ensure access to justice for all citizens.

20. **Mr. Bruni** asked the delegation to provide further information on the acts of torture mentioned in the State party's report, including whether steps had been taken to investigate and prosecute those cases. He sought clarification on the discrepancy between the data contained in paragraph 92 and paragraph 141 of the report concerning the size of the prison population, and asked what measures had been taken to ease prison overcrowding and how effective they had been.

21. **Mr. Gaye** asked whether the provisions contained in article 2 of the Convention regarding orders from a superior officer or a public authority not being invoked as a justification of torture had been enshrined in national legislation and, if so, how. Were there any measures in place to guarantee State officials who disobeyed orders protection from reprisals?

22. He sought clarification as to whether extraditions in Mozambique were carried out following a judicial procedure and whether expulsion orders were determined by a Government authority. If so, what authority was responsible for issuing expulsion orders and was there an appeal procedure?

23. He asked the delegation to provide further information on the universal jurisdiction used to criminalize acts of torture and wished to know what punishment had been imposed on the three police officers mentioned in paragraph 153 of the report who had been convicted of carrying out summary executions. While commending the State party for its efforts to train judges on matters relating to the Convention, he wished to know whether such training had been extended to include magistrates. He enquired what measures were in place to ensure the independence of the judiciary and whether an independent monitoring body had been established.

24. **Mr. Domah** asked how many cases of torture involving police or prison officers had resulted in a conviction and what sanctions had been handed down. He asked for up-to-date information on the number of cases involving vigilante justice and on measures taken to end that practice. He invited the delegation to provide further information on the integrated strategic plan aimed at addressing structural weaknesses in the judicial sector and wished to know what training court officials received in order to enable them to raise awareness and disseminate information to the public. Regarding the impartiality of the judiciary, he asked the delegation to cite at least two cases where the courts had ruled in favour of the citizen in a case involving the State.

25. **Ms. Belmir** asked what measures were planned to address the administrative backlog in the prison system, which often left vulnerable persons incarcerated for long periods, and what steps had been taken to ensure that legal assistance was easily accessible to all who needed it.

26. **Ms. Sveaass** asked what efforts had been made to provide rehabilitation for victims of torture in accordance with the Committee's general comment No. 3 on the implementation of article 14 by States parties. She wished to know whether the system designed to rehabilitate former child soldiers also covered victims of torture in prison and victims of trafficking. She enquired whether medical and health personnel received training on rehabilitation methods for torture victims pursuant to the provisions of the Istanbul

Protocol and why a torture prevention policy had yet to be formulated to cover persons in custody when it appeared that training programmes had already been developed.

27. While commending the State party for its adoption of an Act on domestic violence in July 2009, she wished to know what steps had been taken to investigate the perpetrators of such offences. On the question of sexual violence and harassment in schools, she asked what efforts had been made to prosecute the persons responsible and to protect and rehabilitate the victims. She enquired whether the State party intended to amend the articles on rape contained in the Criminal Code in order to raise the age of statutory rape of a minor to 16, to include both boys and girls in the definition, and to remove the reference to seduction from the conditions for defining that crime. She also wished to know what action was taken to investigate and prosecute persons who perpetrated violence against children and what rehabilitation measures were available to victims.

28. **Mr. Tugushi**, noting the small proportion of the national budget allocated to mental health and the lack of a mental health policy, asked the delegation to provide information on the number of persons held in mental health facilities and on their conditions of detention. He wished to know whether there was any legal review of involuntary placements and whether mental health specialists received training on the Convention. He asked what budgetary allocation would be made to the Ombudsman's Office for protection against torture once it was fully operational and what resources would be at its disposal. Turning to prison overcrowding, he asked the delegation to provide up-to-date information on inter-prisoner violence, including statistics where available. What measures had been taken to eradicate such violence and had any monitoring mechanisms been put in place?

29. **Ms. Gaer** asked the delegation to provide statistics on the incidence of sexual violence in prisons. She wished to know whether reports of detainees having to pay legal aid lawyers in order to receive assistance were accurate and, if so, what measures had been taken to address that matter. Noting that cases of sexual violence and rape were often settled through the informal justice system, or privately through a financial transaction, she wished to know what steps had been taken to strengthen the reach of the formal justice system on such issues. In view of reports that some schoolchildren suffered sexual abuse and harassment by teachers, she enquired whether the State party had investigated such claims and whether the perpetrators had been punished. Lastly, she asked whether girls abducted for purposes of sex slavery continued to be excluded from rehabilitation programmes and, if so, whether any action had been taken to rectify that situation.

30. **The Chairperson**, speaking as Country Rapporteur, asked whether the State party intended to change its approach to reparations as part of its ongoing efforts to reform the legal system. He also wished to know the circumstances in which the State was liable for damage caused by unlawful acts of its agents in the exercise of their duties, whether any cases of that nature had been brought before the courts and, if so, whether reparations had been awarded to the victims.

31. **Ms. Levi** (Mozambique) apologized for the late submission of her country's report and said that it had experienced great difficulties and challenges following independence and the civil war. Rebuilding the country continued to be a key aim of the Government, but it remained committed to the implementation of the Convention and would endeavour to answer the Committee's questions as fully as possible.

*The discussion covered in the summary record ended at 5 p.m.*