



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

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Committee against Torture
Seventy-seventh session

Summary record of the first part (public)* of the 2036th meeting

Held at the Palais Wilson, Geneva, on Friday, 28 July 2023, at 10 a.m.

Chair: Mr. Heller

Contents

Organizational and other matters (*continued*)

Closure of the session

* The summary record of the second part (closed) of the meeting appears as document [CAT/C/SR.2036/Add.1](#).

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The meeting was called to order at 10 a.m.

Organizational and other matters (*continued*)

1. **The Chair** said that the Committee against Torture had held its seventy-seventh session from 10 to 28 July 2023. The Committee had adopted concluding observations on the periodic reports of New Zealand, Romania, Spain and Switzerland.

2. With respect to New Zealand, the Committee had expressed its concern that Maori, particularly women and young persons, continued to be disproportionately affected by incarceration and that recent increases in the prison population had been largely driven by increases in the incarceration rate among Indigenous Peoples. It had recommended that the State party should increase its efforts to reduce the disproportionately high number of Maori in prisons; take steps to address disproportionate reoffending rates across the population as a whole; work harder to eliminate discrimination against Maori in the administration of justice; and ensure that adequate, culturally sensitive, qualified and accessible legal services were available to Maori.

3. The Committee had also expressed concern about reports of overcrowding, poor material conditions, staff shortages and inadequate health-care services, in particular mental health services, in many places of detention. It had been disturbed by reports relating to the use of arbitrary practices, which disproportionately affected Maori inmates and inmates with intellectual or psychosocial disabilities, in particular prolonged and indefinite solitary confinement, the use of spit hoods and pepper spray, including in confined spaces and on vulnerable prisoners, and the excessive use of means of physical or chemical restraint, especially on prisoners in extreme risk units. It had recommended that the State party should improve conditions of detention and alleviate overcrowding in all places of deprivation of liberty. It should seek to improve the provision of gender- and age-specific and culturally appropriate medical services to all persons deprived of their liberty; increase the number of trained and qualified prison staff, including medical staff; and ensure that means of restraint were used only as a last resort. Solitary confinement should be used for as short a time as possible as a last resort and subject to independent review. The use of pepper spray should be curbed in law enforcement operations and in places of detention, and explicitly prohibited in confined spaces and on vulnerable persons.

4. The Committee was profoundly concerned about the extent of physical, psychological and sexual child abuse revealed in the interim reports published by the Abuse in Care Royal Commission of Inquiry into historical abuse in State care and in the care of faith-based organizations. It had urged the State party to implement the recommendations of the Inquiry, given that as yet no individual had been investigated or held accountable for the numerous allegations of torture and ill-treatment contained in the findings and none of the victims had been awarded full redress. It had also asked the State party to implement the Committee's decisions under article 22 of the Convention regarding the cases of *Zentveld v. New Zealand* and *Richards v. New Zealand*, including by investigating the allegations of torture and ill-treatment, prosecuting the alleged perpetrators, punishing them if found guilty and providing redress to the complainants.

5. With respect to Romania, the Committee had expressed its concern over continued overcrowding and poor conditions in prisons, psychiatric institutions and social care facilities. It had repeated its request to the State party to stop using so-called "special intervention units" in prisons and had asked to be updated on the implementation of the recommendation within 12 months. The Committee had called on the State party to investigate reports of torture and ill-treatment by border officials, including in the context of pushbacks of migrants, and to prosecute the alleged perpetrators. It had also noted with concern that migrants in vulnerable situations, such as families with children and victims of torture, could be placed in immigration detention. It had recommended that those groups should not be detained in the context of migration and that the relevant legislation should be reviewed.

6. The Committee had drawn the attention of Spain to reports that, although the events involving the police and security forces that had unfolded during the attempted mass crossing of its border with Morocco on 24 June 2022 had been the subject of two investigations, both

had closed prematurely. It had urged the State party to promptly and impartially investigate any possible responsibility of members of the security forces in the reported incidents, which had reportedly left at least 37 persons dead, more than 200 injured and 77 unaccounted for, and to take measures to prevent any recurrence of such events.

7. The rules which allowed solitary confinement to be used as a disciplinary sanction for up to 42 days under certain circumstances remained a concern. The Committee had recommended that the State party should bring its legislation and practice in that area into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The Committee had also urged the State party not to impose solitary confinement on persons with intellectual or psychosocial disabilities who were deprived of their liberty under any circumstances. The Committee had been troubled by reports that the State party continued to apply the practice of “hot” returns of migrants and asylum-seekers that had crossed its international borders and by the lack of regulations and guarantees accompanying the procedure. It had asked the State party to ensure that all asylum-seekers and other persons in need of international protection who attempted to reach or arrived in the State party had access to fair and efficient procedures for determining refugee status and non-refoulement claims and had invited it to review its legislation and practices on border returns.

8. The Committee had called on Switzerland to ensure that its national human rights institution had the necessary resources to fulfil its mandate effectively and independently in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and to enable that institution to receive and process individual communications. It had called on the State party to incorporate torture into its domestic legislation as a specific criminal offence with a definition in line with article 1 of the Convention. The Committee had also expressed its concern about reports that individuals held in federal asylum centres were subjected to ill-treatment and faced obstacles in access to justice. It had urged the State party to ensure that all such instances of alleged ill-treatment were investigated promptly, independently and impartially. The State party should also establish independent, confidential and effective complaints mechanisms in all federal asylum centres and ensure that victims obtained adequate redress and compensation.

9. At its seventy-eighth session, to be held from 30 October to 2 November 2023, the Committee would consider the reports of Burundi, Costa Rica, Denmark, Egypt and Slovenia. Consideration of the fifth periodic report of Azerbaijan, which had been scheduled for the seventy-eighth session, had been postponed until 2024 at the request of the State party.

10. Over the course of the current session, the Committee had considered 19 individual communications under article 22 of the Convention. It had adopted 4 decisions on the merits and 4 decisions on admissibility, while 11 communications had been discontinued in accordance with the Committee’s rules of procedure. The number of communications considered was far lower than the scheduled number owing to the secretariat’s lack of human and financial resources, which would need to be addressed in any proposals relating to the treaty body strengthening process.

11. The Committee’s work under article 20 of the Convention had continued during the session. The Committee had also undertaken activities on follow-up under articles 19 and 22 of the Convention and in relation to reprisals. Since the seventy-sixth session, reports on follow-up to concluding observations had been received from Cuba, Iceland, Iraq, Kenya, Montenegro, and Uruguay, and follow-up letters had been sent to Lithuania and Serbia. The Committee had received alternative follow-up reports from non-governmental organizations or other stakeholders in relation to the follow-up replies submitted by Iraq and Kyrgyzstan. In addition, the follow-up replies submitted by Cuba, Iceland, Iraq, Kenya, Kyrgyzstan, Montenegro and Uruguay were currently under consideration. No information had been received since the seventy-sixth session on cases in which the Committee and the States parties had had at least one round of exchanges relating to follow-up to individual complaints. No new allegations of reprisals had been received since the seventy-sixth session. However, the Committee had taken action regarding allegations, received in February 2023, of possible intimidation and reprisals in connection with a country review that had taken place in 2022.

12. During the session, the Committee had held meetings with the Convention against Torture Initiative and the Chair of the Committee on the Rights of the Child and had received

a thematic briefing from the Dr. Denis Mukwege Foundation on the recently launched *Legal Guidebook on State Obligations for Conflict-related Sexual Violence*. In June, together with the Special Rapporteur on torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Voluntary Fund for Victims of Torture, the Committee had released a statement reflecting its concerns about the persistence of torture in more than 100 national and international conflicts around the world.

Closure of the session

13. After the customary exchange of courtesies, **the Chair** declared the Committee's seventy-seventh session closed.

The meeting rose at 10.40 a.m.