



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

Distr.: General  
17 November 2014

Original: English

---

**Committee against Torture**  
**Fifty-third session**

**Summary record of the 1264th meeting**

Held at the Palais des Nations, Geneva, on Wednesday, 12 November 2014, at 10 a.m.

*Chairperson:* Mr. Tugushi (Vice-Chairperson)

**Contents**

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

*Combined third to fifth periodic reports of the United States of America*

---

\* Reissued for technical reasons on 17 November 2014.

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Section, room E.5108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.14-21262 (E) 171114



\* 1 4 2 1 2 6 2 \*

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.



*As the Chairperson had recused himself, Mr. Tugushi, Vice-Chairperson, took the Chair.*

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

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

*Combined third to fifth periodic reports of the United States of America (CAT/C/USA/3-5)*

1. *At the invitation of the Chairperson, the delegation of the United States of America took places at the Committee table.*

2. **Mr. Harper** (United States of America), introducing his country's combined third to fifth periodic reports (CAT/C/USA/3-5), said that the abhorrent practice of torture was, as President Reagan and President Obama had both stated, contrary to the fundamental values of the American people. The United States had strengthened its implementation of the Convention. It was proud of its past record and looked forward to making improvements in the future, inter alia through dialogue with human rights treaty bodies.

3. **Mr. Malinowski** (United States of America) said that his country took its obligations under the Convention very seriously. The prohibition of torture and ill-treatment was embodied in the Constitution and was binding on the Federal Government and on all 50 States. The Government believed that torture and other cruel, inhuman or degrading treatment should be forbidden in all places and at all times without exception. Experience had shown torture to be ineffective and in many places it was primarily used to coerce false confessions. The United States worked actively to combat torture and expected to be held to the same high standards to which it held others.

4. In the recent past the Government had employed interrogation techniques which, in the words of the United States President, would be considered as torture by any fair-minded person. However, the country's democratic institutions, including the media, the courts and Congress, had worked to correct that mistake. As a result, United States security agencies currently had more safeguards against torture than those of any other country.

5. **Ms. McLeod** (United States of America) said that her country was proud to be a world leader in the defence of human rights but, regrettably, in the wake of the attacks of 11 September 2001 it had not always lived up to its own values. It took responsibility for its shortcomings and had established important new laws and procedures to ensure adherence to its legal obligations. During his first days in office, President Obama had issued Executive Order 13491, which banned the use of torture in terms consistent with the Convention. The Order, which was applicable to any individual detained in armed conflict by the United States or within a facility owned, operated or controlled by the United States, directed officials to use only the Army Field Manual when conducting interrogations during armed conflict and made provision for the creation of the Special Task Force on Interrogations and Transfer Policies Issues. A number of investigations into the treatment of detainees had been made public and the findings of a Congressional inquiry into the former detention and interrogation programme were to be released shortly.

6. Following a review of the extent to which certain obligations under the Convention applied beyond its sovereign territory, the United States had concluded that such obligations extended to places it controlled as a governmental authority, including the United States Naval Station at Guantánamo Bay in Cuba. The Convention continued to apply during time of war, and its provisions were reinforced by complementary prohibitions in the law of armed conflict.

7. **Mr. Bitkower** (United States of America) said that the Criminal Division of the United States Department of Justice was deeply committed to preventing violations of the

prohibition of torture and to pursuing justice on behalf of victims. As part of its efforts to ensure that past failures were not repeated, the Department had withdrawn earlier legal opinions that permitted mistreatment and had investigated a number of allegations of abuse of detainees. It had also brought criminal prosecutions against perpetrators of torture and other human rights violations, including Americans and others who had sought safe haven in the United States.

8. Improvements had been made in promoting civil rights and reforming the criminal justice system, and the Department of Justice used its authority to hold law enforcement officials accountable for their actions before the law. During the preceding five years, it had carried out over 20 investigations into allegations of systematic violations in police departments, prosecuted over 330 police officers for misconduct, and found that certain forms of solitary confinement used in prisons in the State of Pennsylvania did in fact violate United States law. The Department had also responded to the issue of sexual abuse in places of detention and had taken measures to protect young people in custody.

9. **Mr. Bruni** (Country Rapporteur) asked whether the United States, in the light of its claim that the absolute prohibition of torture was of fundamental importance, applied the Convention to its officials abroad without geographic limitation. The Army Field Manual stated that torture was ineffective and President Obama had described it as unproductive and unreliable. He asked the delegation to elaborate on those assessments and to inform the Committee whether they were based on documents analysing the practice of torture and demonstrating its ineffectiveness. In the light of the President's condemnation of "enhanced interrogation techniques" as a form of torture, he wished to know if any concrete measures had been taken to eliminate such techniques and prosecute the individuals who practised them.

10. In the context of the Government's reservation to the Convention, according to which an act, in order to constitute torture, must inflict prolonged mental harm, he wished to know how long harm had to last in order to be considered as prolonged. Were "enhanced interrogation techniques" to be included in the category of "intentional infliction or threatened infliction of severe physical pain or suffering", also mentioned in the reservation to the Convention? He asked the delegation to provide examples of prosecutions against government officials who had engaged in acts of torture.

11. He requested the delegation to inform the Committee of the current status of a report on rendition, detention and interrogation due to be released by the Senate Select Committee on Intelligence and that of the Law Enforcement Torture Prevention Act, which had been submitted to Congress in 2010.

12. The law made no mention of instances in which individuals apprehended by the United States were transferred to other countries where United States officials were aware that torture was practised during interrogation. That phenomenon, known as extraordinary rendition, had been documented by many sources, including the Council of Europe and the European Parliament, and he asked the delegation to comment and to inform the Committee of any measures taken to publicly condemn the practice.

13. The Committee considered that establishing the identity and location of detainees by registration was an important first step towards preventing torture. It was concerned and perplexed by the fact that the United States apparently did not consider registration to be a requirement under the Convention, especially in the light of the statement in the periodic report that the United States did not operate secret detention facilities. The Committee also wished to be informed about regulations governing short-term transit detention centres and whether or not detainees there were registered.

14. He asked for further information about certain interrogation techniques which, according to the Army Field Manual on Human Intelligence Collector Operations, were

permissible under specific circumstances, especially that of “separation”. He wished to know why detainees held in separation were accorded just four hours of continuous sleep and expressed concern that it was insufficient. The statement contained in the periodic report that interrogations conducted by the High-Value Detainee Interrogation Group were consistent with the Convention was groundless because it could not be verified.

15. He asked how many detainees were still being held in Guantánamo, how many were awaiting transfer to another country and how many were being prosecuted in the United States. Did prisoners charged before military commissions have the same guarantees of a fair trial as before ordinary courts? He enquired what plans or timetable the State party had for the closure of the Guantánamo detention camp, if indeed it had any, and how the United States authorities could reconcile the provisions of the Detainee Treatment Act of 2005 and the practice of force-feeding detainees who were on hunger strike. In that connection, he wished to know whether the Government intended to unseal a number of videotapes on force-feeding, as a federal judge had ordered, or whether its view was that security considerations outweighed the right to complain about torture and ill-treatment and to obtain redress. The Special Rapporteur on the question of torture had made several requests to visit the detention camp, but the authorities had replied that such a visit could take place only on condition that the Special Rapporteur not include any private meetings with detainees. What was the reason for that condition?

16. He asked the delegation for examples of persons who had not been removed from the United States because they were in danger of being tortured and wondered how such decisions were made. It was unlikely that the United States authorities would seek diplomatic assurances that transferees would not be subjected to torture, as they had done, if they did not already have good reason to believe that torture was practised in the country of proposed transfer, and he suggested that there were no incentives for the Government to acknowledge any breach of those assurances. Such an acknowledgement would also amount to an admission that the Government had sent people to places in which they were at risk of torture and would complicate its efforts to continue relying on those assurances. In that context, he wished to know whether diplomatic assurances had been sought from the authorities of any of the 45 countries to which Guantánamo detainees had been transferred since 2002. In connection with the principle of non-refoulement, he asked whether the delegation was in a position to comment on reports that unaccompanied minors from Central America and Mexico were being detained indefinitely or immediately expelled.

17. He asked the delegation to bear in mind the United States Senate’s understanding that the prolonged mental harm caused by or resulting from the threat of imminent death was a form of torture, and to comment on the many years of uncertainty often faced by prisoners on death row. In that connection, it would be interesting to know whether the delegation shared the view of a federal judge who had ruled that the death penalty in California had violated the constitutional prohibition of cruel and unusual punishment or considered that it was time for a moratorium on the death penalty. Did execution by lethal injection or the electric chair not sometimes cause prolonged suffering and thus constitute cruel and unusual punishment?

18. On the issue of conditions in detention, he asked whether the incidence of rape in prisons had fallen, whether there were any examples of recent prosecutions for such rapes and whether the Prison Rape Elimination Act of 2003 applied to state prisons as well as to federal prisons. He would also welcome comment on reports that large numbers of prisoners had been kept in full isolation for as much as 23 hours a day, in some cases for years on end, and an explanation for the imposition of such a harsh regime. Lastly, he noted that the United States Congressional Research Service had suggested several ways of solving the problem of prison overcrowding; he wished to know whether Congress had

taken up any of those suggestions and what strategies the Government was using to reduce overcrowding.

19. **Mr. Modvig** (Country Rapporteur) requested clarification as to whether the United States considered all aspects of the Convention applicable to territories under the country's de jure or de facto control, including the detention camp at Guantánamo. He also wished to know whether the State party's assertion that neither war nor threat of war could justify torture was not a departure from the country's previous thinking on the issue. Since, by the State party's own admission, a war or the threat of war did not weaken the protections afforded by the Convention, an explanation of the reasons for which some Guantánamo detainees were being denied those protections was called for. He expressed interest in learning how effective the training of law enforcement and prison personnel had been in reducing the incidence of torture, violence and ill-treatment, to what degree the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was used in training programmes and whether Central Intelligence Agency (CIA) operatives had received any training on the prohibition of torture. He also requested information on the investigations, prosecutions and convictions resulting from the so-called reportable incidents mentioned in the State party's report.

20. The State party's report asserted that United States practice was consistent with principle No. 2 of the non-binding Principles of Medical Ethics relevant to the Role of Health Personnel in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In that connection, he wished to know how many detainees were currently on hunger strike in Guantánamo and what consideration had been given to their demands. A comment from the delegation on the medical ethics of force-feeding striking detainees, which involved shackling them, placing a mask on them to prevent biting or spitting and forcing a feeding-tube down their throats, would therefore be welcome. He asked the delegation to address concerns that, because detainees in the United States did not generally have the right to consult independent medical personnel, medical ethics and confidentiality could easily be compromised by security concerns.

21. He would likewise welcome comment on research that had shown that the sensory deprivation of newly captured prisoners, a practice referred to in the Army Field Manual, led to psychotic symptoms in most people after as little as 25 minutes. He wished to know how many times that expedient had been resorted to, how many of the cases of sensory deprivation lasted longer than the 12-hour maximum and whether any of those attempts to prolong the shock of capture involved a medical assessment. The extent to which the manual referred to the procedural obligations that derived from the Convention would also be of interest to the Committee.

22. Regarding the accountability of the police, he asked what steps the Federal Government and state governments had taken following recent events in Ferguson, (Missouri), what measures had been taken to review the distribution of military equipment to local police forces and whether there was any truly independent oversight ensuring that the police would not use excessive force. The State party's report noted that more than 100 members of the Armed Forces had been court-martialled for mistreatment of detainees; information about the period of time over which those courts martial had taken place would be welcome, as would details of the disciplinary sanctions imposed and any compensation offered to victims. He requested an update on the investigation into allegations of abuse by members of the Chicago Police Department.

23. In view of the United States Supreme Court's determination that habeas corpus jurisdiction extended to non-United States nationals held at Guantánamo and elsewhere, he wondered which persons had been denied habeas corpus review and what the reasons for

the denial had been. He wished to know whether the extension implied that such detainees would have the right to free legal assistance and whether the State party would meet its obligation to investigate all credible allegations of torture in any territory within its jurisdiction. Further details about the outcome of any complaints lodged by Guantánamo detainees would also be welcome. He asked the delegation to provide information on the number of cases investigated in the preliminary review to determine whether federal laws were violated in connection with interrogation of detainees at overseas locations and asked what grounds there had been for determining that further investigation was unwarranted in all but two cases. He invited the delegation to comment on reports that the State party continued to invoke claims of immunity for government officials and to keep information about detainees' time in secret detention classified. He also requested further details of the investigations into the destruction of evidence by CIA personnel.

24. He commended the State party's commitment to providing support for the large number of victims of torture living in its territory but asked whether the State party, in view of those numbers, would consider a necessary expansion of access to rehabilitation services. Victims of torture at the hands of the United States, on the other hand, encountered more serious obstacles; for that reason, he wished to know exactly how many such victims, including victims of torture in Guantánamo, had obtained compensation for torture during United States custody over the period under review. Why so-called high-value detainees were prevented from seeking compensation for torture called for an explanation, and it was not entirely clear that even victims of torture who were not so prevented were fully aware of their right to seek redress. In that connection, he wished to know whether the State party planned to take any steps to ensure that the victims of torture in Abu Ghraib received compensation.

25. He asked why, under the Prison Litigation Reform Act of 2005, a mental injury sustained during confinement justified monetary compensation only if it was accompanied by a physical injury or sexual act and how many lawsuits alleging torture or ill-treatment had been dismissed simply because internal grievance remedies had not been exhausted. Evidence of the measures taken to ensure that coerced confessions were not admissible as evidence, including before the Guantánamo military commissions, would be of interest to the Committee as well.

26. He asked whether the State party would consider allowing civil society organizations to monitor places of detention, whether it would invite the Special Rapporteur on the question of torture to visit the country, what measures were being taken to prevent sexual abuse of detainees and how many minors were detained in prisons for adults.

27. With regard to lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, he asked what protective measures were in place to prevent ill-treatment in the criminal justice and health-care systems, for example through so-called conversion therapy, which was allegedly still in use.

28. He asked what measures the State party intended to take to ensure not only the prevention but also the investigation, prosecution and punishment of sexual violence in the Armed Forces. He wondered whether victims could bring civil rights or personal injury claims against the military in civilian courts and invited the delegation to comment on the difficulties faced by veterans who had been subjected to sexual assaults in obtaining disability benefits relating to sexual trauma.

29. Over 3,000 people, including minors, had allegedly been given life sentences without parole for non-violent offences and he asked what steps would be taken to avoid such sentences being imposed in such cases.

30. He asked for clarification of the rules applying to the use of solitary confinement – 22 to 24 hours a day in the same room alone, which was known to have a negative impact

on the mental health of detainees, particularly when imposed for an indefinite period. He asked what legal safeguards were in place, including the right to appeal, what the time limit was, what socially meaningful activities were obligatory and what the rules were for confining minors or persons suffering from mental health disorders. He requested information on the number of cases of suicide, attempted suicide and other incidents of self-harm during the reporting period among persons held in solitary confinement. In that connection, he noted that there had been at least 14 heat-related deaths recorded since 2007 in nine different prisons in Texas, and requested information about the number of deaths in custody, their causes, the procedure for independent investigation of such deaths, and prosecutions or protective measures arising out of such investigations.

31. He asked how the State party ensured that asylum seekers who had been subjected to torture were identified, so that they were not inadvertently returned to their original countries in violation of the Convention. He enquired what procedures were applied and what training was given. He wished to know the rationale for continuing to detain non-violent immigrants. He wondered what steps the State party had taken to reduce the use of mandatory and prolonged detention and ensure that all detainees could seek and individualize judicial review of their detention. As to where asylum seekers were held, he asked the State party to make public the whereabouts and holding capacity of short-term facilities. He asked what independent oversight mechanisms existed to prevent ill-treatment. In view of allegations of widespread sexual assault of asylum seekers in such facilities, he requested information on any relevant complaints or investigations. In that connection, he asked how the State party responded to more general complaints of abuse of immigrants in custody and in how many cases steps had been taken to investigate such complaints and punish perpetrators.

32. He asked what the official policy was regarding the use of isolation in immigration detention facilities and whether directives on solitary confinement in such facilities were uniformly and properly enforced. The list of issues had requested information on the past or present existence of secret detention facilities. The State party had reported that such facilities were not in operation, but it had failed to address the question of the situation in the past. He requested detailed information about secret detention facilities under the effective control of the United States, past or present. The State party should inform the Committee of the number of persons held, the duration of their detention and the steps taken to ensure that those responsible for violations of the Convention had been held accountable.

33. **Mr. Zhang** Kening requested further information concerning the training in interview and interrogation techniques referred to in paragraph 97 of the report. In particular, he asked whether there had been cases in which a Federal Bureau of Investigation (FBI) agent had reported abuse or mistreatment of a detainee. Secondly, he commended the provisions of the Army Field Manual, mentioned in paragraphs 107 et seq. of the report, but wondered how far the provisions of the Manual were adhered to. He requested that a copy of the Manual should be given to the Committee. He asked for details of cases in which evidence resulting from the use of torture had been excluded, in addition to those referred to in paragraph 157 of the report. Lastly, he asked how victims of torture were compensated.

34. **Ms. Belmir** asked whether the Guantánamo inmates were in the “most dangerous prisoners” category and, if so, whether they were the only ones. In view of the fact that President Obama had called for periodic reviews of the situation in Guantánamo, she asked whether such reviews had taken place and whether the inmates were regarded as prisoners-of-war. For her, as a lawyer, it was hard to understand their legal status or the rationale for holding them. She noted that persons working in Guantánamo enjoyed impunity, even for cases of torture.

35. She asked about the use of tasers against young black people, particularly in Chicago, where they had been used against children as young as 8. The United States had worked hard to improve civil rights, so she wondered how it found itself in its current situation, particularly in Chicago. There seemed to be no guidelines or monitoring concerning the use of tasers. In that connection, she asked why black people did not enjoy the same guarantees as whites before the courts. Lastly, a Swiss NGO had found that United States drone attacks in Yemen had had a terrifying effect on civilians, and that women and children had been found to be suffering from post-traumatic stress disorder. She wondered whether the delegation was aware of that fact.

36. **Mr. Domah** said that, at one point, democratic institutions in the State party had joined forces to frustrate democratic principles. That situation had led to questionable court decisions and legislation, and breaches of the Convention had occurred, some overt and some hidden. The State party was currently getting back on track, having realized that the prohibition of torture was non-derogable and that there could be no statute of limitations for torture. Despite that improvement, he had noted a number of examples of verbal gymnastics in the State party's report. More specifically, he asked how the United States intended to live up to international expectations, especially with regard to the correction of historical injustices by providing for a complaints system. He enquired whether there were any plans to take measures regarding abuses by priests, which had left some 1,000 victims. He asked about the conversion therapy used to alter the nature of LBGTI persons and wondered whether its efficacy had been tested. Lastly, he asked how it was possible for a person to find out if his or her name was on the State party's list of extremists and how a name could be removed from that list.

37. **Ms. Pradhan-Malla** commended the efforts made by the State party but said that she wished to see its commitment and values translated into action, both domestically and globally. The Committee had expressed its concern that, under the Prison Litigation Reform Act, prisoners could not bring an action for torture and she wondered whether any measures had been taken. She asked what plans there were to improve the treatment of homeless people and whether the State party had considered alternatives to the current policy. With regard to the LGBTI community, she noted that members were subject to conversion therapy involving electric shocks, which could drive a person to suicide. Forced sterilizations had also been carried out.

38. It was incontestable that there had been systematic abuse of children by Roman Catholic priests. Action should be taken to ensure that reports of such abuse were communicated to the proper authorities and to prosecute those responsible. She asked whether any measures had been taken to deal with sexual violence by military personnel or other officials and what steps were taken to provide redress for the mental and physical suffering of persons who were denied access to justice by the statute of limitations.

39. She noted that, according to some reports, immigrants in detention were denied reproductive rights and suffered sexual abuse. Standards had been established, but she wondered whether the Government was ensuring that such standards were observed in detention centres, especially those operated by private companies.

40. **Mr. Gaye** said that, according to paragraph 49 of the report, the transfer of 58 prisoners from Guantánamo to other countries had been backed by diplomatic assurances and that, if the Convention was not complied with, "corrective steps" would be taken. He wondered what such steps could consist of, given that the detainees were already in the hands of another State. Secondly, the State party's reply to question 27 (b) of the list of issues contained data only on requests for compensation in cases of sexual violence; however, the Committee's question had related to the statistics for all requests for compensation. Lastly, he understood that, since 2002 some 400 deaths had been caused by



the use of tasers. He asked what the outcome had been of research by the National Institute of Justice into the use of tasers and whether new policies had been formulated as a result.

41. **The Chairperson** requested further information on the use of solitary confinement, whether in segregated housing units, special management units or the Administrative Maximum Facility. He asked how many prisoners in the custody of the Federal Bureau of Prisons were in solitary confinement and how many had been in solitary confinement continuously for more than 15 days. He asked for the numbers in each facility and the numbers of persons in solitary confinement over the past 24 months who suffered from mental illness, as defined in the Program Statement of the Bureau of Prisons (Psychology Services Manual). He also asked what measures had been taken to restrict or regulate the imposition of solitary confinement on particularly vulnerable detainees, including children, non-United States citizens, elderly persons, women, persons with a mental illness or disability and LGBTI persons.

42. A number of reports indicated that the Prison Litigation Reform Act prevented persons alleging torture or cruel or degrading treatment from seeking redress and he asked how many lawsuits had been dismissed under the Act.

43. He enquired whether the standards laid down for conditions in immigration detention facilities were met and how complaints of sexual assault, especially against children and transgender persons, were monitored. He wondered why the State party had extended the use of family detention rather than seeking less costly, more humane alternatives. More generally, he asked what steps were taken to investigate complaints of abuse in custody and to punish those responsible. He wished to know how the State party ensured that adults and children in detention were able to obtain legal representation. As to prisoners awaiting execution, he asked what measures ensured that a person under sentence of death was not subjected to cruel or degrading treatment and what was covered by the review by the Department of Justice, announced in May 2014.

44. He requested further information on the investigation by Mr. John Durham into allegations of torture in overseas locations. It was reported that 101 cases had been addressed but victims had not been questioned and no prosecutions had been instituted. Lastly, he asked what steps the State party intended to take to end ethnic and racial profiling in the context of immigration and border control. He wondered how the State party reconciled its commitment in that regard with its practice of conducting searches without a warrant within 100 miles of the United States border.

45. **Mr. Bruni** said that the death row facility built in Louisiana State Penitentiary in 2006 reportedly lacked air conditioning or ventilation, so inmates had had to suffer temperatures as high as 42°C. It was also reported that temperatures of up to 65°C prevailed in Texas prisons in summer, which had caused the death of at least 14 inmates since 2007. He noted that the State party's prison population of 2.2 million adults was by far the largest in the world, while Human Rights Watch had stated that, in July 2014, prisons in Alabama had had an occupancy rate of 192 per cent.

46. According to paragraphs 253 and 255 of the report, the State party did not intend to become a party to the Optional Protocol to the Convention or to accept the individual communication procedure under article 22 of the Convention, on the grounds that its national legal system afforded the necessary protection to detainees and other individuals complaining of abuses. He pointed out that a national legal system was strengthened by the acceptance of international norms and scrutiny. There was no point in accepting the Convention or any other international treaty if a country was convinced that its human rights provisions were adequate at the national level.

47. Lastly, he noted that the United States was the largest contributor to the United Nations Voluntary Fund for Victims of Torture, providing more than 75 per cent of the

financial resources required. He commended the State party for its significant support for the Fund.

*The meeting rose at noon.*