

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture**  
*(Extracts for follow-up)*

**KAZAKHSTAN**

(...)

**C. Principal subjects concerns and recommendations**

(...)

**Torture and ill-treatment**

7. The Committee is concerned about consistent allegations concerning the frequent use of torture and ill-treatment, including threat of sexual abuse and rape, committed by law enforcement officers, often to extract “voluntary confessions” or information to be used as evidence in criminal proceedings, so as to meet the success criterion determined by the number of crimes solved (arts. 2, 11 and 12).

**The State party should apply a zero-tolerance approach to the persistent problem of torture and cruel, inhuman or degrading treatment or punishment, in particular:**

(a) **Publicly and unambiguously condemn practices of torture in all its forms, directing this especially to police and prison staff, accompanied by a clear warning that any person committing such acts or otherwise complicit or participating in torture or other ill-treatment be held responsible before the law for such acts and subject to penalties proportional with the gravity of their crime;**

(b) **Establish and promote an effective mechanism for receiving complaints of sexual violence, including in custodial facilities, and ensure that law enforcement personnel are trained on the absolute prohibition of sexual violence and rape in custody, as a form of torture, as well as on receiving such type of complaints;**

(c) **Change the performance evaluation system of investigators so as to eliminate any incentive for obtaining confessions and take additional measures in the field of human rights education of police officers.**

(...)

**Insufficient safeguards governing initial period of detention**

9. The Committee is deeply concerned at allegations that torture and ill-treatment of suspects commonly takes place during the period between apprehension and the

formal registration of detainees at the police station, thus providing them with insufficient legal safeguards. The Committee notes in particular:

- (a) the failure to acknowledge and record the actual time of apprehension of a detainee, as well as unrecorded periods of pre-trial detention and investigation;
- (b) Restricted access to lawyers and independent doctors and failure to notify detainees fully of their rights at the time of apprehension;
- (c) The failure to introduce, through the legal reform of July 2008, habeas corpus procedure in full conformity with international standards (art. 2).

**The State party should promptly implement effective measures to ensure that a person is not subject to de facto unacknowledged detention and that all detained suspects are afforded, in practice, all fundamental legal safeguards during their detention. These include, in particular, from the actual moment of deprivation of liberty, the right to access a lawyer and an independent medical examination, to inform a relative and to be informed of their rights, including as to the charges laid against them, as well as being promptly presented to a judge. The State party should ensure that all detained persons are guaranteed the ability to challenge effectively and expeditiously the lawfulness of their detention through habeas corpus.**

(...)

#### **Appropriate penalties**

(...)

18. The Committee is also concerned that despite the criminalization of torture in 2002 in a separate article of the Criminal Code, it appears that when prosecuted, law enforcement officials continue to be charged with article 308 or 347 of the Criminal Code (“Excess of authority or official power” or “Coercion to make a confession” respectively) (art. 7).

**The State party should ensure that all acts of torture are prosecuted under the relevant article of the Criminal Code and that they are not considered as crimes of minor or moderate gravity and sentenced as such. The State party should also ensure that continuous training is mandatory for all sitting judges, prosecutors and lawyers to ensure implementation of new laws and amendments.**

(...)

#### **Evidence obtained through torture**

29. While welcoming the assurance given by the delegation that judges reject such evidence in court proceedings, the Committee notes however with grave concern reports that judges often ignore the complaints of torture and ill-treatment, do not order independent medical investigations, and often proceed with the trials, therefore not respecting the principle of non-admissibility of such evidence in every instance (art.15).

**As recommended in the previous concluding observations of the Committee (A/56/44, para. 129(d)), the State party should take immediate steps to ensure that in practice evidence obtained by torture may not be invoked as evidence in any proceedings. The State party should review cases of convictions based on confessions that may have been obtained through torture or ill-treatment, and ensure adequate compensation to victims and prosecution of those responsible.**

(...)

36. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 7, 9, 18 and 29 above.

(...)

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