



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

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Committee against Torture

Concluding observations on the second periodic report of Afghanistan*

1. The Committee against Torture considered the second periodic report of Afghanistan (CAT/C/AFG/2) at its 1515th and 1518th meetings (see CAT/C/SR.1515 and 1518), held on 25 and 26 April 2017, and adopted the present concluding observations at its 1535th and 1537th meetings, held on 9 and 10 May 2017.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Afghanistan and the information contained therein. It regrets, however, that the report was submitted more than 20 years late, which prevented the Committee from conducting a periodic analysis of the implementation of the Convention by the State party following its ratification in 1987.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the delegation of the State party and the responses provided to the questions and concerns raised during the consideration of the report.

B. Positive aspects

4. The Committee welcomes the ratification of or accession to the following international instruments by the State party:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2003;
- (b) The Rome Statute of the International Criminal Court, in 2003;
- (c) The Convention relating to the Status of Refugees and its Protocol, in 2005;
- (d) The United Nations Convention against Corruption, in 2008.

5. The Committee also welcomes the State party's initiatives to revise its legislation in areas of relevance to the Convention against Torture, including:

- (a) The adoption in January 2004 of the new Constitution, which prohibits torture;
- (b) The adoption in 2005 of the Law on Prisons and Detention Centres;
- (c) The adoption in 2005 of the Juvenile Code;

* Adopted by the Committee at its sixtieth session (18 April-12 May 2017).



(d) The adoption in August 2009 of the Law on Elimination of Violence against Women;

(e) The issuance in February 2013 of Presidential Decree 129 to implement the Afghan fact-finding delegation's recommendations regarding the presence of torture and ill-treatment in detention centres.

6. The Committee further welcomes the following measures taken by the State party to implement the Convention, including:

(a) The establishment in 2002 of the Afghanistan Independent Human Rights Commission, whose activities include monitoring conditions in places of detention;

(b) The adoption in February 2015 of the national plan on the elimination of torture.

C. Principal subjects of concern and recommendations

Culture of impunity

7. While welcoming the delegation's assurances and the governmental measures that indicate that the fight against impunity is a priority of the State party, the Committee remains gravely concerned about the general climate and culture of impunity in Afghanistan, as evidenced by the large number of cases of alleged human rights violations involving senior State officials. The Committee is deeply concerned that the National Reconciliation, General Amnesty, and National Stability Law, passed in 2007, prevents the prosecution of individuals responsible for gross human rights violations, including acts of torture, committed before December 2001. In that connection, and while noting the establishment of the high-level commission to evaluate candidates for senior and mid-level appointments, the Committee is deeply concerned about the various reports alleging that perpetrators of war crimes and gross human rights violations, including acts of torture, are still holding, or have been nominated for, official executive positions, some of them in government. Consequently, the Committee is concerned that such a situation fosters a general climate of impunity and contributes to creating widespread acceptance and legitimization of torture in Afghan society (arts. 1, 2, 12 and 16).

8. **The Committee urges the State party:**

(a) **To repeal provisions from the National Reconciliation, General Amnesty, and National Stability Law preventing the prosecutions of perpetrators of gross human rights violations, including acts of torture;**

(b) **To effectively investigate and prosecute all perpetrators of past gross human rights violations, including acts of torture;**

(c) **To ensure that all candidates for official executive positions have not perpetrated any human rights violations and, if found responsible for past human rights violations, including torture, are not nominated.**

Allegations of widespread use of torture and ill-treatment

9. While noting the delegation's affirmations and commitment to fighting the practice of torture in Afghanistan and the State party's concerns about protecting its population from terrorist groups and attacks, the Committee remains deeply concerned by the specific situation of national security-related detainees, or conflict-related detainees, who are most at risk of being subjected to acts of torture or ill-treatment. The Committee is further concerned by the numerous reports, including those of the United Nations Assistance Mission in Afghanistan (UNAMA), the Office of the Prosecutor of the International Criminal Court (*Report on Preliminary Examination Activities, 2016*) and the Afghanistan Independent Human Rights Commission and those from civil society, that beatings, electric shocks, suspensions, threats, sexual abuse, and other forms of mental and physical abuse are widely and increasingly practised on detainees in custody in facilities run by the National Directorate of Security, the Afghan National Police and the Afghan Local Police

primarily to extract confessions or information to be used in criminal proceedings (arts. 2, 12, 13, 15 and 16).

10. **The Committee urges the State party:**

(a) **To install video recording equipment for use during all interrogations and maintain the recordings thereof and install video surveillance equipment in all areas of National Directorate of Security, national police and local police custody facilities where detainees may be present, except in cases in which the rights of detainees to privacy or to confidential communication with their lawyer or doctor may be violated;**

(b) **To ensure that officials are trained in the use of the video recording equipment and on the purpose of the video recordings and video surveillance;**

(c) **To ensure that such recordings are stored in secure facilities and made available to investigators, detainees and lawyers.**

Impunity for acts of torture

11. The Committee takes note of the information provided by the State party that some National Directorate of Security officials were dismissed or demoted owing to their acts of ill-treatment and torture; welcomes the establishment of Human Rights Units in 21 provinces to prevent ill-treatment and torture in detention centres of the National Directorate of Security; and commends the commitment of the General Attorney to investigate and prosecute all cases discussed during the dialogue between the delegation and the Committee. The Committee remains concerned however by the deficiencies in effectively investigating and prosecuting complaints of torture and ill-treatment perpetrated by law enforcement officials during the detention and interrogation of national security-related detainees, as evidenced by the particularly low rate of prosecutions and condemnations. The Committee considers that internal administrative sanctions should never preclude an effective investigation into and prosecution of complaints of torture and ill-treatment. The Committee is concerned by the numerous and credible allegations that complaints of torture and ill-treatment are dismissed due to the absence of documentation of physical signs of torture, possibly because no medical examination was conducted or was conducted too late to document them (arts. 2, 4, 10-16).

12. **The Committee urges the State party:**

(a) **To ensure that all alleged cases of torture and ill-treatment are promptly medically documented in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);**

(b) **To ensure that all instances and allegations of torture and ill-treatment are investigated promptly, effectively and impartially by an independent body;**

(c) **To ensure that perpetrators and their superiors who are responsible for ordering or condoning such practices are removed, disciplined and punished;**

(d) **Notwithstanding the internal administrative sanctions, to ensure that alleged perpetrators are prosecuted and, if found guilty, convicted in accordance with the gravity of the acts committed, as required by article 4 of the Convention;**

(e) **To unambiguously reaffirm the absolute prohibition of torture and publicly warn that anyone committing such acts or otherwise complicit or acquiescent in torture will be held personally responsible before the law for such acts and will be subject to criminal prosecution and appropriate penalties.**

Arbitrary, illegal and incommunicado detention

13. The Committee remains concerned by the widespread practice of arbitrary and illegal detention, as evidenced by the reports of UNAMA on the treatment of conflict-related detainees in Afghan custody of 2015 and 2017 (arts. 2, 11 and 16).

14. **The State party should release all persons detained arbitrarily or without legal grounds and should ensure the right to a fair trial for all detained or arrested persons. The State party should ensure that all persons found responsible for arbitrary detentions are sanctioned with appropriate penalties.**

Situation in Kandahar province

15. While aware of the difficulties in other provinces of Afghanistan, such as Farah, Herat and Nangarhar, the Committee is deeply concerned by the numerous reports brought to its attention concerning the situation in Kandahar province, in which the following were identified: (a) the worrisome number of detainees of the National Directorate of Security and the national police who have allegedly experienced torture or ill-treatment, including suffocation, crushing of the testicles, water forcibly pumped into the stomach and electric shocks; and (b) the allegations that the national police have been responsible for incommunicado detention, enforced disappearances, mass arbitrary detention and extrajudicial killings, during counter-insurgency operations. The Committee is particularly concerned by the numerous and credible allegations indicating that General Abdul Raziq, the Afghan National Police Commander in Kandahar, is widely suspected of complicity, if not personal implication, in severe human rights abuses, including extrajudicial killings and the settlement of secret detention centres (arts. 2, 4, 10-14 and 16).

16. **The Committee urges the State party to take immediate measures to ensure that:**

(a) **All allegations of torture or ill-treatment in Kandahar are promptly, thoroughly and impartially investigated by a fully independent body;**

(b) **All alleged perpetrators, including officials such as General Raziq, are duly prosecuted and, if found guilty, convicted with penalties that are commensurate with the grave nature of their crimes.**

Parwan (Bagram) detention facilities

17. While noting that in 2013 the Armed Forces of the United States of America transferred the administration of and responsibilities for the Parwan detention facilities to the State party, the Committee remains concerned that the Ministry of Defence is still administering those detention facilities and by the credible allegations that detainees there are routinely tortured as punishment for their past terrorist activities or as disciplinary measures. It is also concerned by the restrictive access to lawyers for detainees in Parwan. The Committee is deeply concerned by the numerous allegations that at least 160 children in Parwan are detained with and under the same regime as adult detainees. In that respect, the Committee is further concerned by reports that minors associated with armed groups involved in insurgent movements are being punished instead of rehabilitated (arts. 2, 4, 10-14 and 16).

18. **The Committee urges the State party to take immediate measures to ensure that:**

(a) **The administration of the Parwan detention facilities is transferred from the Ministry of Defence to the Ministry of Justice;**

(b) **All allegations of torture or ill-treatment in Parwan are promptly, thoroughly and impartially investigated by a fully independent body, and the perpetrators prosecuted;**

(c) **All minors detained in Parwan are transferred to juvenile detention centres and duly rehabilitated.**

Accountability of the International Security Assistance Force

19. While noting the preliminary examination by the Office of the Prosecutor of the International Criminal Court regarding the alleged war crimes, including acts of torture, committed by anti-Government groups, forces of the Government of Afghanistan and international forces, and welcoming the delegation's affirmations that the Government is

fully committed to collaborating with the Court, the Committee remains concerned by the situation of detainees transferred by the International Security Assistance Force into the custody of the Government. It is also concerned that, through consultancy or advisory positions, foreign elements remain informally in charge of or involved in the running of detention centres where national security-related detainees are held (arts. 2, 4 and 11).

20. **The State party should:**

(a) **Fully cooperate with the Prosecutor of the International Criminal Court, including through the collection and documentation of all cases involving the administration and soldiers of the International Security Assistance Force in order to ensure that no crime of torture committed in Afghanistan remains unprosecuted and unpunished;**

(b) **Ensure that any foreign adviser or consultant respects the provisions of the Convention.**

Use of torture and ill-treatment by non-State armed insurgency and terrorist groups and civilian casualties

21. While noting the State party's efforts to combat non-State armed insurgency and terrorist groups, the Committee deplores the presence of a wide range of armed groups, including the Taliban, Da'esh and Hizb-i Islami, perpetrating severe human rights abuses, including extrajudicial killing and corporal punishment, such as flogging and stoning. The Committee is concerned by the numerous reports documenting the increase of propaganda promoting violent extremism in Afghanistan, including in some educational institutions, fostering the adhesion and support of part of the Afghan population to the Taliban. It also deplores the deliberate attacks on civilians perpetrated by those groups, causing a large number of deaths and injuries among civilians, as indicated in the reports of UNAMA and the most recent report of the United Nations High Commissioner for Human Rights on the situation of human rights in Afghanistan (A/HRC/34/41) (arts. 2, 4 and 12-14).

22. **The Committee recommends that the State party:**

(a) **Keep thorough documentation on the victims of torture and inhuman treatment in areas not under Government control, the types of violations of the Convention against them and the damages inflicted, as well as the identity, if known, of the alleged perpetrators, so that the State party can fully exercise its duties under the Convention when effective control is re-established and ensure that those found responsible are prosecuted;**

(b) **Undertake prompt, impartial and thorough investigations into all allegations of torture and ill-treatment committed under its jurisdiction;**

(c) **Provide effective redress to victims, including fair and adequate compensation and as full rehabilitation as possible, in accordance with the Committee's general comment No. 3 (2012) on the implementation of article 14;**

(d) **Take all measures necessary to counter violent extremism in Afghanistan.**

Current legal frameworks and criminalization of torture and ill-treatment

23. While welcoming the delegation's affirmations that the new Law on the Prohibition of Torture now includes a definition of torture that is identical with article 1 of the Convention, the Committee remains concerned that the legislation is not yet fully harmonized with the Convention, notably with regard to the lenient penalties, such as midterm sentences ranging from 3 to 5 years' imprisonment for the crime of torture under the Penal Code. The Committee furthermore deplores:

(a) The absence of clear legal provisions ensuring that other forms of cruel, inhuman or degrading treatment or punishment are also clearly prohibited and criminalized as separate offences;

(b) The absence of legal provisions ensuring that victims have access to reporting mechanisms without fear of intimidation or reprisals from authorities;

(c) That the Penal Code does not clearly prohibit corporal punishment, including flogging, amputation of limbs and stoning, practices which amount to torture and cruel, inhuman or degrading treatment or punishment (arts. 1, 2 and 4).

24. **The Committee requests the State party:**

(a) **To ensure that the new Law on the Prohibition of Torture including a definition of torture that covers all the elements contained in article 1 of the Convention is properly enforced under its jurisdiction;**

(b) **To ensure that penalties for torture and statutory limitations are commensurate with the gravity of the crime;**

(c) **To amend its legislation in order to prohibit and establish other acts of cruel, inhuman or degrading treatment or punishment as separate offences;**

(d) **To legally ensure that victims have access to reporting mechanisms of which they may avail themselves without fear of intimidation or reprisals from authorities;**

(e) **To amend its legislation in order to clearly prohibit all forms of corporal punishment, as they amount to torture and cruel, inhuman or degrading treatment or punishment, in violation of the Convention.**

Fundamental legal safeguards

25. While welcoming the State party's information regarding procedural safeguards, in particular those set out in articles 7 to 11 and 152 of the Criminal Procedure Code, the Committee is concerned that in practice the rights of persons deprived of their liberty to have prompt access to a lawyer and an independent medical doctor are not respected. The Committee is deeply concerned by the numerous allegations that detainees and in particular national security-related detainees in facilities of the National Directorate of Security, the national police and the local police:

(a) Do not have guaranteed access to lawyers, including legal aid services, and medical personnel from the outset of the deprivation of their liberty, when they are most at risk of being subjected to acts of torture or ill-treatment;

(b) Are frequently not notified of the reasons for their detention and not authorized to communicate with their relatives;

(c) Are held in custody in complete violation of the time limits set out in the Criminal Procedure Code, some allegedly being detained in pretrial custody for a year. In that connection, the Committee is particularly concerned by Presidential Decree 76, notably articles 5 and 6 amending the Criminal Procedure Code to add provisions for "terrorist crimes and crimes against internal and external security" that significantly extend the time limit during which those suspected of terrorist crimes or crimes against internal and external security could be held during the detention and investigation phase without having access to a judge (art. 2).

26. **The State party should ensure, in law and in practice, that all detainees, including detainees suspected of terrorism or other security-related offences, are afforded all fundamental legal safeguards from the outset of the deprivation of liberty, including the safeguards mentioned in paragraphs 13 and 14 of the Committee's general comment No. 2 (2007) on the implementation of article 2. It should ensure that all provisions of Presidential Decree 76 that are inconsistent with the Convention are repealed and that law enforcement officials respect legal safeguards and penalize any failure by officials to do so. It should in particular ensure that all persons deprived of their liberty, including those suspected of terrorism or other security-related crimes:**

(a) **Have the right to access to legal counsel of their choice or, if necessary, to free legal aid by an independent lawyer in full confidentiality and are able to challenge, at any time during the period of detention, the legality or necessity of the detention before a magistrate who can order the detainee's immediate release;**

- (b) **Have the right to request and receive a medical examination by an independent doctor, preferably of their choosing, in conformity with orders 5 and 6 of Presidential Decree 129, especially upon arrival at the detention facility;**
- (c) **Are notified of the reasons for their detention;**
- (d) **Have the right to contact a family member or a person of their choosing to inform them about their detention and whereabouts;**
- (e) **Are held in custody in conformity with the time limits set out in the Criminal Procedure Code.**

Coerced confessions

27. While taking note of the legal safeguards enshrined in the Criminal Procedure Code establishing the inadmissibility of documentation or evidence in violation of the law, the Committee remains concerned by the numerous allegations of the widespread use of forced confessions as evidence forming the basis for prosecution or conviction at trial and about the lack of cases in which officials have been prosecuted and punished for having extracted confessions in such a manner (art. 15).

28. The State party should:

- (a) **Adopt effective measures to ensure that coerced confessions are inadmissible in practice;**
- (b) **Invite the judiciary to review all cases in which convictions were based solely on confessions obtained through torture and ill-treatment;**
- (c) **Take appropriate remedial measures and ensure that all cases of coerced confession are promptly and impartially investigated, prosecuted and punished.**

Conditions of detention

29. While taking note of the State party's challenges regarding the lack of budget and welcoming the Law on Prisons and Detention Centres, the Committee remains deeply concerned about the poor conditions of detention, including severe overcrowding, inadequate sanitation and access to water, food of a sufficient amount and quality and medical services. In that connection, the Committee is particularly concerned by the situation of women in prisons. It is also concerned by the situation in Pul-e-Charkhi prison, where the renovation project allegedly remains uncompleted due to corruption. The Committee is also deeply concerned by:

- (a) The situation of detainees in solitary confinement, a practice which is applied to persons with epidemic diseases, persons with mental illnesses, and terrorists for prolonged periods of time;
- (b) The widespread corruption among law enforcement officers, in particular prison officers;
- (c) The general lack of facilities to separate pretrial detainees from convicted inmates. The Committee also regrets the under-use of non-custodial measures (arts. 2, 11 and 16).

30. The State party should:

- (a) **Take all measures to alleviate overcrowding in detention facilities, including through the application of alternative measures to imprisonment;**
- (b) **Ensure that all prison development or renovation projects are free from corruption and completed efficiently;**
- (c) **Take effective measures to improve access to drinking water, sanitation facilities and the quality of food, and to ensure that health services and facilities are available to all detainees, in particular in facilities for women and girls;**

- (d) **Ensure that the use of solitary confinement is reviewed and remains an exceptional measure of limited duration and that medical assistance is provided to persons in isolation who are ill;**
- (e) **Ensure that pretrial detainees and convicted inmates are held separately;**
- (f) **Develop educational programmes to ensure that prison staff abide by the law and adhere strictly to rules and regulations.**

Afghanistan Independent Human Rights Commission

31. While taking note of the delegation's affirmations that the Afghanistan Independent Human Rights Commission has access to all detention facilities throughout the country and commending the large number and the competence of the staff of the Commission, the Committee remains concerned by the reports from the Commission that its monitoring staff members have limited access to custody and detention centres, especially facilities of the National Directorate of Security, and no access to places of detention for suspects and the accused. The Committee is also concerned by the reports alleging that the Chair of the Commission, Sima Samar, received death threats in relation to her work (arts. 2, 12 and 13).

32. The State party should:

- (a) **Continue to allocate adequate budgetary resources to the Afghanistan Independent Human Rights Commission and provide it with additional resources, including human resources, to enable it to effectively fulfil its mandate;**
- (b) **Enable the Commission to make regular and unannounced visits to all places of detention, including those controlled by the armed forces and international forces;**
- (c) **Support the Commission in the documenting of alleged cases of torture in places of detention and investigate promptly and impartially all allegations of torture and ill-treatment reported by the Commission;**
- (d) **Implement recommendations made by the Commission promptly and effectively;**
- (e) **Enable all personnel of the Commission to safely conduct their human rights work without fear of reprisals.**

Death penalty

33. While welcoming the delegation's information that a separate committee has been established to review death penalty sentences and to discuss a plan to declare a moratorium on the death penalty, the Committee remains concerned by the high number of prisoners on death row, which currently amounts to 600, the tremendous delay in carrying out their sentences, and the conditions of detention of prisoners awaiting execution. The Committee is deeply concerned by the recent cases of executions of minors (arts. 2 and 16).

34. The State party should:

- (a) **Promptly consider taking measures for an immediate moratorium on executions and a commutation of sentences;**
- (b) **Respect international standards that provide safeguards guaranteeing the protection of the rights of those facing the death penalty;**
- (c) **Immediately end the practice of the execution of minors and commute all existing death sentences for offenders on death row who committed the crime for which they were sentenced while under the age of 18.**

Harmful practices against children: child marriages and *bacha baazi*

35. The Committee is concerned by the widespread phenomenon of the forced and early marriages of girls. While welcoming the delegation's affirmations that a new law is nearing adoption that prohibits *bacha baazi*, a practice that facilitates sexual violence against and the sexual slavery of boys, the Committee remains deeply concerned that, the new legal

framework notwithstanding, the practice may remain widespread in Afghanistan, including among State officials, as evidenced by the involvement of Shah Mirza Panjsheri in a *bacha baazi* case. The Committee recalls its general comment No. 2, in which it noted that indifference or inaction by the State with respect to serious violence committed by private actors, including against women and children, can suggest a failure to prevent or official consent or acquiescence to such violence, in violation of the State party's obligations under the Convention (arts. 2, 4 and 16).

36. The State party should:

(a) **Take all measures to ensure that forced and early marriages are prohibited, those responsible are prosecuted and punished and the victims are rehabilitated;**

(b) **Take all measures to promptly adopt and enforce the new law prohibiting *bacha baazi* and eradicate the practice, including by ensuring that all cases of sexual violence against boys, including cases involving officials, are promptly and impartially investigated and the perpetrators prosecuted.**

Violence against women

37. While commending the Law on Elimination of Violence against Women, the establishment of national and provincial Commissions on Elimination of Violence against Women and of women's protection centres, the Committee remains deeply concerned by the high prevalence of violence against women in the State party, in particular domestic violence, rape, battery, laceration, crimes committed in the name of so-called "honour" and cases of stoning. It is concerned that the Law is not equally implemented in all provinces and that very few cases from rural or remote areas have been registered, those cases being frequently mediated through traditional dispute resolution mechanisms or undeclared by victims owing to familial and social pressure. While noting the delegation's statement that the practice of virginity tests is part of the local culture and has no legal ground, the Committee remains deeply concerned that the conduct of such a practice is routinely required by police officers and prosecutors for women fleeing domestic violence and consequently suspected of moral crimes, such as adultery (arts. 2, 4 and 16).

38. The Committee urges the State party to take all measures to ensure that the Law is fully implemented in the territory of the State party. It should, inter alia:

(a) **Conduct awareness-raising campaigns on the content of the Law on Elimination of Violence against Women and encourage women to report all cases of violence;**

(b) **Increase the presence of women among the staff of the police and the judiciary;**

(c) **Ensure that all cases of violence against women are thoroughly investigated, that perpetrators are prosecuted and held to account and that victims obtain redress, including adequate compensation;**

(d) **Conduct training courses and awareness-raising campaigns for the general public and public officials to increase the understanding that violence against women constitutes a grave violation of the Convention and domestic law;**

(e) **Take all measures, including legal, to ensure that virginity tests are prohibited and ensure that all officials ordering virginity tests are adequately sanctioned.**

Parallel judicial mechanisms

39. While taking note of the State party's affirmations that informal parallel judicial mechanisms, in particular *jirga* courts, may only hear civil cases and commending that the Government strives to build the capacity of ordinary courts in rural areas to reduce the number of cases referred to *jirga* courts or any other parallel justice system, the Committee is seriously concerned by the sentences still imposed by *jirga* courts and other forms of dispute resolution systems on the Afghan population, in particular on women, notably for

so-called “moral crimes”, including the death sentence and corporal punishment, that amount to torture or cruel, inhuman or degrading treatment or punishment (arts. 2, 4 and 16).

40. **The State party should:**

(a) **Set up an effective system for monitoring and revising decisions of *jirga* courts in order to ensure that State officials do not recognize or carry out the judgments of parallel judicial mechanisms that exculpate perpetrators from crimes committed in the name of so-called “honour”, that call for women to be subjected to corporal punishment or that are otherwise inconsistent with the State party’s obligations under the Convention;**

(b) **Develop clear and mandatory instructions for prosecutors identifying which decisions of *jirga* courts should lead to criminal prosecution.**

Redress, including compensation and rehabilitation

41. While noting that article 51 of the Constitution recognizes general redress and compensation for any undue harm by government action, the Committee remains concerned by the absence of a separate and specific law providing redress, including compensation and rehabilitation, for victims of torture. It regrets that claims for the compensation of damages resulting from acts of torture or ill-treatment can only be initiated through civil lawsuits, which is in contravention of the primary responsibility of the State to provide redress and excludes:

- (a) Any claim in which the perpetrator has not been identified;
- (b) Any compensation in cases where the perpetrator is insolvent;
- (c) Any case that is not submitted by the victim to the court.

The Committee particularly deplores that the State party was unable to provide any case in which compensation for torture or ill-treatment had been granted (art. 14).

42. **The Committee, recalling its general comment No. 3, urges the State party:**

(a) **To acknowledge its obligation to victims of torture and take measures, including through legal reforms, to guarantee that victims of torture and ill-treatment benefit from effective remedies and can obtain redress, including adequate compensation and rehabilitation, including in cases in which the perpetrator has not been identified or convicted of a crime;**

(b) **To create a specific government fund or budget line to ensure that all victims have access to compensation;**

(c) **To ensure that specialized, holistic rehabilitation services are available to and promptly accessible by victims of torture and ill-treatment, including victims from past conflicts, through the direct provision of rehabilitative services funded by the State;**

(d) **To foster the creation of rehabilitation centres administered by non-governmental organizations.**

Threats, violence and intimidation of human rights defenders

43. While taking note that the State party will evaluate and monitor complaints submitted by human rights defenders to the Afghanistan Independent Human Rights Commission and that it had received no complaints on the arbitrary detention, forced disappearance or torture of human rights activists, the Committee remains deeply concerned about the numerous reports alleging that human rights defenders, as well as journalists, are subjected to threats, intimidation, harassment, surveillance, arbitrary detentions, forced disappearances and killings. It is particularly concerned by the lack of adequate measures taken by the State party to protect them from reprisals for their work, as indicated in the report of the United Nations High Commissioner for Human Rights (see A/HRC/34/41, para. 68) (art. 2).

44. The Committee urges the State party:

- (a) **To ensure that human rights defenders are able to conduct their work and activities freely in the State party, without fear of reprisals or attacks;**
- (b) **To investigate promptly, thoroughly and impartially all violations committed against human rights defenders, prosecute and punish appropriately those found guilty and provide redress to the victims.**

Training

45. While noting the State party's information regarding training courses and programmes already in place or delivered, notably for the judiciary, the Committee regrets that:

- (a) No training courses for all components of the judicial sector to participate in together have taken place;
- (b) No training courses for officials and health personnel on identifying the physical signs of torture and other forms of violence have taken place;
- (c) No training courses on non-coercive interrogation techniques have taken place (art. 10).

46. The State party should:

- (a) **Consider organizing training for the judicial service as a whole, bringing together investigators, prosecutors, judges and medical personnel in order to train them on similar and coordinated lines;**
- (b) **Ensure that all relevant officials, including medical personnel, are specifically trained to identify and document cases of torture and ill-treatment, in accordance with the Istanbul Protocol;**
- (c) **Ensure that all law enforcement officers receive mandatory training emphasizing the link between non-coercive interrogation techniques, the prohibition of torture and ill-treatment, and the obligation of the judiciary to invalidate confessions obtained under torture.**

Follow-up procedure

47. **The Committee requests the State party to provide, by 12 May 2018, information on follow-up to the Committee's recommendations contained in paragraphs 8 (c), 28 (c) and 34 (a) above. In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

Other issues

48. **The Committee welcomes the delegation's commitment to remove the reservation of Afghanistan regarding article 20 of the Convention and invites the State party to effectively implement that commitment.**

49. **The Committee invites the State party to consider making the declarations under articles 21 and 22 of the Convention.**

50. **The Committee welcomes the delegation's commitment to ratify the Optional Protocol to the Convention and invites the State party to effectively implement that commitment.**

51. **The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet party.**

52. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**

53. The State party is invited to submit its next periodic report, which will be its third, by 12 May 2021. For that purpose, and considering that the State party has accepted to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its third periodic report under article 19 of the Convention.
