

HUMAN RIGHTS COUNCIL
25th session (3 – 28 March 2014)

Item 3: Interactive dialogue with the Special Rapporteur on Torture

**Oral statement delivered by The World Organisation Against Torture (OMCT),
a non-governmental organisation in general consultative status**

Mr President, Mr Special Rapporteur,

The World Organisation Against Torture (OMCT) wishes to thank Mr Mendez for the presentation of his report to this Human Rights Council focusing on the exclusionary rule, which is an integral part of the absolute prohibition of torture and other forms of cruel, inhuman and degrading treatment or punishment.

OMCT welcomes this timely report and the conclusions that specifically stress that the exclusionary rule applies to all proceedings of any kind, whether judicial proceedings and by executive agencies, and that the rule concerns all information extracted by torture and ill-treatment anywhere in the world.

In its daily work, OMCT witnesses how confession is one of the driving causes of torture and ill-treatment worldwide. It is a massive problem although experience has shown that under torture or threat thereof, a person will say or do anything solely to avoid the pain.

In any event, any information or evidence obtained under torture and ill-treatment must be excluded from all proceedings as stressed by the Special Rapporteur, to avoid providing an incentive to torture by creating a marketplace for torture at home and abroad. Judges and prosecutors have a crucial role to play in ensuring compliance with the rule and overcoming the mismatch between the frequent abuse of detainees for confessions and the rare occasion that torture evidence is effectively excluded.

Mr Special Rapporteur,

In view of your upcoming visit to Mexico, OMCT wishes to draw your attention to the principle of “procedural immediacy”, which has been used in Mexico. The principle establishes that the first statements of a detainee (rendered before the Public Ministry) prevail over the following statements made, even if torture is evident.

OMCT full heartedly supports the clarification that the exclusionary rule, the duty to prevent and principle of state responsibility, cover equally the sharing, receipt and use of information outside criminal processes. We call on States to review their procedures regarding secret evidence, intelligence sharing and ensure that the dramatic accountability gap over intelligence agencies, that continues to be brought before this Council, is finally taken seriously.

Mr President,

OMCT wishes to take this opportunity to urge States to accept outstanding country visit requests by the Special Rapporteur on torture, as well as to cooperate fully with him, including by responding promptly and comprehensively to his urgent appeals, and implement his recommendations.

Finally, OMCT calls on this Council to reaffirm its strong commitment to the absolute prohibition of torture and ill-treatment by renewing the mandate of the Special Rapporteur on torture.