

Research Article

EVALUATING THE EFFECTIVENESS OF THE COMMITTEE AGAINST TORTURE (CAT) IN ACHIEVING STATE COMPLIANCE: A CASE STUDY OF NEW ZEALAND, ZAMBIA AND MEXICO

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ABSTRACT

Background: This study examines the effectiveness of the Committee against Torture (CAT) in achieving state compliance with the United Nations Convention against Torture (UNCAT). Although the prohibition of torture constitutes a *jus cogens* norm in international law, torture persists globally, revealing a serious gap between states' formal ratification of UNCAT and the practical realisation of its obligations. While the CAT provides a comprehensive monitoring framework—through periodic reporting, individual complaints, and general comments—it lacks binding enforcement powers, raising questions about its practical impact in diverse legal and political settings.

Methods: Using a qualitative, comparative legal approach, this study evaluates the extent of CAT's influence on domestic compliance in three states—New Zealand, Mexico, and Zambia—selected for their legal system diversity, geographical distribution, and distinct compliance trajectories. The analysis draws on CAT concluding observations, state reports, national legislation, civil society shadow reports, and third-party documentation. Each country is assessed for both formal compliance (ratification, legislative incorporation, reporting) and substantive compliance (investigations, accountability, and redress mechanisms). A structured comparison model ensures consistency across cases.

Results and Conclusions: Findings reveal stark contrasts. New Zealand demonstrates strong formal compliance, with detailed legislation and constructive CAT engagement. However, gaps remain concerning Indigenous rights, detention safeguards, and procedural protections. Mexico, despite enacting the 2017 General Law on Torture, continues to face systemic issues, including widespread torture, impunity, and militarised security forces. Zambia, the weakest performer, lacks specific anti-torture legislation and institutional frameworks, resulting in minimal implementation. Across all cases, CAT's impact depends heavily on domestic

political will, institutional independence, and the participation of civil society. The study concludes that while CAT serves a critical normative and advisory role, its influence remains constrained in practice by its non-binding nature. Strengthening CAT's follow-up mechanisms, enhancing regional cooperation, and integrating recommendations into national legal and political agendas are essential for bridging the gap between formal ratification and the actual prevention of torture.

1 INTRODUCTION

The prohibition of torture stands among the most universally recognised norms of international law, classified as *jus cogens* and binding on all States under any circumstances.¹ Kolb emphasizes that this hierarchy establishes *jus cogens* as a unique category within international law, one that serves as an ethical and legal imperative above other obligations.² This status reflects the deeply embedded notion that torture constitutes a grave assault on human dignity and the fundamental rights of individuals, a principle that transcends cultural, political, and legal divides across the international community.³

Judicial bodies have reinforced the principle of non-derogability in landmark decisions. For example, in *Prosecutor v. Furundžija*, the International Criminal Tribunal for the former Yugoslavia (ICTY) found that the prohibition of torture is a *jus cogens* norm, thereby immune from waiver or modification even by the States themselves. This ruling underscored the non-derogable nature of *jus cogens*, positioning these norms as inviolable constraints on state behavior.⁴ Similarly, the European Court of Human Rights (ECtHR), in the case of *Al-Adsani v. United Kingdom*, held that the prohibition against torture is a universally accepted *jus cogens* norm, which could not be circumvented by sovereign immunity defenses. This ruling emphasised that the prohibition on torture, as a non-derogable right, supersedes other legal defences, further solidifying the non-derogable nature of *jus cogens*.⁵

Nevertheless, despite the strength of its legal status, the effective eradication of torture remains elusive. Reports from international organisations and empirical studies confirm that torture persists in many regions, often shielded by practices of impunity, political instability, or institutional weakness.

- 1 Winston P Nagan and Lucie Atkins, 'The International Law of Torture: From Universal Proscription to Effective Application and Enforcement' (2001) 14 Harvard Human Rights Journal 87.
- 2 Robert Kolb, *Peremptory International Law — Jus Cogens: A General Inventory* (Hart Publishing 2015).
- 3 Manfred Nowak, Moritz Birk and Giuliana Monina (eds), *The United Nations Convention Against Torture and its Optional Protocol: A Commentary* (Oxford Commentaries on International Law, 2nd edn, OUP 2019).
- 4 Case No IT-95-17/1-T *Prosecutor v Furundžija* (ICTY, 10 December 1998) para 153 <<https://www.icty.org/en/case/furundzija>> accessed 11 March 2025.
- 5 *Al-Adsani v United Kingdom* App No 35763/97 (ECtHR, 21 November 2001) para 61 <<https://hudoc.echr.coe.int/eng?i=001-59885>> accessed 11 March 2025.

The international community, through instruments such as the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT),⁶ has sought to institutionalise the fight against torture. The Convention is considered one of the cornerstones of modern international human rights law, building upon the commitments first articulated in the Universal Declaration of Human Rights.⁷ Central to this framework is the Committee Against Torture (CAT Committee),⁸ an independent body tasked with monitoring state compliance.

UNCAT defines torture in Article 1(1) as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person” for purposes such as obtaining information, punishment, intimidation, coercion, or discrimination, when inflicted by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity.⁹ This definition requires four key elements: the infliction of severe pain or suffering; intentionality; a prohibited purpose; and involvement or acquiescence of a public official.

Expanding upon this, Nowak, Birk, and Monina explain that torture differs from cruel, inhuman, or degrading treatment primarily through the severity and the purposive element of the act, stressing that both physical and psychological suffering are equally protected.¹⁰ Moreover, they highlight that state responsibility extends even where private individuals commit acts of torture if public authorities consent or fail to prevent such abuses.¹¹

To achieve that, the Convention established “a comprehensive scheme with the aim ultimately to end torture around the world.”¹² This framework encompasses a broad range of measures, including “prohibitions in criminal law, strong principles of criminal responsibility, [and] the elimination of certain defences.”¹³ It further imposes “regulations for security forces” and mandates “training” intended to ensure that those entrusted with public authority do not engage in torture or cruel treatment.

The Convention also creates duties for States Parties “to investigate and prosecute regardless of where the torture was committed,” emphasising the universal jurisdictional

6 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) (adopted 10 December 1984) [1996] UNTS 1465/85.

7 Max Lesch, ‘From Norm Violations to Norm Development: Deviance, International Institutions, and the Torture Prohibition’ (2023) 67(3) *International Studies Quarterly* 1, doi:10.1093/isq/sqad043.

8 ‘Committee against Torture (CAT)’ (*UN Human Rights: Office of the High Commissioner*, 2025) <<https://www.ohchr.org/en/treaty-bodies/cat>> accessed 11 March 2025.

9 UNCAT (n 6) art 1(1).

10 Nowak, Birk and Monina (n 3) 509-612, arts 19, 20, 22

11 *ibid*.

12 Christopher Keith Hall, ‘The Duty of States Parties to the Convention Against Torture to Provide Procedures Permitting Victims to Recover Reparations for Torture Committed Abroad’ (2007) 18(5) *European Journal of International Law* 921, doi:10.1093/ejil/chm050.

13 *ibid* 922.

obligation attached to acts of torture.¹⁴ In addition, the Convention requires the “exclusion of statements obtained through torture” from legal proceedings, thereby upholding the principle that evidence derived through coercion is fundamentally unreliable and inadmissible.

Supplementing these criminal measures, the Convention establishes “procedures supplementing criminal proceedings to enable victims and their families to obtain civil reparations from those responsible for torture, regardless of where it was committed.”¹⁵ This integrated approach reflects the Convention’s overarching objective not only to prevent torture but also to ensure accountability and redress for victims on a global scale.

The United Nations treaty body system, of which the CAT Committee is a part, represents a significant achievement in terms of international human rights protection, described as “one of the greatest achievements in the history of the global struggle for human rights.”¹⁶ Treaty bodies are committees created by international human rights treaties to monitor the implementation of treaty obligations by State Parties. Each treaty body is tasked with reviewing periodic reports submitted by states, assessing their compliance with substantive and procedural obligations under the treaty. As Salama highlights, “the ten treaty bodies are the custodians of the legal norms established by human rights treaties,” providing independent oversight and interpretative guidance while not holding judicial status.¹⁷ Although often described as quasi-judicial bodies, their outputs, such as Concluding Observations and Views on individual complaints, are not legally binding but possess significant normative authority.¹⁸

The importance of treaty bodies lies in their ability to serve as “custodians of universal values” while maintaining independence from political influences within the UN system.¹⁹ Their role is critical because, as Nagan and Atkins emphasise, international monitoring mechanisms are essential to moving norms like the prohibition of torture from universal proscription to effective application and enforcement.²⁰

The CAT Committee operates within a quasi-judicial framework, performing a range of functions, including reviewing periodic state reports, considering individual complaints, conducting confidential inquiries, and issuing General Comments to interpret the

14 *ibid.*

15 *ibid.*

16 Ibrahim Salama, ‘Strengthening the UN Human Rights Treaty Body System : Prospects of a Work in Progress’ in Olivier de Frouville (dir), *Le système de protection des droits de l’Homme des Nations Unies: Présent et avenir* (Publications du CRDH, Université Panthéon-Assas Paris 2 2018) 95.

17 *ibid* 96.

18 *ibid* 96-7; Christen Broecker, ‘The Reform of the United Nations’ Human Rights Treaty Bodies’ (2014) 18(16) ASIL Insights <<https://www.asil.org/insights/volume/18/issue/16/reform-united-nations%E2%80%99-human-rights-treaty-bodies>> accessed 11 March 2025.

19 Salama (n 16).

20 Nagan and Atkins (n 1).

Convention's provisions. While these mechanisms reflect a sophisticated model of international human rights oversight, the Committee's findings are not legally binding in the traditional sense of judicial decisions. Rather, their authority derives from principles of cooperation, normative persuasion, and moral legitimacy.²¹ Despite this comprehensive mandate, enforcement challenges remain significant. Unlike domestic or regional human rights courts, the CAT Committee lacks coercive power to compel state action, relying instead on sustained dialogue, structured follow-up, and the political will of national institutions.

These structural limitations are further compounded in contexts where international human rights norms are perceived as ideologically external or inconsistent with domestic values. Critics have highlighted the risk of Western-centric interpretations of treaty obligations, particularly when applied across culturally diverse and post-colonial legal systems. The legitimacy and efficacy of treaty bodies such as the UNCAT depend not only on the normative content of the obligations they monitor but also on their ability to engage plural legal traditions with sensitivity to cultural, religious, and epistemological diversity. As Jack Donnelly observes, "all societies cross-culturally and historically manifest conceptions of human rights," suggesting that the principle of human dignity is neither culturally exclusive nor the product of a singular Western lineage.²² This insight invites a broader understanding of universality—one that affirms shared values while acknowledging distinct legal and moral frameworks.

In Muslim-majority societies, for example, human rights compliance is often mediated through the lens of religious law. Baderin argues that "the implementation of all rights and freedoms of international human rights principles must consider a multicultural approach to realise an inclusive theory of universalism."²³ He critiques the anthropocentric orientation of prevailing human rights doctrine, which privileges human rationality as the sole moral source, as misaligned with the theocentric foundations of Islamic legal theory—where divine revelation constitutes the ultimate normative authority.²⁴

Abdullahi An-Na'im similarly observes that although Islamic law is the product of human interpretation, it is widely viewed by Muslims as sacred and immutable: "Islamic law is not divine because it is the product of human interpretation of Qur'an and hadith," yet it derives

21 Heli Niemi and Martin Scheinin, *Reform of the United Nations Human Rights Treaty Body System Seen from the Developing Country Perspective* (Institute for Human Rights, Åbo Akademi University 2002) 3; Nowak, Birk and Monina (n 3) 475.

22 Jack Donnelly, 'The Relative Universality of Human Rights' (2007) 29(2) Human Rights Quarterly 284.

23 Mashood A Baderin, 'Dialogue among Civilisations as a Paradigm for Achieving Universalism in International Human Rights: A Case Study with Islamic Law' (2001) 2(2) Asia Pacific Journal on Human Rights and the Law 8, doi:10.1163/157181501400649008; Al Khanif, *Religious Minorities, Islam and the Law: International Human Rights and Islamic Law in Indonesia* (ICLARS Series on Law and Religion, Routledge 2021) 38.

24 Mashood A Baderin, *International Human Rights and Islamic Law* (OUP 2003) 8; Khanif (n 23).

enduring legitimacy from its perceived divine source.²⁵ From this perspective, meaningful implementation of international human rights norms in these settings requires engagement with Sharia, rather than its marginalisation.²⁶

These considerations underscore the importance of adopting a dialogical, culturally responsive approach to treaty body engagement—one that affirms universal principles while also respecting the diverse legal traditions through which they are realised.

In the same context, the core problem addressed by this study is the persistent gap between states' formal ratification of international anti-torture obligations and the substantive implementation of those commitments in practice. Despite the CAT Committee's detailed monitoring framework, widespread and systemic violations of the prohibition against torture continue across various jurisdictions. This paradox challenges the assumption that ratification alone is sufficient to secure compliance and raises fundamental questions about the actual effectiveness of treaty body mechanisms in achieving their intended protective outcomes.

The significance of this study lies in its potential to contribute to a deeper understanding of the conditions under which treaty bodies such as the CAT Committee can meaningfully influence State behaviour. By conducting a comparative case study of three States with differing compliance profiles—New Zealand, Mexico, and Zambia—this research provides empirical insights into the factors that enhance or inhibit the domestic implementation of UNCAT obligations. Analysing these variations is crucial for informing ongoing debates about treaty body reform, the need for enhanced enforcement mechanisms, and the future of international human rights law.

2 METHODOLOGY

This study employs a qualitative, comparative legal methodology to evaluate the CAT committee in promoting compliance with the obligations established under the UNCAT. It undertakes a structured comparative analysis of three States—New Zealand, Mexico, and Zambia—each exemplifying a distinct pattern of engagement with the Convention and representing diverse geographic, legal, and political contexts:

- 1) **New Zealand** demonstrates a high degree of formal compliance and constructive engagement with international human rights mechanisms. However, it continues to face critical challenges related to the rights of Indigenous peoples, conditions of detention, and psychiatric care practices.

25 Charles Kurzman (ed), *Liberal Islam: A Sourcebook* (OUP 1998) 237.

26 Baderin (n 23) 8.

- 2) **Mexico** reflects extensive formal engagement and legislative reform, notably through the 2017 General Law on Torture. Yet, systemic patterns of torture, institutional impunity, and the militarisation of public security severely undermine substantive compliance with UNCAT obligations.
- 3) **Zambia** represents a case of low compliance, marked by the absence of specific anti-torture legislation, prolonged delays in domesticating international standards, weak institutional enforcement mechanisms, and a limited capacity to translate international commitments into concrete protections against torture.

The selection of these three countries was guided by the aim of capturing regional diversity and divergent approaches to implementing UNCAT. Geographically, the cases span Oceania (New Zealand), Latin America (Mexico), and Sub-Saharan Africa (Zambia). They also vary significantly in legal tradition, economic development, and institutional capacity. New Zealand, a high-income parliamentary democracy, operates under a common law system derived from the British legal tradition. Mexico, an upper-middle-income federal republic, follows a mixed legal system that combines civil law influences from Spanish colonial history with elements of common law in certain procedural aspects. Zambia, a lower-middle-income unitary state, also follows a common law system inherited from British colonial rule, though it lacks a specialised anti-torture legal framework. Instead, it relies primarily on general criminal law provisions, which fail to address the specific legal and normative dimensions of torture as defined under international law. This comparative framework enables a robust evaluation of how factors such as geopolitical context, legal systems, and institutional integrity shape the CAT Committee's influence over national compliance trajectories.

Formal compliance is evaluated through the lens of ratification status, legislative incorporation of UNCAT obligations, timely submission of reports, engagement with individual complaint mechanisms under Article 22, and participation in inquiries under Article 20. On the other hand, substantive compliance is assessed by examining the actual practices of law enforcement, the judiciary, and correctional facilities; the prevalence of torture and ill-treatment; the effectiveness of complaints and investigative mechanisms; and redress available to victims. The analysis is framed within a longitudinal perspective, covering developments between 2000 and 2024.

The study also integrates an assessment of national legislative frameworks, focusing on their conformity with UNCAT's definition of torture as outlined in Article 1 of the Convention. Particular attention is given to:

- 1) The criminalisation of torture as a distinct offence,
- 2) The existence of statutes of limitations,
- 3) The presence or absence of exclusions for national security or emergencies,
- 4) Procedural safeguards for detainees, including access to legal counsel, medical examinations, and judicial review.

For New Zealand, relevant legislation includes the Crimes of Torture Act 1989, which criminalises torture in terms consistent with the Convention's requirements. For Mexico, the General Law is critically examined in light of the CAT Committee's observations about implementation deficiencies.²⁷ In contrast, Zambia has not enacted a dedicated anti-torture law. Although torture is prohibited under Article 15 of the Constitution and Zambia has ratified the UN Convention Against Torture, national legislation defining and criminalising torture remains absent.²⁸ As emphasised by the Human Rights Commission in 2025, this legal vacuum means that courts continue to rely on general assault provisions, which fall short of the international standards required under UNCAT.²⁹

In terms of comparative technique, the study adopts a structured, focused comparison model, whereby each case study is analysed according to the same set of criteria to enable meaningful cross-case comparison.

3 FINDINGS / RESULTS

This section presents the empirical findings derived from the comparative analysis of New Zealand, Mexico, and Zambia. It evaluates both formal legal compliance and substantive implementation of the Convention against Torture, drawing on state reports, the CAT Committee's concluding observations, national legislation, and third-party sources. The findings illuminate patterns of engagement and resistance, highlighting the contextual factors that facilitate or impede the realisation of treaty obligations at the domestic level.

3.1. New Zealand

The CAT Committee, in its 2023 concluding observations on the Seventh Periodic Report of New Zealand, provided a detailed and critical assessment of the State party's efforts to fulfil its obligations under UNCAT. While acknowledging New Zealand's many positive reforms, the Committee identified serious ongoing concerns that illustrate a persistent gap between formal legal commitments and substantive compliance in practice.³⁰

27 UN CAT, *Concluding Observations on the Seventh Periodic Report of Mexico* CAT/C/MEX/CO/7 (24 July 2019) <<https://digitallibrary.un.org/record/3859795?ln=en&v>> accessed 11 March 2025.

28 UN CAT, *Consideration of Reports Submitted by States Parties UNDER Article 19 of the Convention: Concluding Observations of the Committee against Torture: Zambia* CAT/C/ZMB/CO/2 (26 May 2008) para 3 <<https://digitallibrary.un.org/record/630807?ln=en&v>> accessed 11 March 2025.

29 Augustine Sichula, 'HRC Wants Enactment of Anti-Torture Law, as Zambia Marks International Day for Victims of Torture' *Zambia Monitor* (Lusaka, 26 June 2025) <<https://www.zambiamonitor.com/hrc-wants-enactment-of-anti-torture-law-as-zambia-marks-international-day-for-victims-of-torture/>> accessed 19 July 2025.

30 UN CAT, *Concluding Observations on the Seventh Periodic Report of New Zealand* CAT/C/NZL/CO/7 (27 January 2023) paras 1–6 <<https://digitallibrary.un.org/record/4019282?ln=en&v>> accessed 11 March 2025.

The Committee emphasised the need for fuller domestic incorporation of the Convention, noting that while New Zealand's dualist system employs a combination of legislation and policy, it remains a matter of concern that "the State party has not yet fully incorporated the Convention into the domestic legal order" and that "judicial decisions make little reference to international human rights instruments, including the Convention."³¹

The treatment of customary law also raised serious concerns. The Committee expressed disquiet about "a lack of clarity regarding the relationship of customary law with international legal norms in general and with provisions of the Convention in particular,"³² urging that, where conflicts arise, the Convention's supremacy must be ensured.³³

As for criminalisation of torture, while Section 2 of the Crimes of Torture Act 1989 was found to be broadly aligned with Article 1 of the Convention, the Committee expressed concern that "no mandatory minimum penalty is provided for acts of torture," thereby allowing "a very broad margin of discretion to the sentencing judge."³⁴ Consequently, it recommended the amendment of the Crimes of Torture Act to introduce "mandatory minimum or graduated penalties" proportional to the gravity of the acts.³⁵

The Committee observed significant weaknesses in the procedural safeguards available at the moment of deprivation of liberty. It lamented "the scant information provided on the measures and procedures in place to ensure that, in practice, detained persons, including children and young people, enjoy all fundamental legal safeguards from the very outset of deprivation of liberty."³⁶ Particular issues included inadequate access to lawyers and medical examinations, and insufficient information on the right to inform a family member or another person of the detention. Additionally, the Committee criticised the continued use of spit hoods, urging New Zealand to "take all measures necessary to end the use of spit hoods in all circumstances."³⁷

The Committee highlighted ongoing issues in detention conditions, including overcrowding, poor facilities, and staff shortages, despite some improvements. It noted inadequate mental health services and limited rehabilitation access.³⁸ The overrepresentation of Māori and Pasifika individuals in prisons was criticised, prompting calls for systemic reforms. Additionally, concerns were raised about pretrial detention practices, particularly the absence of maximum time limits and the increasing number of

31 *ibid*, para 8.

32 *ibid*, para 10.

33 *ibid*, para 11.

34 *ibid*, para 12.

35 *ibid*, para 13.

36 *ibid*, para 14.

37 *ibid*, para 16.

38 *ibid*, para 27.

Māori detainees awaiting trial.³⁹ The Committee recommended expanding the use of non-custodial measures.⁴⁰

Accountability mechanisms for acts of torture and ill-treatment were deemed insufficient. The Committee observed that no prosecutions had been pursued under the Crimes of Torture Act 1989, and it criticised the requirement of the Attorney-General's consent for such prosecutions.⁴¹

Further concerns centred on the need to guarantee comprehensive redress for victims of torture and ill-treatment, with the Committee urging New Zealand to consider withdrawing its reservation to Article 14 of the Convention.⁴² Moreover, unnecessary medical surgeries performed on intersex children without informed consent were identified as another area requiring urgent reform.⁴³ Finally, the Committee stressed the importance of strengthening human rights training for all public officials, emphasising adherence to international standards such as the Istanbul Protocol.⁴⁴

In conclusion, although New Zealand exhibits a relatively high degree of compliance with its international obligations, the extensive criticisms from the Committee against Torture underline that even states with strong legal frameworks must engage in continuous reform and vigilance to meet the substantive demands of the Convention against Torture.

3.2. Mexico

Mexico presents a striking and troubling example where extensive formal legal reforms have failed to eliminate the widespread practice of torture, arbitrary detention, and pervasive impunity. Despite being a longstanding party to the UNCAT and enacting major domestic legal reforms—most notably the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017)—substantive compliance with international obligations remains critically deficient.⁴⁵

While the CAT Committee welcomed Mexico's legislative progress, including the adoption of the 2017 General Act, which defines the offence of torture and establishes specialized mechanisms for investigation, it emphasized that torture and ill-treatment remained “a widespread problem that the State party has not yet succeeded in eradicating,” particularly in criminal investigations, detention, and migration control contexts.⁴⁶

39 *ibid*, paras 43–44.

40 *ibid*, paras 47, 48.

41 *ibid*, paras 43, 44.

42 *ibid*, paras 51, 52.

43 *ibid*, paras 53, 54.

44 *ibid*, paras 55, 56.

45 CAT/C/MEX/CO/7 (n 27) para 3(a).

46 *ibid*, para 8.

The empirical record reflects alarming deficiencies. According to data provided by the State party, the Office of the Prosecutor General had 4,296 preliminary investigations underway for torture as of January 2019. Still, convictions remained exceedingly rare: only 45 federal convictions between 2013 and 2018.⁴⁷ Confessions extracted under torture remain pervasive despite their formal inadmissibility under Mexican law. The Committee found that the use of confessions obtained through torture continues to be invoked against defendants and that allegations are often not investigated during judicial proceedings, shifting the burden of proof onto victims.⁴⁸

In the landmark case of *Ramiro Ramírez Martínez et al. v. Mexico*, the Committee found that federal forces subjected the complainants to severe torture, including electric shocks, beatings, simulated asphyxiation, and toenail extraction, causing severe physical and mental suffering.⁴⁹ The CAT Committee concluded that Mexico violated Articles 1, 2, 12, 13, and 14 of the Convention, emphasising that the State “failed to act with due diligence to prevent, investigate, prosecute and punish acts of torture.”⁵⁰

This case reflects broader structural patterns. The Committee documented that individuals were frequently held incommunicado, denied access to legal counsel and independent medical examinations, thereby facilitating torture and obstructing investigations.⁵¹ Furthermore, the Committee emphasised the critical importance of conducting physical and psychological assessments of alleged victims of torture in accordance with the Istanbul Protocol, to ensure impartiality and adherence to international standards.⁵²

Human Rights Watch’s 2024 World Report underscores that “torture is widely practised by police, prosecutors, and soldiers to obtain confessions and extract information.”⁵³ Alarmingly, a national survey found that nearly half of incarcerated respondents reported having been physically abused post-detention and that 38 per cent confessed solely because authorities beat or threatened them.⁵⁴

Despite the establishment of a national registry intended to record complaints, the State party had not yet created the operational national register of cases of torture required under the General Act.⁵⁵ Between 2013 and 2018, the Attorney General’s Office registered 870 complaints of torture in 2013 and 466 complaints in 2018, but the Committee expressed

47 *ibid*, para 24.

48 *ibid*, para 20.

49 UN CAT, *Communication No 500/2012 Ramiro Ramírez Martínez et al v Mexico* CAT/C/55/D/500/2012 (4 August 2015) <<https://digitallibrary.un.org/record/3993637?ln=en&v>> accessed 11 March 2025.

50 *ibid*, para 9.

51 CAT/C/MEX/CO/7 (n 27) para 15.

52 *ibid*, para 27(b)-(c).

53 Human Rights Watch, ‘Mexico’ in *World Report 2024: Events of 2023* (Human Rights Watch 2024) 422 <<https://www.hrw.org/world-report/2024/country-chapters/mexico>> accessed 11 March 2025.

54 *ibid* 423.

55 CAT/C/MEX/CO/7 (n 27) para 23(b).

concern that no comprehensive data were provided for the intervening years, and that convictions were extremely rare.⁵⁶ These figures underscore a profound and persistent gap between formal commitments and real-world practices. As Broecker aptly observed, "legislative reforms alone cannot eliminate entrenched practices without corresponding shifts in political will, institutional culture, and public accountability."⁵⁷

The militarisation of public security represents another major obstacle to compliance. While noting the creation of the National Guard, the Committee expressed concern that the body would be under military leadership, thereby risking the continuation of human rights violations, including torture.⁵⁸ Impunity remains entrenched at staggering levels. Human Rights Watch reports that "about 90 per cent of crimes are never reported, one-third of reported crimes are never investigated, and just under 16 per cent of investigations are resolved."⁵⁹ The Committee urged Mexico to ensure that "all complaints of torture and ill-treatment are investigated in a prompt and impartial manner" and that suspected perpetrators are immediately suspended from duty during the investigation.⁶⁰

Mandatory pretrial detention (*prisión preventiva oficiosa*) and "arraigo" practices further exacerbate systemic violations. Judges are legally obliged to impose pretrial detention for a wide array of offences without individualised assessment. As a result, over 40% of imprisoned persons in 2021 had not yet been convicted of any crime.⁶¹ The Committee reiterated its previous recommendations urging Mexico to eliminate the practice of "arraigo" detention without charge, as it facilitates torture and arbitrary detention.⁶²

Migrants represent a particularly vulnerable population within Mexico. The CAT Committee expressed concern that "migrants, particularly those in an irregular situation, are especially vulnerable to torture and ill-treatment by public officials."⁶³ These concerns echo earlier findings by the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families,⁶⁴ which highlighted that torture, disappearances, and killings of undocumented migrants were often carried out "with the complicity, consent and/or collusion of federal, state and municipal authorities".⁶⁵

56 *ibid*, para 22.

57 Broecker (n 18) 3.

58 CAT/C/MEX/CO/7 (n 27) para 31(c).

59 Human Rights Watch (n 53) 422.

60 CAT/C/MEX/CO/7 (n 27) para 25(a)-(c).

61 Human Rights Watch (n 53) 423.

62 CAT/C/MEX/CO/7 (n 27) para 19.

63 *ibid*, para 48.

64 UN CMW, *Consideration of reports submitted by States parties under article 74 of the Convention: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families*: Mexico CMW/C/MEX/CO/2 (3 May 2011) para 29 <<https://digitallibrary.un.org/record/704956?ln=en&v>> accessed 11 March 2025.

65 *ibid*, para 29.

Socioeconomic inequalities further compound vulnerabilities. Although Mexico's official poverty rate fell from 41.9 per cent in 2018 to 36.3 per cent in 2022, extreme poverty has remained stubbornly high, and access to health care has deteriorated.⁶⁶ These inequalities create fertile ground for human rights abuses to proliferate, particularly in marginalised communities.

Despite Mexico's formal engagement with the CAT Committee's processes, actual follow-up has been limited and insufficient. In its 2019 concluding observations, the Committee expressed concern that recommendations from previous reviews had not been fully implemented, and that there was only "partial implementation" regarding oversight of security forces.⁶⁷

Based on the aforementioned, it becomes apparent that Mexico's situation starkly illustrates the critical challenges that arise when sophisticated legal reforms are not matched by operational independence, political will, and cultural transformation. As Lesch argues, "normative advances must be matched by sustained political commitment, institutional reform, and accountability mechanisms if international oversight is to be effective."⁶⁸ Despite notable formal strides, the persistence of torture, endemic impunity, militarisation of public security, and systemic human rights abuses demonstrates that Mexico remains far from fulfilling its obligations under the Convention against Torture.

3.3. Zambia

Zambia's engagement with its obligations under the UNCAT highlights the profound challenges faced by States with weak institutions, limited resources, and fragile political environments. Although Zambia ratified UNCAT in 1998, it has yet to enact comprehensive legislation specifically criminalising acts of torture, as mandated by Article 4 of the Convention. Article 4 requires each State Party to ensure that all acts of torture, as well as attempts to commit torture and acts of complicity or participation in torture, are criminalised under the national law and made punishable by penalties that reflect the grave nature of such offences. Despite this clear and binding obligation, Zambia has not fully incorporated these requirements into its domestic legal framework,⁶⁹ reflecting a persistent gap between international commitments and national implementation.

⁶⁶ Human Rights Watch (n 53) 422.

⁶⁷ CAT/C/MEX/CO/7 (n 27) para 7.

⁶⁸ Lesch (n 7).

⁶⁹ Human Rights Commission of Zambia, *A Submission by the Human Rights Commission of Zambia to the Working Group on the Universal Periodic Review (UPR), in Preparation for Zambia's 4th Review*, 2023 (July 2022) 4 <<https://www.ohchr.org/en/hr-bodies/upr/zm-stakeholders-info-s42>> accessed 18 July 2025; Southern Africa Litigation Centre, *Submission on the Review of the Zambia Penal Code and Criminal Procedure Code (SALC 2021)* <<https://www.southernafricalitigationcentre.org/zambia-submission-on-the-review-of-the-penal-code-and-criminal-procedure-code/>> accessed 11 March 2025.

In June 2023, the Human Rights Commission of Zambia publicly urged the government “to enact a law that criminalises torture and other cruel, inhuman and degrading treatment” to effectively combat such crimes and ensure adequate punishment of perpetrators.⁷⁰ In response to this, Mwelwa Muleya, the Commission’s spokesperson stressed that “the enactment of the anti-torture law will not only greatly contribute to the effective protection of suspects from acts of torture from law enforcement agencies but also provide for adequate punishment of perpetrators and compensation of victims of torture.”⁷¹ Muleya further noted that “as a result of lack of an anti-torture law, perpetrators are only charged with offenses relating to assault,” warning that “by using the law relating to assault to punish crimes of torture, Zambia is falling short of meeting her international and national obligation to effectively combat the heinous acts of torture.”⁷²

CAT Committee’s concluding observations, in its 2008, welcomed the enactment of reforms such as the abolition of corporal punishment through the enactment of the Criminal Procedure Code (Amendment) Act No. 9 of 2003, the Penal Code (Amendment) Act No. 10 of 2003, the Education Act (Amendment) Act No. 11 of 2003, and the Prisons (Amendment) Act No. 16 of 2004.⁷³ However, it expressed serious concern that “allegations of the excessive use of force during criminal investigations” persisted and were “inflicted by law enforcement personnel.”⁷⁴ The Committee noted a systemic failure to investigate allegations of torture adequately and highlighted a pervasive culture of impunity among law enforcement officials, which continues to undermine both legal reforms and victims’ rights to redress.⁷⁵

It is worth emphasising that the lack of fundamental legal safeguards for detainees significantly exacerbates the risk of torture and ill-treatment. As the Committee reported, “persons deprived of liberty are often not informed of their rights, do not have prompt access to a lawyer, and do not benefit from prompt medical examinations.”⁷⁶ The Committee also expressed concerns that Zambia’s police relied merely on “judges’ rules,” which are non-binding, rather than enforceable legislation to guide detention and interrogation procedures.⁷⁷

The heavy reliance on confession-based evidence within the criminal justice system, combined with the absence of effective oversight, entrenches the use of torture as a coercive tool to extract confessions, thereby undermining fair trial guarantees and due process. In

70 ‘Human Rights Body in Zambia Calls for Criminalizing Torture’ (*Xinhua News Agency*, 29 June 2023) <<https://english.news.cn/africa/20230629/26a2560237cd47c4b5b026e16c18300b/c.html> > accessed 11 March 2025.

71 *ibid.*

72 *ibid.*

73 CAT/C/ZMB/CO/2 (n 28) para 3.

74 *ibid.*, para 20.

75 *ibid.*, para 10.

76 *ibid.*, para 11.

77 *ibid.*

this respect, the Committee was particularly concerned that “there is no legislation or other measures to ensure that any statement made as a result of torture cannot be invoked as evidence in any proceedings.”⁷⁸ It called on Zambia to adopt the necessary legislative, judicial, and administrative measures to ensure strict compliance with Article 15 of the Convention and to provide information on any cases where evidence obtained under torture had been excluded or used.⁷⁹

The Committee found that Zambia remained “insufficiently resourced and lacking independence,” thereby limiting the country’s capacity to prevent and respond effectively to acts of torture.⁸⁰ Nevertheless, the Committee urged Zambia to strengthen the Commission’s independence, enhance its enforcement powers, and enable it to initiate legal proceedings and ensure that its recommendations are promptly and fully implemented.⁸¹ The Committee also criticised Zambia’s failure to establish a National Preventive Mechanism (NPM) under the Optional Protocol to UNCAT (OPCAT), to which Zambia has not yet acceded. The Committee emphasised that establishing an NPM is critical for “independent, regular inspections of detention facilities” as a means of proactively preventing torture and ill-treatment.⁸²

The culture of impunity for torture and related human rights violations is reinforced by the limited availability of effective redress mechanisms for victims. Although the Constitution of Zambia prohibits torture in Article 15, the absence of dedicated criminalisation means that victims must rely on general assault provisions, which do not capture the gravity of torture as a distinct crime.⁸³ As the Civil Society Organisations (2020) report noted, “Punishment of perpetrators of torture in Zambia remains elusive” due to the lack of specific legislation criminalising torture.⁸⁴ Procedural barriers, fear of reprisals, corruption, and the lack of access to legal aid prevent victims from successfully seeking remedies. As Birk and Monina emphasise, “the right to redress for victims of torture must be effective, accessible, and enforced through practical remedies, not merely theoretical rights.”⁸⁵ Without operational structures to deliver justice and reparations, the mere existence of legal rights provides no practical protection.

Zambia’s experience powerfully illustrates the structural and political obstacles that confront treaty bodies like the CAT Committee when seeking to enforce compliance in States characterised by weak institutions, fragile governance, and limited resources. As Biswa notes, “Where domestic institutions are fragile, the normative power of international

78 *ibid.*, para 14.

79 *ibid.*

80 *ibid.*, para 8.

81 *ibid.*

82 *ibid.*, para 16.

83 Southern Africa Litigation Centre (n 69) 8.

84 Human Rights Commission of Zambia (n 69) 4.

85 Nowak, Birk and Monina (n 3) 509.

human rights treaties is often insufficient to induce real change without significant international and domestic pressure.⁸⁶ The limitations of legal formalism, without genuine political commitment and institutional reinforcement, remain evident.

In conclusion, while the constitutional prohibition of torture in Article 15 and Zambia's accession to UNCAT in 1998 represent important symbolic commitments, the reality is that the lack of a dedicated anti-torture law continues to obstruct accountability, redress, and prevention efforts. The persistence of torture, arbitrary detention, degrading prison conditions, lack of effective accountability mechanisms, and failure to provide redress to victims demonstrates that formal legal commitments must be accompanied by systemic reforms, operational independence of oversight bodies, political will, and empowered civil society engagement. Without these conditions, international human rights obligations under UNCAT risk remaining hollow promises rather than lived realities for victims of torture in Zambia and beyond.

4 DISCUSSION

The findings from New Zealand, Mexico, and Zambia vividly illustrate the complexities and limitations inherent in the international human rights treaty body system, particularly concerning the monitoring and enforcement roles of the Committee against Torture. The divergence in compliance outcomes across these case studies reaffirms McQuigg's assertion that "the impact of the Committee's recommendations is largely determined by the domestic political and institutional environment in which they are received."⁸⁷ Despite sharing a standard set of formal obligations under the Convention against Torture, the three States markedly exhibit different trajectories in translating these obligations into substantive protections for individuals against torture and ill-treatment.

The case of New Zealand offers a compelling illustration of how robust domestic institutions, judicial independence, and an active civil society can foster meaningful compliance with obligations under the UNCAT. As emphasised in the CAT Committee's 2023 concluding observations, New Zealand has developed significant legislative and institutional frameworks, particularly through the Crimes of Torture Act 1989 and the establishment of a comprehensive National Preventive Mechanism (NPM) network under the Optional Protocol to the Convention against Torture.⁸⁸ This experience demonstrates the critical importance of integrating international human rights norms into domestic legal systems in a way that enables systematic oversight, accountability, and public engagement.

86 Astika Biswa, 'International Human Rights Law: Enforcement Mechanisms and Challenges in a Globalized World' (2024) 15(2) International Journal for Research Publication and Seminar 157, doi:10.36676/jrps.v15.i2.20.

87 Ronagh McQuigg, 'How Effective is the United Nations Committee Against Torture?' (2011) 22(3) European Journal of International Law 814, doi:10.1093/ejil/chr048.

88 CAT/C/NZL/CO/7 (n 30) paras 35, 36.

Moreover, broader theoretical debates about the enforcement of international human rights law reveal that treaty bodies alone cannot guarantee compliance. As discussed in *Towards a World Court of Human Rights*, there is an increasing recognition that the fragmentation of international mechanisms and the absence of robust enforcement powers limit the ability of treaty bodies to effect deep, systemic change. New Zealand's experience supports this insight, suggesting that international supervision must be complemented by strong domestic legal cultures, active civil societies, and independent judiciaries to bridge the gap between norm creation and norm implementation.

Importantly, while New Zealand was praised for engaging in serious dialogue with the CAT Committee and for maintaining its reporting obligations, its continued compliance will depend on its ability to address the Committee's concerns regarding systemic inequalities, detention conditions, and counter-terrorism safeguards. Although New Zealand's record illustrates how international norms can be meaningfully incorporated into domestic frameworks, it simultaneously demonstrates that legal compliance must be accompanied by structural reforms to achieve the full realisation of the prohibition against torture. Ultimately, the New Zealand case confirms that treaty body engagement, domestic incorporation, and judicial openness to international law are necessary but not sufficient conditions for the realisation of human rights norms. Thus, New Zealand's experience underlines that the fight against torture must be continually renewed, requiring sustained legal reforms, comprehensive education, institutional accountability, and above all, a political and cultural commitment to the protection of human dignity.

The experience of Mexico vividly illustrates the profound limitations of solely relying on formal legal reforms to achieve substantive compliance with international human rights obligations. Despite adopting the General Law to Prevent, Investigate and Punish Torture (2017)—a landmark piece of legislation praised for criminalising torture and establishing specialised investigative mechanisms—the CAT Committee's concluding observations found that “torture and ill-treatment appear to be generalised practices” across multiple contexts, including criminal investigations, detention, and migration control.⁸⁹ This striking gap between normative frameworks and practical realities reveals the enduring obstacles facing international human rights law in effecting material change without profound domestic transformation.

Treaty bodies, such as the CAT Committee, while powerful in articulating clear normative standards and identifying state failures, lack coercive enforcement powers. The authority of treaty bodies mainly depends on moral persuasion, political pressure, and the willingness of States Parties to engage in good faith with their obligations.⁹⁰ Consequently, substantive compliance is heavily contingent upon internal factors, including genuine political will, operational independence of prosecutorial and judicial institutions, and a vibrant civil society capable of sustaining pressure for reform.

⁸⁹ CAT/C/MEX/CO/7 (n 27) para 10.

⁹⁰ Nowak, Birk and Monina (n 3).

Mexico's case thus exemplifies a broader systemic challenge where international human rights law, despite its powerful normative force, often falls short of achieving its transformative potential without genuine domestic implementation. As the CAT Committee poignantly noted, the persistence of torture and impunity "creates a climate of tolerance for violations" and underscores the urgent need for comprehensive institutional reforms extending beyond mere legislative adoption.⁹¹

Several interrelated factors help explain Mexico's persistent failure to achieve substantive compliance. First, widespread impunity for acts of torture reflects the chronic weakness of investigative and prosecutorial institutions. Although the General Law established specialised anti-torture units, the Committee observed that "political interference, resource shortages, and threats against prosecutors and human rights defenders" severely hampered their effectiveness.⁹² Recent findings reinforce this analysis, showing that "the justice system regularly fails to provide accountability for violent crimes and human rights violations," with only about 1 per cent of crimes effectively resolved. This near-total impunity not only discourages victims from seeking justice but emboldens perpetrators, perpetuating cycles of abuse.⁹³

Systemic corruption within law enforcement agencies continues to sustain environments where torture is normalised. Torture is routinely used to extract confessions, intimidate detainees, or punish political opponents. As the Oxford Commentary emphasises, "Effective prevention of torture requires more than legal prohibitions; it demands comprehensive institutional reforms and deep cultural changes within law enforcement and security sectors."⁹⁴ Human Rights Watch confirms this structural pathology, reporting that nearly "half of detainees reported physical abuse after arrest" and that "38 per cent confessed only after torture or threats."⁹⁵

The militarisation of public security, particularly through the deployment of the National Guard under military control, exacerbates systemic human rights violations. Despite government assurances of civilian oversight, the Committee remains concerned that the presence of armed forces in internal security tasks "increases the risk of human rights violations, including torture."⁹⁶ Human Rights Watch similarly observes that "military and navy forces continue to detain civilians without due process,"⁹⁷ creating an opaque and unaccountable security environment. Moreover, the ongoing reliance on mandatory pretrial detention and the practice of "arraigo" detention systematically undermines fundamental safeguards for detainees, contravening international standards and facilitating conditions

91 CAT/C/MEX/CO/7 (n 27) para 8.

92 *ibid.*

93 Human Rights Watch (n 53) 422.

94 Nowak, Birk and Monina (n 3) 493.

95 Human Rights Watch (n 53) 423.

96 CAT/C/MEX/CO/7 (n 27) para 14.

97 Human Rights Watch (n 53) 423.

where torture and ill-treatment flourish. Despite the Inter-American Court's rulings condemning such practices, Mexico's domestic reforms have yet to fully eliminate these entrenched violations.⁹⁸ Finally, the structural inequalities facing vulnerable groups—including migrants, indigenous communities, and individuals in poverty—further expose the failure of Mexico's legal reforms to secure substantive human rights protection. As the Committee on Migrant Workers noted, abuses against migrants are often committed "with the complicity, consent and/or collusion of federal, state and municipal authorities."⁹⁹

Despite these deeply rooted challenges, Mexico has yet to submit its eighth periodic report to the CAT Committee, despite it being due. While the Committee requested follow-up information within one year after the 2019 concluding observations,¹⁰⁰ Mexico's delayed compliance reflects broader structural weaknesses. The COVID-19 pandemic further contributed to these delays, but ultimately, Mexico's failure to submit a new report has prevented the Committee from conducting a full updated assessment.

The case of Zambia perhaps presents the most profound challenges to UNCAT's effectiveness. Despite ratifying the Convention in 1998, Zambia has not enacted specific legislation criminalising acts of torture. As civil society organisations have highlighted, "punishment of the perpetrators of torture in Zambia remains elusive" because "there is no legislation that criminalises torture."¹⁰¹ Confirming this, the Human Rights Commission (HRC) in 2023 reiterated that "as a result of lack of an anti-torture law, perpetrators are only charged with offences relating to assault," and warned that Zambia is "falling short of meeting her international and national obligation to effectively combat the heinous acts of torture."¹⁰² This legal vacuum has been repeatedly confirmed by the Human Rights Commission of Zambia in 2025.¹⁰³

Unlike Mexico, where at least formal legal compliance has been achieved, Zambia's delayed legislative implementation and weak institutional capacity reflect more profound structural barriers to effective compliance. As Biswa emphasises, "structural weaknesses in national institutions severely hinder the realisation of international human rights obligations."¹⁰⁴ Augustine Sichula elaborates that "without an enabling legislation that defines and prescribes penalties against torture, cruel, inhuman or degrading treatment or punishment, Article 15 of the Constitution and the UNCAT cannot be operationalised and enforced in Zambia."¹⁰⁵ Moreover, Zambia's limited engagement with the CAT Committee further weakens prospects for improvement. The State party was significantly overdue in submitting

98 *ibid.*

99 CMW/C/MEX/CO/2 (n 64) para 29.

100 CAT/C/MEX/CO/7 (n 27) para 64.

101 Human Rights Commission of Zambia (n 69) 2.

102 Human Rights Body in Zambia (n 70).

103 Sichula (29).

104 Biswa (n 86) 157.

105 Sichula (29).

its periodic reports and has provided only partial follow-up to the Committee's recommendations.¹⁰⁶ This pattern of non-engagement underscores Pedone and Kloster's concern that "state resistance and selective cooperation pose significant obstacles to the effectiveness of treaty body monitoring."¹⁰⁷

From a broader perspective, Zambia's experience illustrates the limitations of international oversight mechanisms in contexts characterised by fragile governance, limited resources, and political instability. As Birk and Monina note, "the impact of treaty body recommendations is heavily mediated by the domestic political environment, including the availability of political will, administrative capacity, and civil society support."¹⁰⁸

In summary, the three case studies analysed reveal that the CAT Committee's influence is not uniform but varies significantly depending on the domestic context. New Zealand's example highlights the conditions under which treaty body engagement can lead to substantial human rights improvements. Mexico's experience illustrates the paradox of formal compliance without substantive change, while Zambia's case demonstrates the profound challenges faced by treaty bodies in engaging with fragile or resistant states.

Beyond the case-specific findings, broader reflections emerge regarding the strengths and limitations of the CAT Committee as an enforcement mechanism under international human rights law. These reflections highlight both the achievements and persistent challenges of the treaty body system as it seeks to fulfil its mandate in an increasingly complex global legal environment.

One of the CAT Committee's principal strengths lies in its role as a norm developer. Through its general comments, concluding observations, and individual communications, the Committee has significantly clarified and expanded the understanding of states' obligations under the Convention. As the Oxford Commentary emphasises, "General Comments and individual case law have contributed to the dynamic development of the prohibition of torture, ensuring its adaptability to emerging challenges such as migration detention, counter-terrorism measures, and psychiatric care."¹⁰⁹ In particular, the Committee's interpretation of non-refoulement under Article 3 has broadened the protective scope of the Convention, ensuring that individuals are protected not only from direct acts of torture but also from other forms of cruel, inhuman, or degrading treatment.¹¹⁰

Moreover, the Committee's engagement with civil society organisations and national human rights institutions has strengthened its information base and enhanced the transparency and legitimacy of its proceedings. As highlighted in the CAT Committee's 2023 Report,

106 CAT/C/ZMB/CO/2 (n 28) para 3.

107 Joanne Pedone and Andrew R Kloster, 'New Proposals for Human Rights Treaty Body Reform' (2013) 22 *Journal of Transnational Law & Policy* 31, doi:10.2139/ssrn.1885758.

108 Nowak, Birk and Monina (n 3) 482.

109 *ibid* 492.

110 *ibid* 498.

“NGO participation remains indispensable for providing independent, credible information that enhances the Committee’s assessments.”¹¹¹ Shadow reports submitted by civil society actors have been especially valuable in uncovering violations that might otherwise remain hidden, particularly in countries with restricted press freedom or state-controlled information environments. This process reflects a broader trend in which civil society “shadow reports” aim to “give voice to facts and views that may not be reflected in the governments’ reports.”

Since approximately 2007 (2009 for the CRC), such reports have been reliably published on the OHCHR’s website, contributing to what Creamer and Simmons describe as an “intensification of public—and increasingly domestic—scrutiny of states’ reports.”¹¹² Beyond their informational value, these reports have proven instrumental in bridging international and domestic legal accountability. As the authors further note, “not only are reporting and adjudication consistent, there is substantial evidence of mutuality between these systems,” with courts increasingly citing “state reports, shadow reports, or committee recommendations,” thereby affirming their “usefulness in domestic law enforcement.”¹¹³

Nevertheless, the CAT Committee’s work remains constrained by the non-binding nature of its findings and recommendations. Unlike regional human rights courts such as the European Court of Human Rights or the Inter-American Court of Human Rights, the CAT Committee lacks the authority to issue legally binding judgments. As Niemi and Scheinin observe, “treaty bodies must rely primarily on persuasion, moral authority, and diplomatic pressure, rather than judicial coercion, to achieve compliance.” This structural limitation becomes particularly problematic when engaging with states characterised by weak political will, authoritarian tendencies, or chronic governance challenges, as seen in the cases of Zambia and, increasingly, Mexico.

The tension between the Committee’s normative aspirations and its limited enforcement capacity reflects broader challenges within international human rights law. As Biswa aptly notes, “the efficacy of human rights treaty bodies depends not only on the strength of international norms but also on the robustness of domestic enforcement structures and the political incentives facing states.”¹¹⁴ Where domestic institutions are strong and civil society is active, CAT’s recommendations can catalyse meaningful reforms. Conversely, where domestic systems are weak or resistant, international oversight often struggles to achieve more than a symbolic impact.

This dynamic is starkly illustrated in Mexico, where torture persists despite formal compliance with international obligations. A 2021 national survey of incarcerated

111 CAT/C/NZL/CO/7 (n 30) para 3.

112 Cosette D Creamer and Beth A Simmons, ‘The Proof is in the Process: Self-Reporting under International Human Rights Treaties’ (2020) 114(1) *American Journal of International Law* 41, doi:10.1017/ajil.2019.70.

113 *ibid* 45.

114 Biswa (n 86) 158.

individuals found that nearly half reported physical abuse by police or soldiers after detention, and 38 per cent confessed only after being beaten or threatened. In 2022, 6,226 criminal complaints related to torture or other ill-treatment were filed, yet only 82 resulted in criminal charges and just 10 concluded with a verdict—highlighting a pervasive culture of impunity and the failure to translate legal norms into effective protection.¹¹⁵

A similarly troubling pattern of widespread abuse and non-enforcement persists in Zambia, where credible reports confirm that torture by law enforcement remains prevalent, including in official detention facilities, with no officers charged or prosecuted for such violations as of December 2023, despite multiple investigations.¹¹⁶

Furthermore, the evolving debate over State immunity and *jus cogens* norms has significant implications for the anti-torture regime. Torture, recognised as a violation of a peremptory norm of international law, challenges traditional doctrines of sovereign immunity. In this context, Knuchel argues that “serious violations of *jus cogens* norms, such as torture, call into question the continued application of absolute sovereign immunity.”¹¹⁷ While the CAT Committee itself does not directly adjudicate immunity claims, its consistent emphasis on the non-derogable nature of the prohibition of torture reinforces the broader trend toward limiting immunity defences in cases involving gross human rights violations.

This persistent non-compliance has prevented the CAT Committee from conducting a new full review or issuing updated recommendations. Thus, Zambia’s experience powerfully illustrates the limitations of the treaty body system in contexts of fragile governance. The absence of an effective anti-torture law, combined with the persistence of torture, degrading detention conditions, impunity, and lack of effective redress, demonstrates that genuine compliance demands far more than formal ratification. Without systemic reforms, operational independence of oversight bodies, political will, and empowered civil society engagement, international human rights obligations under UNCAT risk remaining hollow promises rather than lived realities.

In light of these challenges, scholars have proposed various reforms to strengthen the treaty body system. Some proposals, such as those discussed by Lhotsky, advocate for the creation of a Unified Treaty Body System (UTBS) that would consolidate the multiple committees into a single entity with specialised chambers.¹¹⁸ Others, like Scheinin, propose the

115 Human Rights Watch, ‘Mexico’ in *World Report 2025: Events of 2024* (Human Rights Watch 2025) 308 <<https://www.hrw.org/world-report/2025/country-chapters/mexico>> accessed 18 July 2025.

116 Bureau of Democracy, Human Rights, and Labor, ‘2023 Country Reports on Human Rights Practices: Zambia’ (*US Department of State*, 22 April 2024) 3-4 <<https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/zambia/>> accessed 19 July 2025.

117 Sévrine Knuchel, ‘State Immunity and the Promise of *Jus Cogens*’ (2011) 9(2) *Northwestern Journal of International Human Rights* 150.

118 Jan Lhotský, ‘Human Rights Treaty Body Review 2020: Towards an Integrated Treaty Body System’ (Theses, Geneva Academy of International Humanitarian Law and Human Rights 2020) 53, doi:10.2139/ssrn.4938284.

establishment of a World Court of Human Rights empowered to issue binding judgments on grave human rights violations, including torture.¹¹⁹ These ambitious proposals aim to enhance coherence, efficiency, and enforceability across the human rights system.

While such structural reforms face significant political hurdles, more practical and incremental measures could also enhance the CAT Committee's effectiveness. These include:

- Strengthening follow-up procedures to ensure systematic monitoring of state implementation;
- Enhancing protection measures for individuals and organisations cooperating with the Committee;
- Improving coordination between treaty bodies, regional human rights mechanisms, and domestic actors;
- Increasing resources and staffing to address backlog issues and improve the timeliness of reviews.¹²⁰

In addition, building stronger partnerships with national actors—including NHRIs, Ombudsperson institutions, and civil society networks—can help ensure that CAT's recommendations are not merely received but actively implemented at the local level.

Finally, the findings of this study confirm that while the CAT Committee plays a crucial role in articulating, promoting, and monitoring the prohibition of torture, its impact remains heavily dependent on broader domestic political, legal, and institutional dynamics. Bridging this gap requires not only stronger international mechanisms but also deeper domestic commitment to human rights principles.

The comparative analysis of New Zealand, Mexico, and Zambia underscores that there is no "one-size-fits-all" approach to achieving compliance. Effective implementation depends on a constellation of factors, including political will, judicial independence, resource availability, civil society engagement, and international support. Treaty bodies such as the CAT Committee can facilitate progress by setting standards, providing guidance, and maintaining international attention, but they cannot substitute for the hard work of domestic reform.

United Nations human rights treaties rely heavily on periodic state reporting and the issuance of non-binding recommendations by treaty bodies, a structure that inherently permits prolonged non-compliance. This structural weakness undermines the universal human rights regime and contrasts sharply with the stronger enforcement mechanisms present in regional systems such as the European Court of Human Rights.¹²¹

119 Niemi and Scheinin (n 21) 12.

120 CAT/C/NZL/CO/7 (n 30) para 5.

121 Niemi and Scheinin (n 21) 8.

5 CONCLUSIONS

The prohibition of torture, universally recognised as a *jus cogens* norm, imposes non-derogable obligations on all States regardless of their legal, political, or economic systems. Despite this elevated legal status, the global eradication of torture remains unfulfilled. This study's comparative analysis reveals a persistent gap between formal adherence to the Convention against Torture and the substantive realisation of its protective standards. While the establishment of the CAT Committee marks a significant institutional advance in international law, its capacity to promote compliance is shaped by a range of domestic political and legal factors.

The divergent experiences of New Zealand, Mexico, and Zambia underscore the extent to which the CAT Committee's influence is mediated by national context. In jurisdictions with independent institutions, responsive judiciaries, and active civil societies, treaty body engagement is more likely to result in meaningful implementation. In contrast, where political will is lacking and enforcement mechanisms are underdeveloped, the Committee's recommendations often fail to be implemented in practice. These findings affirm that norm development, though essential, is not self-executing; its impact depends on the willingness and ability of domestic actors to internalise and enforce international commitments.

The Convention requires more than legislative prohibition of torture—it demands comprehensive procedural safeguards, including the exclusion of coerced evidence, judicial oversight, prompt legal representation, and independent medical evaluation. The failure to implement these guarantees undermines the Convention's efficacy and perpetuates cycles of impunity. The continued reliance on confession-based convictions and the ineffective operationalisation of anti-torture statutes illustrate how legal form can mask substantive gaps in protection.

As both a norm-setting and compliance-monitoring body, the CAT Committee has contributed to the evolution of anti-torture jurisprudence. Through its general comments, concluding observations, and individual communications, it has refined the substantive content of state obligations. However, its institutional structure—reliant on voluntary cooperation and non-binding outputs—limits its enforcement capacity. These challenges are amplified in States that deprioritise treaty obligations, delay reporting, or under-resource follow-up mechanisms.

The Committee's limitations reflect broader tensions within the fragmented international human rights system. Reforms aimed at procedural harmonisation, improved inter-treaty coordination, and the potential creation of a unified adjudicatory mechanism have gained traction. Yet, no international body can substitute for robust domestic accountability. Full implementation of anti-torture norms ultimately requires national legislation, independent oversight institutions, and the sustained engagement of public actors.

Looking forward, further research should explore the effectiveness of treaty bodies in authoritarian and hybrid regimes, where centralised power and limited legal pluralism pose distinct barriers to implementation. Greater attention is also needed on the interplay between international treaty bodies and regional human rights courts—whether they act synergistically or contribute to institutional fragmentation. Additionally, as global actors increasingly include non-state entities, such as private military contractors or de facto authorities, the CAT Committee's role in addressing violations by these actors deserves a deeper inquiry. As international accountability evolves, so too must the legal tools and institutions tasked with confronting torture in all its contemporary forms.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ОЦІНКА ЕФЕКТИВНОСТІ ДІЯЛЬНОСТІ КОМІТЕТУ ПРОТИ КАТУВАНЬ (КПК)
У ЗАБЕЗПЕЧЕННІ ДОТРИМАННЯ ДЕРЖАВАМИ СВОЇХ ЗОБОВ'ЯЗАНЬ:
ТЕМАТИЧНЕ ДОСЛІДЖЕННЯ ВИПАДКІВ У НОВІЙ ЗЕЛАНДІЇ, ЗАМБІЇ ТА МЕКСИЦІ

Зейад Джаффал, Майя Хатер*, Зіад Аль-Енізі та Раван Алузі

АНОТАЦІЯ

Вступ. У цьому дослідженні було проаналізовано ефективність Комітету проти катувань (КПК) у забезпеченні дотримання державами Конвенції проти катувань та інших жорстоких, нелюдських або таких, що принижують гідність, видів поводження і покарання (Конвенція). Хоча заборона катувань є нормою *jus cogens* у міжнародному праві,

катування продовжують існувати в усьому світі, що свідчить про серйозний розрив між офіційною ратифікацією державами Конвенції та практичною реалізацією їхніх зобов'язань. Хоча КПК забезпечує комплексну систему моніторингу – через періодичну звітність, індивідуальні скарги та загальні коментарі – він не має обов'язкових повноважень щодо забезпечення виконання, тож виникає питання щодо його практичного впливу у різних правових і політичних умовах.

Методи. Використовуючи якісний та порівняльно-правовий підхід, це дослідження оцінює ступінь впливу КПК на дотримання Конвенції на національному рівні у трьох державах – Новій Зеландії, Мексиці та Замбії, що були обрані за різноманітність їхніх правових систем, географічне розташування та різні траєкторії дотримання Конвенції. Аналіз ґрунтується на заключних зауваженнях КПК, звітах держав, національному законодавстві, альтернативних звітах громадянського суспільства та документації третіх сторін. Кожна країна оцінюється як за формальним дотриманням (ратифікація, законодавче впровадження, звітування), так і за суттєвим дотриманням (розслідування, підзвітність та механізми відшкодування). Структурована модель порівняння забезпечує узгодженість у різних випадках.

Результати та висновки. Результати дослідження виявляють великі відмінності. Нова Зеландія демонструє високий рівень формальної відповідності, маючи детальне законодавство та конструктивну взаємодію з КПК. Однак залишаються прогалини щодо прав корінних народів, гарантій утримання під вартою та процедурних захисних заходів. Мексика, незважаючи на прийняття у 2017 році Загального закону про тортури, продовжує стикатися з системними проблемами, зокрема це поширені тортури, безкарність та мілітаризовані сили безпеки. Замбія, яка має найгірші показники, не має конкретного законодавства проти тортур та інституційних рамок, що призводить до мінімального виконання. У всіх випадках вплив КПК значною мірою залежить від внутрішньополітичної волі, інституційної незалежності та участі громадянського суспільства. У дослідженні було зроблено висновок, що, хоча КПК відіграє важливу нормативну та консультативну роль, на практиці його вплив залишається обмеженим через необов'язковий характер. Зміцнення механізмів подальшого контролю КПК, посилення регіональної співпраці та інтеграція рекомендацій у національні правові та політичні програми є необхідними для подолання розриву між формальною ратифікацією та фактичним запобіганням катуванням.

Ключові слова. Комітет проти катувань, міжнародне право у сфері прав людини, міжнародні організації, заборона катувань, Конвенція ООН проти катувань, дотримання Конвенції державами.

ABSTRACT IN ARABIC

مقال بحثي

تقييم فعالية لجنة مناهضة التعذيب (CAT) في تقيق امتثال الدول دراسة الحالة في نيوزيلندا، وزامبيا، والمكسيك

زياد جفال، مايا خاطر*، زياد منهل العنزي، وروان اللوزي

المخلص

الخلفية: يُعد حظر التعذيب قاعدة أمرة في القانون الدولي، وقد تم تكريسه في العديد من الصكوك القانونية. ومع ذلك، لا تزال ممارسة التعذيب قائمة في أنظمة ومناطق مختلفة، مما يسلط الضوء على الفجوة بين الالتزامات القانونية والتطبيق العملي. تهدف هذه الدراسة إلى تقييم فعالية لجنة مناهضة التعذيب في تعزيز امتثال الدول الأطراف لاتفاقية مناهضة التعذيب، من خلال اعتماد منهج تحليلي مقارنة لثلاث حالات في كل من نيوزيلندا، والمكسيك، وزامبيا.

المنهجية: تعتمد الدراسة على تحليل مستندات رسمية، وتقارير وطنية، وملاحظات اللجنة وتعليقاتها العامة، بالإضافة إلى تقارير صادرة عن منظمات غير حكومية ومصادر قانونية محلية. تكشف النتائج عن تباينات كبيرة في مستوى الامتثال. فرغم التقدم التشريعي الذي أحرزته نيوزيلندا، إلا أنها لا تزال تواجه تحديات في حماية الفئات الضعيفة. أما المكسيك، فلا تزال تعاني من فجوة بين الإصلاحات القانونية واستمرار ممارسات التعذيب الفعلية، في حين تُظهر زامبيا فشلاً هيكلياً في تنفيذ التزاماتها الدولية.

النتائج والاستنتاجات: توصلت الدراسة إلى أن فعالية اللجنة تعتمد على عدة عوامل، من بينها الإرادة السياسية، واستقلال المؤسسات الوطنية، ومشاركة المجتمع المدني. وتوصي الدراسة بتعزيز آليات المتابعة والتعاون الدولي لضمان التطبيق الفعال للاتفاقية، مع التأكيد على أن الامتثال الشكلي وحده لا يكفي لضمان احترام كرامة الإنسان.

الكلمات المفتاحية: لجنة مناهضة التعذيب؛ القانون الدولي لحقوق الإنسان؛ المنظمات الدولية؛ حظر التعذيب؛ اتفاقية الأمم المتحدة

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