



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

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Summary record of the first part (public)* of the 1069th meeting

Held at the Palais Wilson, Geneva, on Monday, 14 May 2012, at 3 p.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1069/Add.1.

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The meeting was called to order at 3.05 p.m.

Organizational and other matters

Meeting with States parties to the Convention against Torture

1. **The Chairperson** welcomed the representatives of the States parties to the Convention against Torture, particularly two new members of the Committee, Mr. Tugushi and Mr. Domah, who would surely bring their valuable and proven experience of issues relating to torture. At the current session the Committee planned to adopt its general comment on article 14. He thanked all the States parties which had sent him their comments and suggestions.
2. As part of the new optional procedure for consideration of reports, for the period from 2013 to 2016, the Committee would send each State wishing to use the new method a list of issues prior to submission of party reports. Lists had thus far been sent to 87 States parties, and 75 per cent of them had accepted the list proposed. Reports had already been submitted by 18 States, and only 3 had preferred to defer the optional procedure. In other words, the vast majority of States parties had opted for the new method and the Committee was constantly fine-tuning it on the basis of all the suggestions and comments it had received.
3. The additional week of meetings granted by the General Assembly for 2011 and 2012 had facilitated consideration of more reports and communications from individuals at each session. The backlog of reports due for consideration had been minimized, while there had been no increase in the number of pending communications. On average, the Committee had adopted some 10 lists of issues per session. In 2012 it would again ask the General Assembly to extend the length of its sessions.
4. The follow-up activities under articles 19 and 22 were still under way. The Rapporteurs would present a report on the subject at a public meeting and, once approved, it would be included in the Committee's annual report to the General Assembly.
5. Committee members had attended meetings on the treaty body strengthening process, a matter of great importance to the Committee, as it was to all treaty bodies.
6. **Mr. Bougacha** (Tunisia) asked for the Committee's initial assessment of the value of the optional procedure.
7. **The Chairperson** said that the list of issues to States parties prior to the submission of the reports would ensure that the dialogue with the States parties would be more focused, in full prior knowledge of the Convention-related problems and issues the Committee deemed important. The list of issues was no straightjacket: it was established on the basis of the previous reports of the State party, which was free to address any additional issues. Since the procedure was optional, States parties were not denied the opportunity to submit further information to the Committee. The new procedure also reflected financial considerations: the three documents required under the conventional system — the State party's report, a follow-up response to the list of issues followed by the State's replies to the list of issues — were very costly, especially for translation services. Under the optional procedure, there was only one list of issues and the State party's replies, with the attendant cost reduction. But the optional procedure was limiting in one way: reports needed to be considered in short order so as not to become obsolete. It was up to the Committee to adapt to that system and it was doing its utmost in that regard.
8. **Mr. Zeran** (Chile) said that the Committee was a mechanism of the multilateral protection system which made a crucial contribution to the progressive development of international human rights law, including through its general comments and case law. Acknowledged improvements were the definition of torture and other cruel, inhuman or

degrading treatment, and the comments on the principle and scope of article 2 of the Convention. By making recommendations to States parties the Committee helped them improve their compliance with international standards relating to torture and bring their public policies and legislation into line with the Convention. The Committee's clarification of some of the Convention's provisions was vital to ensuring full compliance. The general comment on article 14 of the Convention was a tangible example of how the Committee could help States fulfil their responsibilities. Regarding the obligation to compensate torture victims, provided for under article 14, he wondered whether such compensation had to be financial or whether it included other forms of compensation such as symbolic reparations, verification of the truth, justice, and the guarantee of non-repetition. He also wished to be informed of progress on the general comment.

9. The Committee against Torture played a crucial role in current thinking on the strengthening of the treaty body system, while use of the list of issues prior to submission was an important step towards harmonizing procedures for the consideration of periodic reports. The lists made for better interaction between the States and the Committee, and the other treaty bodies also stood to benefit from them.

10. **Mr. Last** (United Kingdom) said that his delegation appreciated the Committee's commitment to make the most effective use of its resources, which was a major concern. The United Kingdom had still not used the optional procedure because its report had already been at an advanced stage when the procedure was first proposed; but it did plan to make use of it in the future, for submitting reports both to the Committee against Torture and other treaty bodies. The United Kingdom would therefore be very interested in the Committee's assessment of the procedure.

11. His Government proposed a comprehensive in-depth review of the usefulness of the list of issues so far, so as to fine-tune it before it was extended to other treaty bodies. The Committee played a vital part in the process and he hoped that it would be rigorous in its analysis of the optional procedure to ensure that it fulfilled its twofold aim of promoting a fruitful and more focused dialogue and lightening the burden of report preparation and consideration for the countries and the entire treaty body system alike.

12. He wondered whether the Committee had already considered the proposal of the Office of the United Nations High Commissioner for Human Rights to draw up a general timetable, and would like Committee members' views on the matter. Although his delegation was interested in the idea, it feared that it might lead to a greater number of reports; a heavier burden for States parties; and the need for more resources to service the system as a whole.

13. **Mr. Townley** (United States of America) said that his delegation was grateful to the Committee for its efforts to help States parties meet their reporting obligations under the Convention. He hoped that the lists of issues would help them in that endeavour and obviate the need to seek further information from them before their reports were considered. He wished to know how the optional procedure had altered the format of the dialogues with States parties and whether it might be suitable for videoconferencing. Lastly, it would be interesting to learn whether a country's choice of the list of issues option might influence the phrasing of the concluding observations, and what the Committee could do to formulate more focused conclusions and recommendations so as to further boost the effectiveness of the overall process.

14. With regard to the harmonization of working methods, the United States had just prepared its first common core document and hoped that it expedite preparation of its reports. He would like to hear Committee members' opinions on the usefulness of a core document, and more about the Committee's action to strengthen the treaty body system. In

the current context of budgetary constraints, it was important for the Committee to assign priority to the consideration of periodic reports.

15. **Mr. Rodrigues Da Silva** (Portugal) said that his delegation fully supported the Committee in its work, and considered it one of the most important and useful treaty bodies in the system. A list of issues prior to submission of reports was a step in the right direction and it would make the Committee more efficient and contribute to achieve its goals.

16. **Ms. Lykke** (Denmark), expressing her delegation's appreciation of the important work the Committee performed despite its limited resources, asked how far the longer sought-after extension of sessions fitted in with current efforts to strengthen the treaty body system. Also, what did the Committee think of the proposal to draw up a general timetable?

17. Her delegation also welcomed the progress made in the drafting of the general comment on article 14 and wished to know whether the Committee planned to draft a new general comment and, if so, on which subject.

18. **The Chairperson**, referring to progress with the general comment on article 14, explained that after receiving input from about 30 stakeholders, the Committee had identified the problems and drafted a text, which it needed to examine. The drafting of a new general comment represented more work for the Committee but would not distract it from its other tasks. General comments helped States parties to fulfil their obligations and made the Convention more effective. Reaching consensus on the interpretation of a conventional obligation facilitated compliance and saved time. In addition, the legitimacy of a body like the Committee depended on factors such as the diversity of its membership and the weight of its general comments and decisions. General comments also boosted its legitimacy by publicizing the relevant jurisprudence.

19. Although the Committee had still not considered the issue of drawing up a master calendar, he could see its value, in particular with regard to reporting obligations. A mere 14 per cent of States parties submitted their reports to treaty bodies on time. Legitimacy was also a matter of meeting deadlines and obligations. The general timetable would have repercussions on time and resources, which the Committee should discuss. It would also be useful to hear counterproposals for measures to guarantee States parties' compliance with the reporting obligations they had undertaken.

20. With regard to the list of issues prior to reporting, even if, since adoption of the procedure, discussion now centred more on the questions, there was still room for the Committee to make the questions asked in advance even more focused. The aim was by no means to straightjacket the State party nor to establish case law based merely on notions, which could lead the Committee to lose sight of its principal aim, which was the fight against torture. Also, the prior to reporting lists of issues remained perfectible, and the Committee could always get the aim right during its consideration of State party reports.

21. Regarding videoconferencing, it was particularly important the Committee's meetings should be public, but those meetings should be announced in advance so that all and sundry could be aware of them. The media must also be used for wide dissemination of information on the Committee's activities. A solution clearly needed to be found to the resources problem. For example, in the inter-American system, all hearings were webcast and there was nothing to stop the United Nations treaty body system doing the same. Those against the webcasts should justify their position. If the Committee's meetings were public, they should be so to the letter.

22. The harmonization of the Committee's working methods was a relevant issue. In that regard, the common core document helped to avoid repetition and duplication and was a useful tool for all the treaty bodies.

23. General comments had a key function of establishing rules on issues not covered under the Convention. One example, in the context of article 22, was the burden, standard and type of proof. Rules were important for the sake of consistency and transparency.

24. **Mr. Bruni** pointed out that the proportion of State party reports submitted to the treaty bodies on time was some 14 per cent, while for the universal periodic review it was 93 per cent. The difference was mainly due to the fact that the universal periodic review procedure included a timetable which made it easier for States to plan what they needed to do to meet their reporting obligations. Adoption of a master calendar would solve the current situation whereby some States more or less respected the deadlines, while others had never submitted a single report on time in 20 years, sometimes more. The calendar would consist of two parts: a short-term timetable drawn up every two years which would establish a schedule for the consideration of reports and of communications based on the reports previously submitted and on those that were late, and a longer-term timetable which would give an overview of States' reporting obligations. As with the system established for the universal periodic review, the master calendar would perhaps not be applied automatically, but would enable States to organize themselves. The "additional" week which the Committee was asking to maintain would then be used to absorb the backlog.

25. **Mr. Mariño Menéndez** said it was startling that, apart from Chile and Tunisia, not a single non-Western delegation had taken the floor, whereas the Convention against Torture was a universal instrument intended for the entire international community, and all members should be interested in its review.

26. Despite its small size, its limited resources, and the difficulties it faced in its work, the Committee's contribution to combating torture was considerable, perhaps more so on a global scale than at the European or American level where effective mechanisms were already in place. Its efforts justified the need for relevant international standards.

27. Concerning the strengthening of the treaty bodies, communications played a valuable role and deserved greater attention. The Committee had taken important decisions on States parties' compliance with their obligations to combat torture, particularly on the principle of non-refoulement and the strengthening of universal jurisdiction. An example was the Committee's role in the *Hissène Habré* case which pitted Belgium against Senegal in an individual complaint on which the Committee had decided that extradition would constitute a violation of the Convention, since the only evidence submitted had been confessions obtained under torture. Nevertheless, it was the States parties that were pivotal to the system, it being in the countries themselves that measures were taken to strengthen human rights and prevent torture. Each State party should therefore have a domestic body with links to the Committee to ensure that its decisions were enforced, prepare and circulate reports, and monitor follow-up.

28. **Mr. Domah** welcomed the presence of a large number of States parties. In his view, the low reporting rate could not be attributed solely to States parties, and the causes, which were complex, should be examined together. Recalling his personal experience as a member of his country's delegation to the Human Rights Committee, he observed that when a State party was required to reply to 100 or so questions, the relevant officials generally put it off. It was therefore important for States parties to alert the Committee to any practical difficulties they encountered and say how the Committee could help them achieve their aims. Specific information would be far more useful than a statistical analysis.

29. **Mr. Wang Xuexian** said that the Committee was trying to reduce its costs as much as possible, for example, by buying the cheapest air tickets, but that some expenditures were unavoidable. If four-week sessions were not maintained, the Committee would be unable to fulfil its mandate. He also invited States parties to share their observations on the list of issues to be distributed prior to submission. The Committee could draw on the

experience of those States parties that had already opted for the procedure. The Committee should draw up more focused lists of issues, and States parties should prepare more concise reports, in the interest of more effective dialogue.

30. **Ms. Gaer** stressed the importance of the Committee's awareness of States parties' views on its working methods. The United Nations High Commissioner for Human Rights stood out from her predecessors by concentrating not only on making the treaty bodies more efficient and effective, but also on strengthening them. The common aim of the Committee and the States parties was to boost the number of ratifications and reports submitted and improve results, thereby strengthening observance of the Convention, which was why the Committee was requesting maintenance of four-week sessions. Its aim was not legislative reform, but to promote enforcement of the law. To do so, the Committee needed to have information and evaluations at its disposal, in particular qualitative evaluations, and to work efficiently. As the Chairperson had said, it took more time to prepare clear, concise documents than to draft a longer one. For that reason, the Committee needed more time in which to work.

31. The entire reform process hinged not only on the idea that any change would result in improved implementation of the Convention, greater protection and a higher level of supervision, but also on the transparent and participatory conduct of the process. It was no easy task.

32. **The Chairperson** explained that the Committee was not requesting an additional week of meetings, but simply wished to keep the current four-week format. At the same time, he agreed on the need for a holistic approach to resources for the entire treaty body system.

33. The Committee was still awaiting 30 overdue initial reports. However, it was encouraging that over 90 per cent of the Committee's article 22 decisions had been implemented, as had nearly all its decisions relating to alleged violations of article 3, flattering figures for States parties that had agreed to make the declaration provided for under article 22; 62 States parties had still not made that declaration.

34. **The Chairperson**, thanking the States parties for their participation in the exchange of views, expressed the hope that the fruitful dialogue would continue.

The first part (public) of the meeting rose at 4.15 p.m.