



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Fifth session

Summary record (partial)* of the 66th meeting**

Held at the Palais des Nations, Geneva, on Thursday, 7 November 2013, at 3 p.m.

Chairperson: Mr. Decaux

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* No summary record was prepared for the rest of the meeting.

** No summary record was issued for the 65th meeting.

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

Meeting with Member States of the United Nations

1. **The Chairperson**, welcoming the representatives of Member States of the United Nations, said that he had recently presented the Committee's second annual report to the Third Committee of the General Assembly in New York. The fact that half of the Committee's members had been re-elected at the recent election meant that the Committee would enjoy continuity. The election of Mr. Corcuera Cabezut, formerly of the Working Group on Enforced or Involuntary Disappearances, to the Committee was most welcome from the perspective of institutional memory. Mr. Garcé García y Santos would replace Mr. Hazan as Rapporteur.
2. The Committee had reached cruising speed and was functioning normally. It had commenced work on the substance of its mandate, namely, dealing with State party reports, and had dealt with Uruguay and France during the previous session. It had engaged in dialogue with Argentina and Spain at the current session, and would also be adopting lists of issues for Germany and the Netherlands and establishing country task forces and rapporteurs to work on lists of issues for Armenia, Belgium and Paraguay.
3. There were now 40 States parties, covering a broad range of geographical areas; it was hoped that the remaining signatories would ratify the Convention. The Convention was universal in scope and the Committee's priority was to achieve universality. The annual resolution on the Convention in New York attracted substantial sponsorship each year.
4. The Committee worked closely with the Working Group on Enforced or Involuntary Disappearances, with which it regularly met, exchanged working methods and maintained contact. The two groups typically adopted common positions. They worked in a coordinated and complementary manner and shared a common legacy.
5. Under the Convention, the Committee was required to ensure that its recommendations and observations were consistent with those of other treaty bodies, in particular the Human Rights Committee, with which it held regular meetings; moreover, it had been in contact with the Committee against Torture and the Committee on the Elimination of Discrimination against Women and took every opportunity to increase bilateral contact with other treaty bodies.
6. The annual meeting of chairpersons of human rights treaty bodies had become increasingly important for the treaty body system in recent years. The chairpersons had adopted the Guidelines on the independence and impartiality of members of the human rights treaty bodies in Addis Ababa, which the Committee sought to observe. The chairpersons had agreed that pride of place should be given to human rights on the post-2015 development agenda, and much was hoped for from the co-facilitators appointed pursuant to General Assembly resolution 66/254 on strengthening and enhancing the effective functioning of the human rights treaty body system. Their mandate to prepare a consensus resolution had been extended for six months. The reforms would have a significant impact on the Committee's work: it needed more resources and a stronger secretariat in order to function more effectively.
7. He urged States that had not yet ratified the Convention to do so, particularly in view of the importance of the declaration under article 31. He reminded States parties of the requirement under article 29 to submit a report within two years after the Convention's entry into force; that requirement was all the more important as the reporting system was not cyclical but involved taking stock of the laws in place. Lastly, Committee members were ready to help States parties raise awareness of the Convention among civil society actors and non-governmental organizations.

8. **Mr. Canchola Gutiérrez** (Mexico) said that his country had taken note of the priorities established by the Committee. Mexico recognized the importance of submitting timely reports; it had drafted its report with input from the federal and national authorities and local police forces, and hoped to present it in 2013. At the same time, it was considering the declaration under article 31. In addition, it hoped to schedule an official visit by the Committee in the second half of 2014. Mexico had reviewed its legal framework with a view to bringing it into line with international standards and, specifically, had established enforced disappearance as an offence under the Criminal Code and had taken steps to promote its criminalization in the various states. In addition, it had established a specialized unit to identify cases of enforced disappearance and to locate missing persons, and to ensure that cases were duly investigated. In that connection, his country had signed a cooperation agreement with the International Committee of the Red Cross (ICRC) in February 2013 to safeguard the integrity of persons involved in such cases and to ensure access to justice and it had set up a working group on enforced disappearance.
9. **Ms. Pi Cedrés** (Uruguay) said that her country's work with the Committee had been a challenging but highly positive experience. Uruguay had worked hard to ensure that the Committee's recommendations were implemented nationwide, by all stakeholders. The fact that the Committee had not only made recommendations but had also worked with the Uruguayan delegation to come up with a road map for dialogue had been most useful. On the basis of its experience, Uruguay would urge other countries to ratify the Convention and recognize the competence of the Committee. The universal periodic review mechanism could be used to help other States take advantage of the Committee's work.
10. Lastly, she thanked the Committee for its efforts to ensure that human rights were clearly reflected in the post-2015 development agenda.
11. **The Chairperson** said that the Committee was most appreciative of the fact that Uruguay had been among the first States parties to submit a report and that it had done so in timely fashion.
12. **Ms. Zolotova** (Russian Federation) said that her country was still considering accession to the Convention and was following the Committee's work closely in order to ascertain the benefits of accession, since its mandate duplicated that of the Working Group on Enforced or Involuntary Disappearances. She asked the Committee to clarify the division of labour between the two bodies. How did the Committee preserve the confidentiality of the Working Group's mandate in interactions with States non-parties to the Convention?
13. With regard to the treaty body strengthening process, she noted that, although there was not yet a backlog in the work of the Committee, it considered fewer reports than the number considered by other Committees within comparable time limits. What did the Committee expect from the reform process and what could it do to improve its own procedures?
14. **The Chairperson** said that, broadly speaking, the Committee was responsible for dealing with States parties while the Working Group on Enforced or Involuntary Disappearances was responsible for everything else. Given that the Working Group had its own mandate and its own backlog, there was some overlap. However, the two bodies endeavoured to avoid duplication wherever possible.
15. The Committee took confidentiality seriously and did not discuss its own cases with the Working Group on Enforced or Involuntary Disappearances.
16. The two bodies dealt with urgent appeals differently. The procedures were treated as parallel and efforts were made to avoid duplication. It was the author of the appeal who

decided which mechanism to address; in cases where an appeal was made to both bodies, one stepped back.

17. As to the number of reports considered by the Committee, he noted that the Committee's secretariat was small and the time available was short. In addition to consideration of reports, the secretariat also handled the complex tasks of drafting concluding observations and preparing lists of issues. The Human Rights Committee normally considered six reports over a period of three weeks. The Committee might be able to consider more reports if it had more resources. At the current rate, it would take eight years to consider the reports of the 40 countries that had ratified the Convention to date.

18. **Mr. Bougacha** (Tunisia) said that his country's initial report had been due in July 2013. However, it had been delayed in the transition period and the new Government would need technical assistance with drafting and submission. It was expected that the forthcoming seminar to be run by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the International Organization of la Francophonie (OIF) in Tunis in November would be an opportunity for his country to contribute and to learn.

19. His delegation had estimated that it could take up to 5 years for its initial report to be considered; could the Committee say how long it might take in fact?

20. **The Chairperson** said that country task forces had been established to prepare lists of issues for the three most recent submissions awaiting review. The speed with which submissions could be dealt with would depend upon the administrative resources available. The Committee was discussing the situation with OHCHR. States parties could consider asking OHCHR directly for resources. The Committee wished to deal with reports as quickly as possible in order to avoid a backlog. It had not wanted a five-year reporting cycle and had instead sought a method that would enable it to evaluate the situation in States parties promptly.

21. **Mr. Am** (Argentina) said that his country had found the constructive dialogue with the Committee fruitful, historically relevant and straightforward. The relationship between the mandates of the Committee and the Working Group on Enforced or Involuntary Disappearances had been discussed since the earliest stages of drafting of the Convention and it was clear that the Committee had sought to establish cooperative relationships based on complementarity with other bodies. The need to do so was articulated clearly under article 28 of the Convention as well as under rules 44 and 45 of the rules of procedure, which required the Committee to consult bodies and mechanisms established under other United Nations instruments. Other treaty bodies would do well to adopt that practice. It had been agreed from the outset in 2011 that the Committee would hold annual meetings with the Working Group on Enforced or Involuntary Disappearances in order to avoid duplication and the fact that it continued to do so was positive.

22. **The Chairperson** said that, in addition to the annual meeting, the Committee was in constant contact with the Working Group on Enforced or Involuntary Disappearances by numerous other means; its work dovetailed with that of the Working Group.

23. Video recordings of the constructive dialogues with States parties were available on the web page of the secretariat and could be consulted by anyone interested in seeing the Committee in action.

24. **Mr. Corcuera Cabezut** said that, while both the Committee and the Working Group dealt with the same issue, they belonged to different systems, functioned differently, played distinctive roles and used different methods and tools. In respect of individual cases, the Working Group acted as a humanitarian channel of communication between relatives of the disappeared and the State to try to clarify individual cases. Once a case had been

clarified, the Working Group had no further role. The Committee, which decided what steps to take in respect of States, had more of a judicial role.

25. The only areas in which the two bodies might give an impression of duplication of work were country missions and urgent actions. However, once again they did not work in the same way in handling urgent appeals and the Committee's missions were far broader in scope than the Working Group's.

26. In the circumstances, it was understandable that some States might hesitate to ratify the Convention, but he urged them to familiarize themselves with the work of both bodies, set aside their hesitation and sign the Convention in order to achieve the universal prohibition of enforced disappearance.

27. **Mr. Garcé García y Santos** said that the Committee hoped that it would soon be allocated more than 10 days for its meetings and so be able to deal with more reports. Despite the limited time available, the Committee set aside time to meet with the States parties and other States because it found the exchange to be most valuable. An increasing number of States attended each meeting, which was most welcome.

28. He encouraged the 60 signatory States to ratify the Convention and to recognize the competence of the Committee to receive communications under article 31.

29. The Committee played a preventive and protective role and was driven by a spirit of cooperation. The forthcoming seminar in Tunis was a clear example of that spirit of cooperation in action. Cooperation and dialogue did not end after submission of the report because States parties then moved on to the following stage of implementation and application of the Convention.

30. **Mr. Redondo** (Spain) expressed appreciation to the Committee for reviewing the State party report of Spain at the current session and commended the way in which the Country Rapporteurs had scrutinized his country's legislation. The dialogue had been open and constructive. His Government was fully committed to the implementation of the Convention and would continue to promote further ratifications. One of the main obstacles to ratification was the fear of duplication of work between the Committee and the Working Group on Enforced or Involuntary Disappearances, but he was confident that the Committee's efforts to clarify the differences in their respective mandates would remedy that.

31. **The Chairperson** thanked the delegations of Spain and Argentina for their comments. The Committee would be able to further refine its methods of work in the light of that experience and he hoped that more States parties would be encouraged to submit their reports for consideration. The Committee stood ready to provide any information and assistance that might be required.

The meeting was suspended at 3.55 p.m. and resumed at 4.20 p.m.

Meeting with non-governmental organizations and other stakeholders

32. **The Chairperson** expressed gratitude to the NGOs Geneva for Human Rights and the Alkarama Foundation for their film on the review of State party reports, which would provide useful background and help States to understand the process of constructive dialogue with the Committee. The Committee had been in existence for two years, and that had given it the opportunity to develop its own procedures and methods of work, including in its relations with civil society. The document on its relationship with civil society would be finalized and adopted the following week and would then be made available on the Committee's web page.

33. NGOs provided information that was crucial to the Committee's work. They carried out an admirable task, often at the risk of intimidation and reprisals, and the Committee welcomed the recent adoption by the Human Rights Council of a resolution on the establishment of a United Nations-wide focal point to address acts of intimidation and reprisals against individuals and groups who cooperated with the United Nations system. Under articles 33 and 34 of the Convention, in order to take any action, the Committee must receive reliable information indicating that a State party was committing acts of enforced disappearance or other violations of the provisions of the Convention. Even though it often took time for the Committee to respond, for reasons of confidentiality and procedure, he could assure NGOs that all the information received was carefully examined. The Committee also valued the assistance of NGOs in raising awareness of the Convention among the general public and victims of enforced disappearance.

34. **Ms. Collister** (International Service for Human Rights), referring to the draft document on the Committee's relationship with civil society, said that the International Service for Human Rights (ISHR) welcomed the Committee's recognition of the key role that civil society played in its mandate. The Committee's regular NGO briefings on each of the States parties under review were appreciated and, given the potential increase in the number of State party reports to be considered at future sessions, it might be useful to increase the number of briefings and to ensure that they were held in close proximity to the State party reviews. That should also be reflected in the draft document.

35. The document made clear that the Committee would hear NGOs in closed meetings. ISHR welcomed that as an acknowledgement that civil society was vulnerable to reprisals. It hoped to see a clear condemnation of such acts in the document and an explicit statement of the rationale behind such closed meetings. It further welcomed the recognition of the need for civil society to report alleged cases of reprisals to the Committee. To facilitate that, the Committee should appoint a focal point on reprisals, as the Committee against Torture had. The details of that focal point should be put prominently on the Committee's web page and communicated to any NGOs engaging with the Committee. Lastly, it was important to develop a procedure for dealing with cases of reprisals against NGOs and to set it out clearly in the document. A document drafted jointly by IHSR, the Alkarama Foundation and other NGOs had been submitted to the secretariat in that connection.

36. **The Chairperson** said that the proposed amendments submitted to the secretariat had been taken into consideration. He had also raised the issue of reprisals with the chairpersons of the human rights treaty bodies at their annual meeting in New York. He regretted that it was not always possible for the Committee to allow more time for statements by NGOs, due to practical constraints, and he feared that the future increase in the number of State party reports to be considered — and the resulting rise in the number of formal meetings — might affect the number of briefings held with NGOs. He confirmed that closed meetings were held with NGOs for reasons of confidentiality and to protect them from potential risks of reprisals, and said that that such meetings created an environment conducive to effective communication. Nevertheless, as a relatively new body, the Committee remained open to suggestions for improvement.

37. **Ms. Crottaz** (Alkarama Foundation) endorsed the statement made by the International Service for Human Rights. As an NGO working in the Arab world, the Alkarama Foundation considered it useful to keep records of discussions held during the review of reports from States parties where there was a consistent pattern of widespread enforced disappearance. She wished to know whether the Committee intended to issue reminders to States parties whose initial reports were overdue. Had the Committee already developed and tested a procedure for requests for urgent action under the Convention, and did it have any comments to share with NGOs wishing to submit requests? Lastly, she

asked what steps the Committee had taken to encourage further ratifications of the Convention and whether NGOs could contribute to that process.

38. **The Chairperson** said that the secretariat had issued a reminder in May 2013 on the submission of State party reports. Out of the 30 reports due for submission, 9 had been submitted to date; however, the deadlines were relatively recent in many cases, and some States parties had pledged to submit their reports shortly. Action would be taken if a State party had not submitted its report one year or more after the deadline.

39. As noted in its latest annual report, the Committee had received four requests for urgent action relating to enforced disappearances in Mexico and four more requests in relation to States parties that were not named in the report. The Committee had strict rules of procedure to prevent any overlap with the urgent appeals procedure of the Working Group on Enforced or Involuntary Disappearances. It was of the utmost importance that victims or their representatives, including NGOs, decided whether it was in their best interests — including from the standpoint of possible reprisals — to submit their requests for action to the Working Group or to the Committee under article 30 of the Convention. NGOs could play a valuable role in providing guidance to victims and their families in that regard.

40. Two coalitions, the Group of Friends of the Convention and the International Coalition Against Enforced Disappearances, promoted ratification of the Convention. NGOs had an essential role to play in advocating the adoption of national legislation on enforced disappearance and the ratification of the Convention. They also had an important role to play in making the language of the Convention accessible to non-legal experts.

41. **Mr. Huhle** said that the procedure for requests for urgent action under article 30 of the Convention had been operating efficiently thus far. The Committee web page provided guidance on submission and further details could be obtained from the secretariat. Other options were available to victims, who could also submit requests through the Working Group or regional mechanisms. It was important for NGOs to help victims with requests. The Committee had attended workshops in many parts of the world, explaining the possibilities offered under the Convention, and civil society could be instrumental in furthering that effort. The Committee's primary aim was to ensure that its urgent action mechanism protected victims' interests, and it would welcome any input from NGOs in that connection.

42. **Mr. Mugiyanto** (Asian Federation against Involuntary Disappearances) said that Asia was underrepresented, with only a few Asian States having ratified the Convention. He asked the Committee what steps it could take to address the increasing number of cases of intimidation and reprisals against human rights defenders combating enforced disappearance, and against their families – in Indonesia, for instance, which had signed but not yet ratified the Convention. The Secretary of the Asian Federation against Involuntary Disappearances in Bangladesh, and other members of staff, had recently been unlawfully arrested and the office had been raided by the police. What measures could be taken in countries in which victims and their families were silenced? He called on the Committee to urge Asian Governments to ratify the Convention, and wondered what action could be taken to ensure that signatory States honoured their pledges to ratify the Convention.

43. **The Chairperson** said that efforts could focus on promoting ratification of the Convention by South Korea and other likely candidates in the region. He encouraged NGOs that were part of the International Coalition Against Enforced Disappearances to raise awareness among the authorities and the general public of the importance of signing and ratifying the Convention. On the issue of reprisals, from a legal standpoint the Committee had jurisdiction only over States parties and would support persons who suffered reprisals as a result of their cooperation with the Committee. Nevertheless, it welcomed the efforts of

the Office of the United Nations High Commissioner for Human Rights (OHCHR) to make reprisals a priority issue.

44. **Mr. Hazan** said that the Committee stood ready to cooperate with civil society. Four of its members had participated in a workshop organized in Buenos Aires in August 2013 by a local NGO and attended by NGOs from several other Latin American countries. The seminar had focused on the Committee's methods of work, its prevention and protection mechanisms, and the challenges faced in the implementation of the Convention.

45. **Mr. Garcé García y Santos** emphasized that cooperation between all stakeholders — the Committee, NGOs and also States — in raising awareness of the Convention was key to promoting its effective ratification.

The discussion covered in the summary record ended at 5 p.m.