



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

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Committee against Torture

Forty-sixth session

Summary record of the first part (public)* of the 982nd meeting

Held at the Palais Wilson, Geneva, on Monday, 9 May 2011, at 10 a.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.982/Add.1.

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The meeting was called to order at 10.05 a.m.

Opening of the session by the representative of the Secretary-General

1. **Mr. Salama** (Representative of the Secretary-General) declared open the forty-sixth session of the Committee against Torture. For the Committee, the other treaty bodies and the Office of the United Nations High Commissioner for Human Rights (OHCHR), 2011 would be a challenging year in terms of the process of strengthening the treaty body system. Following the High Commissioner's call in autumn 2009 for treaty body members, States parties, civil society actors and other stakeholders to reflect on ways to strengthen the treaty body system, several events had taken place. The most recent had brought together international civil society actors in the Republic of Korea. The events, more of which were scheduled in the forthcoming months, aimed to bring together the different stakeholders and solicit their views and concrete suggestions on improving the treaty bodies' working methods and making them more efficient in the interests of rights-holders worldwide. The Dublin Statement, adopted in November 2009, had paved the way for the current treaty body strengthening process. It had been followed in June 2010 by the Marrakech Statement, which contained recommendations for enhanced cooperation between national human rights institutions and treaty bodies, and in September 2010 by the adoption of the Poznan Statement, to which the Committee against Torture had actively contributed.

2. A consultation meeting with States parties, to which the chairpersons of all the treaty bodies had been invited, had been scheduled for 12 and 13 May 2011 in Sion (Switzerland). He welcomed the fact that arrangements had been made to enable the chairperson of the Committee against Torture to participate in the meeting. In preparation for the meeting, he invited the Committee to assess its optional reporting procedure and to reflect on ways of enhancing its effectiveness. To that end, OHCHR had prepared an informal paper containing several proposals. Consultations between United Nations entities and national-level civil society actors would also be organized during the year. A meeting was expected to take place in Dublin in the autumn, marking the end of the consultative phase.

3. Turning to inter-committee issues, Ms. Gaer and Mr. Mariño Menéndez had taken part in the meeting of the working group on follow-up, which had taken place from 12 to 14 January 2011 in Geneva and had focused on follow-up procedures to concluding observations, decisions on communications, and visits and inquiries, including an assessment of their effectiveness. An advance version of the report of the meeting containing the working group's points of agreement had been distributed to Committee members; the report would be presented to the Inter-Committee Meeting and the Meeting of Chairpersons in June. In addition, on 7 May 2011, four members of the Committee against Torture — Ms. Gaer, Mr. Bruni, Mr. Gallegos Chiriboga and Mr. Wang Xuexian — had taken part in a day of consultations with members of the Committee on Economic, Social and Cultural Rights. Similar meetings had been organized between all the treaty bodies to enable them to discuss the topics that would be on the agenda of the forthcoming Inter-Committee Meeting in June and to exchange new ideas and proposals on strengthening working methods.

4. Copies of resolution A/RES/65/204, adopted by the General Assembly at its sixty-fifth session, had been distributed to Committee members. It approved one week's additional meeting time per session for the Committee, starting with the current session and throughout 2012, to enable it to consider more reports and communications. In response to the General Assembly's request that the treaty bodies should reflect on ways to manage their workloads better, OHCHR looked forward to working with the Committee on concrete, focused proposals to that end. While the Committee's new optional reporting procedure could certainly help to improve the treaty bodies' working methods, further

measures would be required in order to meet the targets the General Assembly had set for managing the treaty bodies' increasing workload.

5. The International Convention for the Protection of All Persons from Enforced Disappearance had entered into force on 23 December 2010, and the members of the Committee on Enforced Disappearances would be elected on 31 May 2011. Furthermore, on 17 February 2011, the Human Rights Council's open-ended Working Group on an optional protocol to the Convention on the Rights of the Child had adopted a draft optional protocol establishing an individual communications procedure under that Convention. It would be submitted to the Human Rights Council for adoption in June 2011 and then to the General Assembly for approval at its sixty-sixth session. The open-ended working group established by the General Assembly "for the purpose of strengthening the protection of the human rights of older persons ..., including by considering, as appropriate, the feasibility of further instruments and measures" had held its first meeting in April 2011; its work might well lead to the adoption of a new instrument and the establishment of a new monitoring body.

6. OHCHR worked closely with all the relevant units of the United Nations Office at Geneva to ensure that the highest possible level of service was provided to the treaty bodies. The fact remained that the workload of the conference services in Geneva had grown significantly in recent years, without the requisite increase in resources. OHCHR was in discussions with the translation services and other units to ascertain how to make the best use of their limited resources, as it had become increasingly difficult to ensure the translation of all documents. He therefore called on the Committee to take those constraints into consideration in the course of its work by, for example, limiting the length of its documents and making them more focused, particularly the lists of issues and lists of issues prior to reporting, which would facilitate shorter written replies from States parties. The Committee could count on the full support of OHCHR, particularly throughout the challenging four weeks ahead.

7. During the session, the Chairperson of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would present the public report of the Subcommittee to the Committee against Torture. In that regard, it was worth noting that the Subcommittee had made a visit to Liberia in December 2010, and would visit Ukraine in May and Brazil and Mali by the end of 2011. For the first time in one session, the Committee would consider the reports of eight States parties — Finland, Ghana, Ireland, Kuwait, Mauritius, Monaco, Slovenia and Turkmenistan — and would adopt concluding observations on each of them. It would also adopt lists of issues for five States parties whose periodic reports would be considered at the November 2011 session. It would continue to follow up on its concluding observations, its decisions on individual communications and the confidential inquiry procedure. It would also have before it a number of draft decisions under article 22 of the Convention that had been submitted prior to the session. In addition, it would hold two informal meetings, one with States parties to the Convention and the other with NGOs, and would discuss a draft general comment on article 14 and a paper on its working methods for activities under article 22.

8. The first four-year reporting cycle of the new optional reporting procedure had ended and 75 lists of issues prior to reporting had been adopted for reports due from 2009 to 2012. The Committee might wish to assess the procedure in order to identify possible improvements that could be made in the next cycle. While the initiative appeared to have been highly effective, it had created a heavy workload for the Committee and the secretariat. It was interesting to note that the Human Rights Committee and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families had adopted similar procedures, which demonstrated the added value of the Committee's new procedure.

9. In conclusion, he conveyed to the Committee the wishes of the High Commissioner for Human Rights for a successful session.

10. **The Chairperson** thanked Mr. Salama for his introductory remarks. The Committee appreciated the support of OHCHR and its efforts to ensure that the Committee was able to carry out its mandate despite the limited resources available to it. The programme for the current session was indeed very heavy and the Committee would make full use of the four weeks it had been granted to implement the ambitious schedule it had set itself. He (the Chairperson) would represent the Committee at the consultation with States parties in Sion on 12 and 13 May 2011 and invited Mr. Salama to give some details of the purpose of the meeting.

11. **Mr. Salama** (Representative of the Secretary-General) said that his discussions with different delegations had indicated that, while Member States felt it was time to review the work that had been undertaken to strengthen the treaty body system, they did not seem to have specific ideas on how to proceed. The Sion meeting was therefore an opportunity for the treaty bodies to review the various proposals that had been made to date, which could be divided into two main categories: harmonization of working methods and needs in terms of resources. The treaty bodies would need to prove to Member States that they had taken all possible measures to harmonize and improve working methods in order to persuade them to shoulder their responsibilities in the matter of resources. Furthermore, given the way the system was expanding, Member States could not keep requesting the treaty bodies to “do more with less” without sacrificing quality. The Sion meeting would give the chairpersons of the treaty bodies the opportunity to discuss those issues with States parties.

12. **Mr. Mariño Menéndez** said he had understood that the main subject of the Sion meeting was to be the rationalization of the treaty bodies’ activities. He wished to know whether other issues could be raised, in particular the necessary universality of the international human rights instruments and the difficulties posed in that regard by the non-ratification of some instruments and the formulation of reservations, as well as the reasons why the communications procedure available to States parties under some international instruments was never used.

13. **Mr. Bruni** asked whether an agenda had been drawn up for the Sion meeting. Given the numerous consultations that had already taken place and the fact that two main themes had been identified – working methods and resources, what must be made clear to Member States in Sion was that it was now time to translate the result of the discussions into a General Assembly resolution; otherwise no real progress could be achieved.

14. **Ms. Sveaass** said she wished to know how many Member States had indicated that they would participate in the Sion meeting. Experience had shown that States were often reluctant to ratify optional protocols that gave treaty bodies the authority to consider communications from individuals. It would be worth discussing that issue at the meeting, especially in view of the proposals that had been made to establish complaints procedures for the committees that did not have them.

15. **Ms. Gaer** observed that, despite the Committee’s repeated complaints on the matter, the documents relating to the new optional procedure were not always available in all working languages. She hoped that priorities could be established for the translation of documents in order to avoid such problems in the future. On the question of ways of restricting the length of documents, statistics showed that the treaty bodies’ concluding observations were, on average, between 6 and 14 pages, except for those of the Committee on the Rights of the Child, which were over 20 pages. Questions could be raised about the reasons for such a discrepancy.

16. **Mr. Gallegos Chiriboga** thanked Mr. Salama and OHCHR for their active contribution to the efforts being made to harmonize the treaty bodies’ working methods.

The entry into force of new international human rights instruments and the establishment of new monitoring bodies were undoubtedly beneficial for the protection and promotion of human rights. That said, they represented a significant increase in workload for OHCHR, which it would find difficult to deal with, given the limited financial and human resources available to it. Member States must realize that it was their responsibility to ensure that the human rights treaty bodies had the means to fulfil their mandates effectively. The Sion meeting would be a good opportunity to remind them of that. It would be advisable to hold more such meetings in order to facilitate more frequent direct discussion between the States parties and the treaty bodies.

17. While he welcomed the additional meeting time the Committee had been granted thanks to the Chairperson's tenacity, the fact remained that with only 10 members for 147 States parties to the Convention against Torture the Committee had insufficient capacity relative to its workload. Serious consideration should therefore be given to expanding its membership. It would also be desirable for the Committee to be able to conduct more country visits, in conjunction with the Subcommittee on Prevention of Torture, in order to avoid duplication, and for the Committee to be able to meet the High Commissioner from time to time in order to update her on its difficulties and needs.

18. **Mr. Salama** (Representative of the Secretary-General) said he would tell the High Commissioner that the Committee would appreciate more opportunities to meet her in person. In general, he noted that the many difficulties the Committee faced in obtaining additional resources resulted mostly from the States parties' very narrow, formalistic perception of its mandate. For them, activities such as follow-up to concluding observations, country visits, days of general discussion and drafting general comments did not, strictly speaking, fall within the scope of the Committee's powers as set forth in the Convention. They were therefore reluctant to grant it additional resources for that type of work. There was, however, no doubt that the working methods the Committee had adopted had contributed to the progressive development of international law, and going back was not an option. Nevertheless, it would be advisable for the Committee to demonstrate to the States parties that it was striving to make savings in some areas. It could, for example, highlight the fact that the optional reporting procedure elicited shorter, more focused documents which were therefore less costly than those submitted under the customary procedure. It was in the Committee's interest to advance that argument in order to show that the new working methods which, according to the States parties, went beyond the scope of the Convention could help to reduce costs.

19. He stressed that the Committee should feel it was in a strong position in meetings with States parties. To that end, the treaty bodies would need to set aside their differences and join forces in order to adopt a common position. Their word would then carry much more weight in discussions, especially when they were faced with a State that had entered reservations to the instrument they monitored. The Meeting of Chairpersons of the Treaty Bodies could become an entity empowered to speak on behalf of the entire treaty body system, including not only the committees but also the relevant civil society organizations. In addition, the treaty body chairpersons could adopt a joint position on cross-cutting themes such as discrimination or migrants' rights. Since the victims of ill-treatment included many migrants, the Committee against Torture could partly fill the protection gaps that resulted from the small number of ratifications of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in close collaboration with the Committee on Migrant Workers on issues where they had common ground.

20. The question of cutting costs and limiting the length of documents was another area in which the treaty body chairpersons could present joint positions to the States parties. In particular, they could inform them that, in order to cut costs, they planned to limit the

length of documents by expanding the optional reporting procedure or, for example, to replace summary records with audio-visual recordings of meetings.

21. He recognized that there was work still to be done on harmonizing the individual complaints procedure. He assured the Committee that the matter would be given consideration and OHCHR would organize discussions on it.

22. About 70 States parties had expressed their intention to take part in the Sion consultation meeting, which showed the level of interest in the event. As for the issues to be discussed at the meeting, he thought it unwise to include ratification of the Convention, since that issue was already effectively addressed under the universal periodic review. Likewise, he advised against taking up the issue of reservations to the Convention, which was overly complex. Once it was finalized, the agenda for the meeting would be posted on the OHCHR website. It would include an opportunity for States parties to share the lessons they had learned from experience, their suggestions and their opinions on the optional reporting procedure. He was confident that the Committee would remain open-minded and self-critical in the face of the States parties' remarks.

23. **The Chairperson** said that a provisional agenda for the Sion meeting, dated 4 May 2011, had been sent to the treaty body chairpersons. According to that document, the meeting would focus in particular on strengthening the process of preparing periodic reports, establishing a constructive dialogue between treaty bodies and States parties, the independence of the treaty bodies and the competence of their members, and the provision of resources to the treaty body system. Core documents containing statistics and a summary of the treaty bodies' working methods were attached to the agenda.

24. **Ms. Gaer**, returning to the issue of cost cutting and using technology to that end, said it was important that the dialogue between the Committee and States parties continued to be reflected in summary records.

25. **The Chairperson** thanked the representative of the Secretary-General for having come to meet the Committee and expressed appreciation for the fruitful dialogue they had held.

Adoption of the agenda

26. *The provisional agenda (CAT/C/46/1) was adopted.*

The public part of the meeting rose at 11.05 a.m.