



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 988th meeting

Held at the Palais Wilson, Geneva, on Thursday, 12 May 2011, at 10 a.m.

Chairperson: Ms. Gaer (Vice-Chairperson)

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.988/Add.1.

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The meeting was called to order at 10.10 a.m.

Meeting with NGOs

1. **The Chairperson** said that for over 15 years the Committee had sought cooperation with NGOs, which provided information for the consideration of State party reports and follow-up to its concluding observations. NGOs were also consulted on the drafting of the general comments. Information from NGOs was published on the Committee web page and communicated to the States parties concerned before their reports were considered. In exceptional cases, however, the Committee could decide to treat such information as confidential.
2. The Committee had introduced the innovative drafting of lists of issues which were transmitted to the States parties before submission of their periodic reports. That optional procedure produced more specific, up-to-date information. Whatever States parties' chosen reporting methods, NGOs were invited to contribute. Furthermore, whereas the Committee had always met NGOs outside the official meetings, it had recently started holding an official private meeting with the NGOs concerned the day before they considered the report of a given State party, thus reducing their stay in Geneva and related expenses, and obtaining the very latest information.
3. The procedure for follow-up to concluding observations consisted in the Committee identifying a maximum of four recommendations on serious issues and requesting the interested State party to provide, within one year, information on the measures taken to implement them. NGOs, for their part, were invited to comment on the measures and their implementation. There was, in addition, the inquiry procedure provided for in article 20 of the Convention, which had often been applied after NGOs had supplied the Committee with information.
4. The Committee had amended rule 63 of its rules of procedure to facilitate the transmission of information by NGOs and others. Many of the provisions of the Committee's rules of procedure and its operational procedures demonstrated the importance that the Committee attached to cooperation with NGOs. The Committee wished to thank the NGOs for their invaluable contribution to its work and welcomed the opportunity to hold an exchange of views with them.
5. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims – IRCT), presenting a working document drafted by six NGOs, said that on the whole all six were very satisfied with their cooperation with the Committee. With regard to the lists of issues for consideration, the Committee might like to reflect upon how to improve the dissemination to the NGOs of information on their adoption date and the countries concerned, so that they could participate in the drafting. The Committee might emulate the Human Rights Council, which disseminated its programme for the adoption of its lists of issues more than a year in advance. All in all, it would be preferable to reduce the time between the submission of reports and their consideration. In the case of States parties that had not submitted a report, the Committee might consider setting aside one meeting per session for examining the situation of a country without a report, as the Human Rights Committee did.
6. As for accessibility, webcasting or videoconferencing would make it easier for civil society to participate, while facilitating dialogue with States parties. If NGOs were authorized to webcast meetings, they might be able to mobilize the necessary resources. On the subject of membership of the Committee, it would be useful if it identified the different areas of specialization that it wished to see represented, so that in the long term its members could be replaced accordingly.

7. **Ms. Varesano** (World Organisation Against Torture – OMCT) said that a serious issue was the failure to implement the recommendations the Committee made in its concluding observations. The considerable follow-up workload must not be left to the Rapporteur on Follow-up alone, but should be shared by the country rapporteurs. More time should be devoted to follow-up matters during Committee meetings, and NGOs should be allowed to take part in the discussions. The recommendations should be more precise and targeted, and propose specific measures. Similarly, decisions about individual communications should be more precisely worded to make their implementation and follow-up easier.

8. A separate web page on follow-up to individual communications might be created to disseminate information on the cases examined, decisions made and measures to be taken, and the Committee might also consider making follow-up visits to the field. The treaty bodies should take joint action (such as meetings and visits) and coordinate their activities, in particular on follow-up to their recommendations.

9. **Ms. Bernath** (Association for the Prevention of Torture – APT) said that her organization endorsed the observations and suggestions contained in the working paper. The Committee's general comments were an invaluable working tool for NGOs and all other stakeholders, and she urged the Committee to adopt more of them. NGOs and States parties might usefully be consulted on priorities and on the articles that should be the subject of a general comment.

10. **Ms. Lee** (International Disability Alliance – IDA) said that documents such as State party reports and the Committee's concluding observations should be circulated in formats other than .PDF for the benefit of the visually impaired. On cooperation with civil society, NGOs should enjoy effective access to all stages of the review process and receive clear information on work programmes sufficiently in advance. While appreciating the new optional reporting procedure, the Alliance regretted the limited scope for input to the lists of issues, which were sometimes based on concluding observations dating back several years and did not take into account later developments such as the adoption of the Convention on the Rights of Persons with Disabilities. Several of the issues within that Convention's scope — including the right to physical integrity and protection from exploitation and violence — fell within the mandate of the Committee on Torture. Yet few of the lists referred to persons with disabilities.

11. The work of the treaty bodies called for greater harmonization. Some of the treaty bodies' general comments contained elements that blatantly contradicted the principles of the Convention on the Rights of Persons with Disabilities. She would be interested to know, therefore, whether the Committee had any plans to draft joint general comments with other treaty bodies.

12. **Ms. Crottaz** (Alkarama) urged the Committee to work with the Civil Society Section of the Office of the High Commissioner for Human Rights and profit from its vast NGO network and the various mailing lists it could provide. Some States parties in the Arab region had not submitted a report for several years; the Committee might consider devoting one meeting per session to examining the situation in a country, in default of a report.

13. Follow-up to the Committee's concluding observations and decisions was of the utmost importance and should be conducted in conjunction with national civil society and NGOs. Alkarama also recommended that, for follow-up purposes, States should be asked to indicate what measures they had taken to ensure wide dissemination of the Committee's concluding observations.

14. **Ms. Duarte**, speaking on behalf of the Centre for Legal and Social Studies (Argentina), Conectas Human Rights (Brazil) and Corporación Humanas (Chile), said that

local NGOs were rarely in a position to travel to Geneva or New York to attend treaty body meetings and were unaware of the right communication procedures. Thought should be given to facilitating their participation and access to the treaty bodies' work, distance notwithstanding. Were it not for the financial implications, webcasting their public meetings would be an ideal solution, but other options could be considered. Sessions away from Geneva and New York, for example in cities where there was a regional office of the High Commissioner for Human Rights, would be one way to help NGOs unfamiliar with the treaty bodies' activities to take an interest and, consequently, make a contribution. Alternatively, civil society coordinators might be appointed to the national and regional offices, their job being to raise local organizations' awareness of the treaty bodies' work and the procedures for participation.

15. The new reporting procedure was positive, provided States parties submitted their reports soon after adoption of the lists of issues. She wondered whether the Committee had given it much thought or had looked at solutions such as sending an updated list to States parties that did not respond within a reasonable time frame.

16. **Ms. Costa** (Human Rights Watch) called for States parties' strengthened implementation of the recommendations made by the treaty bodies. To that end, the treaty bodies might find it useful systematically to involve the United Nations country teams and the United Nations Development Programme (UNDP) resident representatives in their follow-up activities.

17. **Ms. Baldwin** (Amnesty International) asked whether the situation of people who risked reprisals for communicating information to the Committee was subject to special follow-up.

18. **Ms. Goh** (NGO Group for the Convention on the Rights of the Child) thanked the Committee for inviting the NGOs to a discussion on its working methods. Regarding work on the adoption of a general comment on implementation of article 14, the Group encouraged the Committee to refer to general comments No. 13 (The right of the child to freedom from all forms of violence), No. 12 (The right of the child to be heard) and No. 10 (Children's rights in juvenile justice) of the Committee on the Rights of the Child. The Committee might refer to the principles contained in those general comments when adapting redress procedures and measures to children directly or indirectly affected by torture. The Group would be happy to offer the Committee its experience, should it decide to draft a general comment jointly with the Committee on the Rights of the Child. For the follow-up to concluding observations, the Committee could systematically emphasize the need for States parties to cooperate with NGOs, including children's rights organizations, to ensure that child torture victims had access to high-quality rehabilitation services. It would also ensure that children indirectly affected by torture — for example, the torture of a parent or close family member — were appropriately supported so as to minimize any vestiges of family trauma.

19. **Mr. Mutzenberg** (Centre for Civil and Political Rights – CCPR) said that the Committee against Torture was exemplary in the treaty body system in terms of cooperation with NGOs. On 19 and 20 April 2011, a meeting had been held in Seoul, at the initiative of 14 NGOs, to study the treaty bodies, functioning and suggest how they could be made more efficient. The meeting had adopted a statement reiterating some of the principles contained in the Dublin Statement, the Marrakech Statement and the Poznan Statement. It had proposed measures for improving the treaty bodies' working methods and strengthening their cooperation with NGOs. One of the points upon which the NGOs had particularly insisted during the discussions was the importance of the independence of treaty body members. Much of the discussion had also focused on measures to ensure full NGO participation in the treaty bodies' work. In that regard, there had been widespread support for webcasting but other options had been put forward, such as allowing NGOs

themselves to videotape public meetings, with the prior consent of the treaty bodies concerned. Successful experiments had already been conducted in some committees. Sessions away from Geneva and New York, for example in Bangkok or Nairobi, had also been proposed. It was not a novel idea, but initiatives had always been blocked on the ground of cost, which would not necessarily be confirmed by detailed estimates.

20. Regarding the new optional reporting procedure introduced by the Committee against Torture, although the NGOs welcomed it in principle they saw the lack of guarantees on the date for submission of reports as a drawback; since it could undermine the procedure's effectiveness in that the pre-submission lists of issues were not valid indefinitely. The follow-up procedures would be more effective if each committee's country rapporteurs and the rapporteurs on follow-up cooperated more closely with the other rapporteurs on follow-up. The criteria for evaluating States parties' implementation of treaty body recommendations should be more clearly defined.

21. **The Chairperson** thanked the NGO representatives for their observations and invited Committee members to respond.

22. **Mr. Wang** Xuexian said that he had listened with interest to the NGO proposals, which would provide food for thought when the Committee came to consider how to improve its working methods. Cooperation with NGOs was undeniably valuable to the Committee and could be improved if certain measures were taken; for example, to ensure that NGOs, especially local NGOs, could attend the meetings to consider States parties' reports. It would be desirable to avoid the odd situation where no NGO was present, forcing the Committee urgently to revise its order of business and find other ways to use the time allotted to dialogue with NGOs. When they did attend Committee meetings, NGOs should focus on issues directly related to the Convention. As far as possible, they should check that the information submitted to the Committee was reliable.

23. **Ms. Sveaass**, responding to the concerns raised about the new optional reporting procedure, said that she saw no need to draw up a new list of issues when a report was submitted late. Whenever the Committee examined a State party's report, it addressed all the issues deemed relevant, particularly any progress on implementation of the Convention since the report had been submitted. The information that NGOs transmitted to the Committee in connection with the consideration of State party reports must be communicated sufficiently in advance for Committee members to study it and perform the necessary checks. NGOs should, indeed, ensure that their information was reliable, for the sake of the Committee's and their own credibility. The idea of NGOs making videotapes of public meetings was excellent and should be encouraged. Cooperation between rapporteurs on follow-up and country rapporteurs was key, and the Committee had fully incorporated it into its practice.

24. **Mr. Bruni** said that the measures NGOs had proposed were not without interest but some might be difficult to implement since they did not depend on the Committee alone and had important financial implications. The reasons for the time gap between adoption of the lists of issues and the consideration of the report were technical – the time needed to translate the lists and send them to the States parties, translate the report, and so on. Improvement was possible but did not depend only on the Committee's wishes. Webcasting would be desirable, but any request for resources was unlikely to be granted; he therefore welcomed the NGOs' offer to assume responsibility for recording public meetings. With regard to follow-up, the only way of truly evaluating State party implementation of treaty body recommendations was to make field visits, but the Office of the High Commissioner did not have the necessary resources. Moreover, States parties' prior consent would be required and might sometimes be problematic. It was, nevertheless, an important matter and it would be interesting to reflect upon how NGOs, in particular local NGOs, might proceed.

25. The idea of involving the country teams and UNDP local offices in follow-up activities was difficult to put into practice for several reasons. They not only addressed human rights issues, but also executed all United Nations programmes in the country concerned. Albeit sound, the proposal to hold Committee meetings away from Geneva raised serious issues, not least its considerable financial implications.

26. NGO written contributions needed to reach the Committee at least two weeks before the beginning of a session, and unfortunately half of them arrived late, often too late for country rapporteurs to study them and incorporate them into their presentations. He urged NGOs to meet the deadlines for submitting their written contributions. Lastly, he suggested a more structured form of NGO participation in follow-up to concluding observations. They might systematically include in their written contributions to the Committee a report on States parties' measures to address the Committee's concluding observations.

27. **Mr. Mario Menéndez** said that the fact that most of the NGOs present were from developed countries show that Committee sessions should indeed sometimes be held away from Geneva, preferably in the Arab region or Latin America. He unreservedly supported that NGO suggestion.

28. With regard to the problem of cancellation of meetings between the NGOs and the Committee, NGO representatives might use their contacts and networks to help local NGOs that could not afford to travel to Geneva. He also wondered whether torture victims might be able to accompany the NGOs coming to meet with the Committee, enabling it to cite first-hand testimonies in its dialogue with States parties. As to the reliability of sources, the Committee was sufficiently competent to differentiate between the trustworthy and others, and there was no reason to hide them from the State party, except when revelation of names or organizations put persons at risk of reprisals.

29. The Committee was ready to make more country visits under article 20 of the Convention, and NGO support would be invaluable. The organizations present were therefore strongly encouraged to notify the Committee of any consistent patterns of violation of the Convention suggesting that torture was being systematically practised in a country.

30. It was true that the Committee had not adopted as many general comments as other treaty bodies and that several years had passed before work in that direction had begun. However, the adoption of general comment No. 2 had provided fresh impetus, and the Committee planned to keep up the momentum. Two drafts were under consideration and a third was being prepared. When appropriate, NGOs would be invited to comment on the texts. In that connection, he welcomed the suggestion that the Committee should draw up draft general comments on articles 4 and 15 of the Convention and adopt joint general comments with other treaty bodies.

31. **Mr. Gallegos Chiriboga** said that he fully supported the idea of using new technology to enable local NGOs that could not travel to Geneva to consult with the Committee. Some very inexpensive Internet communications could be used.

32. While questions relating to the Committee's working methods and resources were important, they should not use up discussion time and deflect attention from the Committee's basic concern of eradicating torture worldwide and finding the best ways of achieving that objective.

33. **Ms. Kleopas** said that it was regrettable that the time set aside for a confidential meeting between the Committee and local NGOs the day before consideration of reports was not always used because some organizations could not afford to travel to Geneva. As the list of States whose reports were due for consideration by the Committee was published well in advance, she wondered whether international NGOs might assess the situation

before the sessions and, should they learn that NGOs would be unable to come to Geneva, consider ways to accommodate them.

34. **Mr. Gaye** said that he supported all the NGO proposals and requested more details on the possible drafting of joint general comments, but wondered whether it might give rise to practical and legal problems. He would also like to know why black African NGOs so rarely participated in the Committee's deliberations.

35. **The Chairperson** said that two new rules guaranteeing the independence of Committee members had been adopted at the forty-fifth session and incorporated in the revised rules of procedure. They were rule 15, which read: "The independence of the members of the Committee is essential for the performance of their duties and requires that they serve in their personal capacity and shall neither seek nor accept instructions from anyone concerning the performance of their duties"; and rule 73, which read: "A member shall not take part in the consideration of a report by the Committee or its subsidiary bodies if he/she is a national of the State party concerned, is employed by that State, or if any other conflict of interest is present."

36. Regarding the suggestions made about the lists of issues transmitted before the periodic reports were drafted, the procedure had been adopted by the Committee against Torture and other committees because it had become impossible for the subsequent written replies to the lists of issues to be translated in time for the presentation of the reports. The new procedure, which had been favourably received by many States parties, not only produced more focused reports, but accelerated the consideration process. Thus, the States parties whose report had been considered at the forty-fifth session and had chosen to use the optional procedure had submitted their reports to the Committee only between one and one and a half years after receiving the advance list of issues. That being the case, the NGO representatives who had suggested that the Committee should transmit its list of issues two years before consideration of the reports concerned might wish to rethink their proposal.

37. As for webcasting the Committee's meetings, since the meetings at which State party reports were considered public, NGOs were perfectly free to record or film the discussions if they so wished, provided they informed the Committee beforehand.

38. She had raised the possibility of Committee members travelling to the countries under consideration during her last meeting with the High Commissioner for Human Rights, who had seemed open to the idea but had not followed up the proposal, no doubt because the Finance Section had put a stop to the idea. She would suggest an evaluation of the actual costs of the visits, which would basically be for interpretation services, and travel of Secretariat staff.

39. On the question of local NGOs participating in the Committee's work, international NGOs such as APT and OMCT had already financed local NGO visits to Geneva, for which the Committee was extremely grateful. Another option was for the NGOs in a particular region to ask an NGO with offices in Geneva, and with which they had links, to speak for them before the Committee. In fact, during the Committee's previous session the NGOs of one State, which had been unable to attend had requested the IRCT representative to deliver their message to the Committee.

40. **Mr. Kjaerum** (IRCT) said that he was very keen on the prior list of issues procedure and that all his comments were simply geared to rendering it more effective. However, the considerations of reports to date had been undertaken long after adoption of the list of issues, and receipt of the State party replies; such delays should be cut down. As to NGO participation in Committee meetings, he suggested organizing videoconferences between the Committee and the local NGOs, using the existing facilities at the United Nations field offices.

41. It was essential for NGOs to be given sufficient notice of the drafting of a State party's next list of issues to enable them to provide useful follow-up information under the new optional reporting procedure. That applied not only to the NGOs concerned with torture but to those concerned, for example, with children's rights or the rights of persons with disabilities at the national level, as they might also have important information or suggestions for the Committee.

42. **Mr. Mutzenberg** (CCPR) pointed out that some NGOs were basically unable to travel to Geneva to participate in the Committee's session because of financial constraints. It would make raising funds to finance their participation much easier if the Committee were to reiterate the importance of their attendance. In any event, videoconferences with NGOs would be very useful.

43. **Ms. Varesano** (OMCT) said that follow-up field missions by Committee members would make for better implementation of their recommendations and decisions, particularly in certain countries. They could accompany the special rapporteurs to achieve economies of scale.

44. **Mr. Kjaerum** (IRCT) said that the NGOs welcomed the Committee's willingness to allow them to participate in the drafting of general comments. But how might they be consulted on selection of the topics to be covered?

45. **The Chairperson** said that the Committee had adopted few general comments to date, owing to time constraints, and that it was the first time during the current session that the issue had been discussed. The Committee would keep in touch with all concerned on the matter.

The first part (public) of the meeting rose at 12.25 p.m.