



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 973rd meeting

Held at the Palais Wilson, Geneva, on Friday, 12 November 2010, 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.973/Add.1.

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

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Report on follow-up to concluding observations (document without a symbol distributed in the meeting room in English only)

1. **The Chairperson** invited Ms. Gaer to present her progress report on follow-up to concluding observations.
2. **Ms. Gaer** (Rapporteur on follow-up to concluding observations) recalled that at its thirtieth session the Committee had put in place a procedure for follow-up to concluding observations adopted under article 19 of the Convention to make the struggle against torture more effective and to assist States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention. The aim was not to ensure the implementation of every element of the many recommendations the Committee made concerning States parties' reports, but to identify a limited number of them that met three criteria: they should concern serious issues, be protective and be achievable within one year. The State party concerned was asked to provide within one year information on the measures it had taken to give effect to the recommendations.
3. Since the implementation of the new procedure in 2003, the Committee had requested information on follow-up to its recommendations from 101 States. In her opinion, the procedure had significant value as it provided the Committee with information on the protective measures States parties took after the consideration of their periodic reports. Seventy-four per cent of the 95 States parties whose reports had been due prior to the forty-fourth session had provided the Committee with follow-up information on some of its recommendations. Those that responded late or not at all were generally the same States parties that were late in submitting their initial or periodic reports.
4. As Rapporteur on follow-up to concluding observations, she assessed the replies to ascertain whether they responded to the Committee's concerns and whether further information was needed. If it was, she wrote to the State party requesting clarification on specific points. Those letters to States parties, their replies and, where appropriate, information submitted by NGOs and civil society organizations were now published on the Committee's website (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).
5. Since the recommendations to each State party were crafted to reflect the situation in that State, the follow-up responses and the letters from the Rapporteur requesting further information addressed a wide array of issues. There were, however, several recurring themes, particularly the need to carry out prompt and impartial investigations into allegations of violations (76 per cent), to prosecute and punish perpetrators of torture or ill-treatment (61 per cent), to provide legal safeguards for detainees or persons deprived of their liberty (57 per cent), to ensure the right to complain and have cases examined without fear of reprisals (43 per cent), to make training and awareness-raising activities more effective (43 per cent), to ensure interrogation techniques were in line with the provisions of the Convention (43 per cent), to provide redress and rehabilitation for victims of torture (38 per cent), to combat gender-based violence and protect women (34 per cent), to improve the monitoring of detention facilities and ensure they were visited unannounced by independent bodies (30 per cent), and to improve conditions of detention and reduce prison overcrowding (28 per cent).
6. Her correspondence with States parties had also highlighted several recurring concerns that States parties did not fully address in their follow-up replies; those issues had been detailed in the Committee's annual report to the General Assembly. In particular, they included the need for States parties to provide concrete examples of cases, the need to set

up independent and impartial bodies specifically to examine complaints of violations of the Convention, the ongoing challenges involved in gathering and analysing police and administration of justice statistics, the importance of prompt, impartial investigations into allegations of abuse, and the effectiveness of prison visits by NGOs.

7. In order to obtain information, she consulted sources other than those indicated by the States parties, notably the relevant United Nations entities, the special procedures mandate holders appointed by the Human Rights Council, intergovernmental organizations, national human rights institutions, jurisprudence from national or international courts and NGOs. Information submitted by NGOs was now posted on the Committee website.

8. At the latest inter-committee meeting in June 2010, she had examined the issue of sharing information with special procedures mandate holders. In the broad context of the struggle to eradicate torture and ill-treatment, it would be very helpful if the special procedures mandate holders, especially those empowered to make country visits or send urgent appeals, such as the special rapporteurs on torture, on violence against women and on the independence of judges and lawyers or the Working Group on Arbitrary Detention, informed the Committee of their priorities, conclusions and concerns about issues which they were following up with States parties. That sort of cooperation would have a multiplier effect on the action taken under the special procedures, and in the absence of country visits by experts from the Committee against Torture, the work carried out by the mandate holders should significantly facilitate follow-up to recommendations made following the consideration of State party reports. In that context, the dialogue that had been initiated at the current session with the Working Group on Enforced or Involuntary Disappearances could only be beneficial.

9. In order to enable the Committee to examine its own practices, she presented three charts summarizing: the regional distribution of countries involved in the follow-up procedure and the subjects concerned; the follow-up issues included in lists of issues prior to reporting by States parties; and a summary of the different topics identified in the follow-up procedure between the Committee's thirtieth and forty-fourth sessions. In that regard, she noted with satisfaction that the Committee had acceded to her proposal to limit the number of recommendations identified for follow-up by States parties and that the Third Committee of the General Assembly had expressed appreciation of the efforts the Committee had made to improve the efficiency of its working methods. She also welcomed the increased coordination with Committee members. Since the forty-fourth session, when drafting lists of issues prior to reporting, they had been much more systematic in taking into account issues the Committee had identified for follow-up, information exchanged with States parties and the Rapporteur's requests for information that had not been answered.

10. **Ms. Kleopas** agreed with Ms. Gaer about the usefulness of the follow-up procedure, particularly with regard to information obtained under that procedure at all stages of the Committee's work, from drafting the list of issues prior to reporting to the consideration of reports. She also fully supported the idea of developing closer cooperation with the special procedures mandate holders.

11. **Mr. Bruni** also emphasized the need to strengthen cooperation between the treaty bodies and the special procedures mandate holders, particularly those whose activities were directly related to the work of the Committee. The Committee had always taken account of all reports on country visits by special procedures mandate holders. Similarly, during country visits, the Special Rapporteur on torture had always drawn attention to the Committee's concluding observations. In the hope that questions raised under the follow-up procedure would be taken into account more systematically, he proposed that the issue of institutionalizing the dialogue with the special procedures mandate holders should be put on the agenda of the forthcoming meeting of the treaty bodies with the mandate holders. He thought that it would also be useful to incorporate the priority issues which the Committee

highlighted under the follow-up procedure in the reports prepared by the secretariat for the universal periodic review. That would make it possible to undertake a thorough examination of the human rights situation in all countries.

12. **Ms. Sveaass** said that both the follow-up procedure and the incorporation of the priority issues raised under follow-up in the lists of issues prior to reporting stemmed from the same desire for continuity and efficiency in the Committee's work. She enquired whether the 10 or so specific subjects on which additional information was repeatedly requested under the follow-up procedure met all the criteria and selection principles the Committee had established. She also asked which of the Committee's main areas of concern did not generally elicit a satisfactory response from States parties; if necessary, the questions could be reformulated. Lastly, she wished to know how often the Committee requested additional information on forced disappearances under the follow-up procedure.

13. **The Chairperson** said that following up its recommendations was one of the Committee's fundamental tasks in meeting the objectives of the Convention and, more importantly, ensuring the rule of law. If there was insufficient follow-up, the operation risked becoming a purely rhetorical exercise. In that context, the Committee, the special procedures, but also regional organizations and NGOs had everything to gain from cooperating, if only electronically. That would doubtless facilitate deeper and broader knowledge of the issues at stake and guarantee legitimacy. The forthcoming inter-committee meeting should provide the opportunity to work on those fundamental issues and establish a system to monitor developments in follow-up, as exemplified in the summary charts prepared by the Rapporteur on follow-up to concluding observations.

14. **Ms. Gaer** (Rapporteur on follow-up to concluding observations), responding to members' questions, said that when a State party did not reply to a letter sent to it under the follow-up procedure, she ensured that a question on the issue was included on the list of issues drawn up for the consideration of its next periodic report.

15. Some recommendations lent themselves to follow-up when it was physically possible for the State party to remedy a given situation within one year. Implementing other recommendations, such as those on "reforming the Criminal Code" or "amending the definition of torture", required more time. That was why some recommendations cropped up more often than others under the follow-up procedure. However, some particularly important issues, such as reforming the legal system, were systematically taken up in the course of the periodic consideration of the reports of the State party concerned. It might be appropriate to ask States parties to provide the Committee with information on cases of enforced disappearances in follow-up on priority issues, and to ask them whether a deadline of one year was not too short.

16. She explained that when she had referred to "intergovernmental organizations" among the sources of information she used under her mandate, she had been thinking of "regional organizations". It would appear that cooperation with those organizations would soon become a reality since a first meeting had recently taken place between the chairpersons of the treaty bodies and representatives of the European Union.

17. **Ms. Belmir** expressed concern that States parties did not always pay sufficient attention to the Committee's concluding observations, and sometimes ignored them. That was particularly so in the case of recommendations concerning policies on foreigners in their territory, including foreigners there legally, who were in conflict with the law. France and Switzerland were cases in point.

18. **Mr. Gallegos Chiriboga** said he was in favour of establishing closer links and sharing information with the other treaty bodies and the special procedures mandate holders. In his opinion, it would be useful to identify topics of mutual interest that could be taken up in connection with the universal periodic review. To that end, the various

mechanisms could draw up a joint “road map” which would provide a basis for the work of all the human rights protection mechanisms.

19. **Mr. Bruni** considered that it would not be appropriate to ask a State party to provide information on a case of forced disappearance within one year as that deadline was too short. It would be preferable to focus on other issues under the follow-up procedure, such as detention conditions.

20. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims) brought up the question of reprisals suffered by NGOs that informed the Committee about the human rights situation in States whose reports the Committee was considering. He welcomed the fact that, at its forty-fourth session, the Committee had denounced the intimidation and harassment suffered by members of NGOs working in Yemen, in the wake of the consideration of the country’s second periodic report at the previous session. The International Rehabilitation Council for Torture Victims proposed that, in its concluding observations, the Committee should recommend that the State party protect human rights defenders, especially those that had submitted parallel reports to the Committee in the context of the review of a periodic report, and update the Committee on the situation within one year. Within that process, the NGOs concerned would thus have the opportunity to inform the Committee about any reprisals.

21. **Ms. Gaer** (Rapporteur on follow-up to concluding observations) observed that, even though the question of the protection of human rights defenders, victims and witnesses was sometimes mentioned in concluding observations, the corresponding recommendation had never been identified under the procedure for follow-up within one year. She took due note of Mr. Kjaerum’s proposal.

22. **Mr. Gallegos Chiriboga** said that in the case of reprisals against members of an NGO, the Committee against Torture should not be the only body that was informed. Such acts should be brought to the attention of the Office of the High Commissioner for Human Rights (OHCHR) and the other treaty bodies, since they constituted a gross violation of the principles underpinning the entire human rights system and required particular vigilance on the part of everyone.

23. **The Chairperson**, speaking as a member of the Committee, said that it was essential that the implementation of certain recommendations be followed up, such as those relating to impunity and the obligation to prosecute and punish perpetrators of violations.

24. **Ms. Sveaass** said that she shared Ms. Belmir’s concern about the policies on foreigners adopted by certain European States. She proposed asking the States to which a recommendation had been made on that issue to provide an update on their follow-up to that recommendation within one year.

25. **Ms. Gaer** (Rapporteur on follow-up to concluding observations) said that she would look closely into the issue and draw up a list of countries to which such a recommendation had been made in the past. At first sight, it appeared that, except for Bahrain and Qatar, all the countries that had been recommended to protect the rights of asylum-seekers and non-citizens were in Europe.

26. **The Chairperson**, speaking as a member of the Committee, noted that internally-displaced persons were also frequent victims of torture and ill-treatment.

Consideration of communications under article 22 of the Convention (*continued*)

Report on follow-up to communications

27. **Mr. Mariño Menéndez** (Rapporteur on follow-up to communications) informed the Committee that the member of the Petitions Unit responsible for providing support to the

Committee on follow-up to communications had been assigned to other duties and was therefore unfortunately not able to submit a full report on follow-up to communications. He would provide an informal outline of the follow-up before the end of the session. In particular, he would provide a summary of the provisional measures he had recommended in his capacity as Rapporteur for new complaints, and updated information on a number of long-standing cases, such as that involving Hissène Habré.

28. Given that an increasing number of United Nations treaty bodies now had their own individual complaints mechanisms, there was a need to harmonize procedures in that regard, which was an issue the Chairpersons of the treaty bodies had already discussed at their meetings. It would also be necessary to ensure that each committee informed the other treaty bodies about the follow-up activities it was undertaking in cooperation with national human rights institutions, and that they took the jurisprudence of the other committees into account. To that end, it would be useful if the texts of the main decisions of each treaty body were translated into all the committees' working languages, were published on the OHCHR website and were also available in hard copy. It would also be advisable to strengthen links with UNHCR on questions concerning displaced persons and asylum-seekers, and with the Working Group on Enforced or Involuntary Disappearances, and for the Working Group to inform the Committee against Torture about every new case that might be of concern to it. Within the context of the consideration of periodic reports, the Committee could invite the States parties to recognize the competence of individual complaint mechanisms and to make reference to the Vienna Convention on the Law of Treaties in interpreting the provisions of the Convention, particularly article 22. It would also be useful to discuss with them the issue of reparation measures in torture cases.

29. **The Chairperson** said he would ensure that a note was sent to OHCHR expressing regret that the Committee had been deprived of the services of a staff member who had previously worked on follow-up to communications under article 22 of the Convention. That situation was hindering the Committee's work in that regard.

30. **Mr. Bruni** said that it was important to strengthen cooperation and interaction with the special procedures mandate holders on follow-up not only to the Committee's concluding observations but also to communications under article 22. Country visits by special rapporteurs and other relevant bodies could be used to obtain specific information on follow-up to the Committee's decisions.

31. **Mr. Mariño Menéndez** (Rapporteur on follow-up to communications) welcomed the particular attention that was being paid to the question of cooperation between the Committee and the other existing mechanisms. While follow-up to communications had its specific characteristics, which were governed by the Committee's internal procedures, it could nonetheless necessitate visits to the countries concerned or discussions with the authorities of those countries. In that regard, all possible cooperation was welcome. He hoped that the forthcoming inter-committee meeting, due to take place in January 2011, would address that question in the context of harmonizing procedures.

32. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims) noted that, according to a Treaties Division newsletter, following up the Committee's decision of May 2010 in the case of *Njamba and Balikosa v. Sweden*, the Swedish authorities had granted a permanent residence permit to the complainant. He drew specific attention to the speed with which that measure had been implemented.

33. **Mr. Mariño Menéndez** (Rapporteur on follow-up to communications) noted that Sweden had indeed responded swiftly. That was not necessarily attributable to a general policy on the part of the State party, even though Sweden was in fact known for its generosity as a receiving country. The swiftness of measures taken by States parties in following up the Committee's decisions depended on the mutual trust that had been

developed between the State concerned and the Committee, but also, in many cases, on the particular circumstances.

The first part (public) of the meeting rose at 4.35 p.m.