



International Covenant on Civil and Political Rights

Distr.: General
21 November 2011

Original: English

Human Rights Committee 103rd session

Summary record (partial)* of the 2854th meeting**

Held at the Palais Wilson, Geneva, on Monday, 31 October 2011, at 3 p.m.

Chairperson: Ms. Majodina

Contents

Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Report of the Special Rapporteur for Follow-up on Concluding Observations

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

** No summary record was issued for the 2853rd meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.10 p.m.

Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Report of the Special Rapporteur for Follow-up on Concluding Observations (CCPR/C/103/2 and Add.1)

1. **Ms. Chanet** (Special Rapporteur for Follow-up on Concluding Observations), introducing the report, said that while the body of the report included only information on the States parties concerning which there had been new developments since the Committee's previous session, there was also an annex in the form of a table that contained more comprehensive information on all States currently undergoing follow-up procedures. As shown in the table, reminders should be sent to Grenada, Costa Rica, France, Ireland, Rwanda, the United Republic of Tanzania, the Republic of Moldova, Uzbekistan and Israel.
2. During the current session she had met with the Ambassador of Panama, who was not very familiar with the situation but had said he would request information from his Government. She had also met with a representative of Chad, who had given a similar reply. She had used those meetings as an opportunity to promote the Committee's new optional reporting procedure, as many States were still unaware of it.
3. In July 2011 she had met with a representative of the United Nations Interim Administration Mission in Kosovo (UNMIK) to discuss follow-up to the serious concerns the Committee had raised in February 2006 about issues such as the investigation of alleged war crimes and the security of displaced persons. The representative had said that UNMIK no longer had the authority or budgetary resources to address those issues and referred the Committee to the competent authorities. She suggested that the Committee might thank UNMIK for its reply, even though it was not very satisfactory, but she was not certain what further steps the Committee might take to address the serious matters that remained unresolved.
4. **Mr. Thelin** pointed out that, according to the report, the representative had said the Committee would receive further information before its 103rd session, but that information had not been provided. The report should reflect the fact that UNMIK had been unable to accommodate the Committee's request.
5. **Ms. Chanet** said the confusion stemmed from the fact that the report was not in chronological order and should be restructured. The representative of UNMIK had first said that he would provide the information, but had later said that UNMIK did not have the budget to address the issues and that he would share the Committee's concerns with other stakeholders involved in the promotion of human rights in Kosovo. She was not convinced that such an approach would be effective or that it fell within the Committee's competence.
6. **Mr. O'Flaherty** agreed that the dialogue with UNMIK should be brought to a close but considered that the Committee might benefit from reflection on its past practice with other States in the region when deciding how to move forward on the issue.
7. **Mr. Iwasawa** congratulated Ms. Chanet on the improvements made to the report with the inclusion of a table, but noted that in the black-and-white copies circulated it was difficult to follow the colour-coding system used.
8. **Mr. Lallah** asked whether the mandate of UNMIK had been completed or whether it still held some responsibility.
9. **Mr. Thelin** suggested that the Committee should notify the Secretary-General of the United Nations that it had terminated the follow-up procedure on the issue, on the

understanding that the relevant Security Council resolution was still in force, and should ask the Secretary-General for guidance on how to move forward.

10. **Mr. O'Flaherty** proposed terminating the dialogue with UNMIK and discussing the issue further in private session to decide how the Committee could maintain its solemn article 40 responsibilities for the territory of Kosovo in the future.

11. **The Chairperson** said that, as there was no objection, the issue would be discussed later that afternoon in private session.

12. **Ms. Chanet** said that the next State party to be discussed was Tunisia. The Committee had requested follow-up on the following issues: investigations of allegations of torture, to be conducted by an independent authority; abolition of the death penalty; measures to put an end to the intimidation and harassment of human rights organizations and defenders; and registration of associations for the protection of human rights. The Committee had received a partial answer, which it had deemed satisfactory, on human rights training for law enforcement officials, and had requested further replies on all remaining issues. She suggested that the Committee should ask the State party to include the replies in its next periodic report, which was due on 31 March 2012.

13. **Ms. Prophette-Pallasco** (Office of the United Nations High Commissioner for Human Rights) pointed out that on 17 September 2011 Tunisia had asked the Committee to postpone consideration of its next periodic report.

14. **Ms. Chanet** said that the decision whether or not to postpone the periodic report did not fall under the follow-up procedure and suggested that the Committee should discuss the matter in private session.

15. *It was so decided.*

16. **Mr. O'Flaherty** said he felt it was his duty to share with the Committee the following quotation from its concluding observations on the most recent periodic report of Serbia: "The Committee considers that the Covenant continues to apply in Kosovo, and it therefore encourages UNMIK to provide it, in cooperation with the institutions of Kosovo, and without prejudice to the final legal status of Kosovo, with a report on the human rights situation in Kosovo since July 2006" (CCPR/C/SRB/CO/2, para. 3).

17. **Ms. Chanet** said that on 27 July 2011 she had met with the Ambassador of Botswana, who had told her that the requested information would be submitted to the State party before its 103rd session. On 5 October 2011 the Committee had received a partly satisfactory reply. She suggested that the Committee should send a letter asking the State party to provide additional information on the issues of pretrial detention and the death penalty in its next periodic report, due on 31 March 2012.

18. With regard to Denmark, the Committee had requested follow-up on the State party's efforts to eliminate violence against women and on the review of its legislation and practice in relation to solitary confinement during pretrial detention. The information provided on the latter issue was largely satisfactory, but the Committee should include in its list of issues prior to reporting questions on the State party's efforts to prevent violence against women, given that Denmark had adopted the new reporting procedure and its next report was due on 31 October 2013.

19. **Mr. Thelin** pointed out that he was not taking part in the discussion of follow-up procedures concerning Denmark and Sweden.

20. **Ms. Chanet** said, with regard to Sweden, that the Committee had requested information on follow-up concerning persons with disabilities, the rights of persons held in custody, the deportation of terrorism suspects and the detention of asylum-seekers. The Committee had sent a reminder on 20 April 2011 and had received a reply on 5 August

2011. She suggested that the Committee should send a letter to the State party saying that the replies had been largely satisfactory with regard to persons with disabilities and the rights of persons held in custody, but that further information was needed on the detention of asylum-seekers.

21. As to the Netherlands, the Committee had requested follow-up on the extent to which euthanasia was practised in the State party, the review of asylum applications and the improvement of prison conditions. It had received a partly satisfactory reply on 16 September 2011. However, additional information was still needed on: the opportunities for asylum-seekers to substantiate their claims; the number of asylum applications made on the basis of the principle of non-refoulement and the number of those applications that had been rejected; and the implementation of the Schoonmaken Terreinen project and other activities at Bon Futuro prison. Although the recommendation in the report was that the Committee should ask the State party to include the information in its next periodic report, she proposed asking the State party to provide the information immediately, given that the next periodic report was not due until 31 July 2014.

22. **Mr. O'Flaherty** said that paragraph 23 of the concluding observations (CCPR/C/NLD/CO/4) referred only to prison conditions in the Netherlands Antilles. The report should reflect that fact.

23. **Ms. Chanet** said that paragraph 10 of the concluding observations on the second periodic report of Croatia (CCPR/C/HRV/CO/2) contained the most important issues for follow-up, such as those involving war crimes, the Amnesty Law, the records of military operations and the application of the statute of limitation. Follow-up had also been requested on equal access to citizenship and the intimidation of journalists. The initial response had not been satisfactory and the Committee had requested additional information, which it had received on 1 July 2011. She recommended that the Committee should send a letter to the State party saying that it was largely satisfied with the response regarding paragraph 10 (c) on referring cases to the special war crimes chambers, but that it required additional information on the following issues: the impact of development efforts in the poorest regions of the country; the total number and range of war crimes committed; the strategy for dealing with war crimes where the alleged perpetrator had not been identified; support services for witnesses in courts with special war crimes chambers; and the exact number of journalists attacked or intimidated.

24. In the case of Ecuador, information had been requested on progress made in the elimination of gender-based violence and the investigation and prosecution of police misconduct. The State party had provided details on the various action plans, awareness-raising initiatives and institutions dealing with women's issues, but not what the Committee really wanted, which was results. The Committee needed to word its concluding observations in such a way that it would not be inundated with information that did not further the follow-up process. Since the next periodic report of Ecuador was not due until 31 October 2013, the State party should be asked to provide the additional information immediately.

25. **Mr. Amor** agreed with Ms. Chanet that the Committee should make sure that it issued only recommendations that could actually be implemented. Often States parties were asked to do the impossible or given recommendations that invited any kind of response, which resulted in the Committee receiving inadequate or inappropriate replies.

26. **Mr. Neuman** said that the Committee might wish to consider identifying the concluding observations that would be subject to follow-up before reviewing each one in detail, rather than going through the wording of each one and then designating those for follow-up, as was done at present.

27. **Ms. Chanet** said that the follow-up procedure with regard to New Zealand was a typical mixed case. The recommendations made in the concluding observations had been too broad in some instances and suitably targeted in others, and the replies from the State party had been only partly satisfactory. Since the next periodic report was not due until 30 March 2015, the proposal was to request information immediately on the specific recommendations the Committee had made regarding the rights of the Maori under the Foreshore and Seabed Act, the application of counter-terrorism legislation and other matters.

28. With regard to the structuring of the report, the information on the dialogue with the State party needed to be presented chronologically and the report should contain a summary of positive developments and of the additional information required.

29. In relation to Estonia, the State party had been asked to provide the Chancellor of Justice with a broader mandate to protect human rights and to take several specific steps to ensure gender equality. A partly satisfactory reply had been received on 10 August 2011, and she suggested that rather than waiting until the next periodic report, which was due on 31 October 2013, the Committee should ask the State party to provide the relevant information immediately.

30. No reply had been received from Israel, although several NGOs had submitted documents. Since letters signed by her seemed to have no effect, she wondered whether a reminder by the Chairperson might prompt a response. The reminder could also inform Israel that reports had been received from NGOs.

31. **Mr. Lallah** said the Committee should insist that Israel provide the information requested as soon as possible and by the next session at the latest. A number of NGOs had shown interest in the matter and the Committee must persist in its efforts.

32. **Mr. Amor** said that when a State party failed to meet reporting deadlines, the Committee pointed out that it was not fulfilling its obligations. The same procedure could be applied to States parties that did not cooperate with the follow-up procedure.

33. **Ms. Chanet** said that the follow-up procedure with Colombia diverged slightly from usual practice because the replies submitted by the State party contradicted the information obtained at a meeting held by the secretariat with the Colombian Commission of Jurists. The Committee had requested information on the State party's implementation of the Committee's recommendation that it should discontinue any Ministry of Defence directive that could lead to human rights violations, such as extrajudicial executions, and the Committee's recommendations on the jurisdiction of military courts, the security of witnesses and the oversight of the State's intelligence services. She supported the secretariat's proposal to ask the OHCHR office in Colombia to analyse the situation and to report back to the Committee in time for its March 2012 session.

34. **Ms. Prophette-Pallasco** (Office of the United Nations High Commissioner for Human Rights) said that the discrepancies referred to had been significant since what the State party had presented as positive measures had been deemed by the Colombian Commission of Jurists not only to fall short of the Committee's recommendations but to run counter to them.

35. **Mr. Salvioli** said that since it was important to know what impact the measures taken by the Colombian Government would have, he also supported the proposal that the Colombian OHCHR office look into the matter.

36. **Mr. Lallah** said it appeared that the Committee was generally receiving more cooperation from States parties. He asked the secretariat to provide statistics on the proportion of States parties that had replied under the follow-up procedure so that the Committee could determine whether there had been any progress in that regard.

37. **The Chairperson**, endorsing Mr. Lallah's request, said that it would be useful to have an idea, by the next session, of how much cooperation and what kinds of responses the Committee had received from States parties.

38. **Mr. Amor** said that, since both Ms. Chanet and he himself had encountered the same difficulties when serving as Special Rapporteur for Follow-up on Concluding Observations, the Committee might find it advantageous, when it drafted concluding observations, to ask the Special Rapporteur to comment on the feasibility of their implementation.

39. **The Chairperson** said that the issue of the applicability of recommendations was important, and Mr. Amor's suggestion should be implemented in the drafting of concluding observations during the current session.

40. **Mr. Salvioli** supported both Mr. Lallah's and Mr. Amor's suggestions. The success of the follow-up procedure depended more on the Committee than on States parties, and it was important that the Committee let States parties know when they had not cooperated properly, just as it did under the communications procedure. Problems encountered in the follow-up to concluding observations should form part of the dialogue.

41. **Ms. Chanet**, concluding her presentation of the report, said that the new table included at the end of the report seemed to have met with approval. It should, however, present information chronologically and include a summary of replies received from States parties and NGOs. The formatting and presentation also needed improvement. If more States parties responded under the follow-up procedure before the next session, she would report on them at that session.

42. **The Chairperson** said that, in a consultation on the reporting system that she had attended with NGOs, concluding observations had been repeatedly criticized for being too general or too difficult to implement. The Committee needed to make specific recommendations that were both feasible and time-bound and whose implementation was measurable.

43. **Ms. Fox** (Secretary of the Committee), in reply to a question from the Chairperson, said that the report had not been issued in a bilingual format because it had not been submitted for translation within the required time frame.

44. **The Chairperson**, thanking the Special Rapporteur for Follow-up on Concluding Observations for the new table format introduced in the report, said that the report would be adopted after the discussion of the proposed follow-up with UNMIK in the closed part of the meeting.

The discussion covered in the summary record ended at 4.20 p.m.