



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

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Committee against Torture
Forty-eighth session

Summary record (partial)* of the 1066th meeting

Held at the Palais Wilson, Geneva, on Friday, 11 May 2012, at 10 a.m.

Chairperson: Mr. Grossman

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

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

Meeting with NGOs

1. **The Chairperson** welcomed the opportunity to engage in constructive dialogue with NGOs and underlined the importance of their contribution to the work of the Committee.
2. **Mr. Sands** (Association for the Prevention of Torture – APT) said that the Association planned to hold two meetings of experts in Geneva in 2012, as well as in-country training sessions, on the use of information obtained under torture, and would welcome input from the Committee. He suggested that the Committee could hold general discussions on the criminalization of torture and the prohibition of the use of information obtained under torture.
3. The Association recommended that the Committee should make fewer and more targeted recommendations in the concluding observations it addressed to States parties, and welcomed the Committee's efforts to encourage States parties to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee should consider inviting national preventive mechanisms to attend its meetings with national human rights institutions. Where they or NGOs could not attend meetings, consideration should be given to their participation through videoconference links.
4. **Mr. Splinter** (Amnesty International) said that Amnesty International and other NGOs were concerned about the lack of clarity concerning the participation of NGOs, national human rights institutions or treaty body experts in the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system. The treaty bodies and Office of the United Nations High Commissioner for Human Rights (OHCHR) should make every effort to ensure that treaty body experts took part in that process.
5. Turning to the forthcoming annual meeting of Chairpersons in Addis Ababa, he drew attention to the difficulties faced by human rights organizations and the media in Ethiopia and urged the Chairpersons to take all the necessary measures to ensure that national, regional and international NGOs could participate in the meeting without fear of intimidation or reprisals. He urged the Committee to take an active part in the current review of the Standard Minimum Rules for the Treatment of Prisoners.
6. It would be useful to know how the Committee planned to assess the quality of information provided by States parties in response to the new list of issues prior to reporting (LOIPR) procedure. The Committee should also establish guidelines for the drafting of general comments, which would enable States parties and civil society to participate in that process.
7. **Ms. Crottaz** (Alkarama) said that the family of Djamel Ktiti, whose extradition from Morocco to Algeria had been stopped after the Committee had found that the extradition would have violated article 3 of the Convention, wished to express its thanks. In spite of that success, Alkarama was concerned about the length of time taken by the Committee to reach decisions on individual complaints, which in some cases were issued years after the initial submission.
8. **Ms. Meraz** (World Organisation Against Torture – OMCT) said that the Committee should devote more time in its meetings to following up the implementation by States parties of recommendations contained in the Committee's concluding observations, and that OHCHR should make more resources available to enable follow-up. The creation of a page devoted to follow-up on the Committee's website was a welcome development but more

needed to be done. The Committee should conduct follow-up visits to States parties that systematically failed to implement its recommendations, and the treaty bodies should work together to bring pressure to bear on especially recalcitrant States parties.

9. She asked how much progress had been made towards adoption of the general comment on article 14, whether the Committee planned to issue further general comments and whether consideration had been given to amending rule 114 of the Committee's rules of procedure on interim measures, with a view to explicitly extending interim measures to participants in proceedings before the Committee, such as witnesses and human rights defenders.

10. **Ms. Lee** (International Disability Alliance – IDA) welcomed the fact that the Committee raised issues concerning persons with disabilities during consideration of the periodic reports of States parties and encouraged it and other treaty bodies and special procedures to harmonize their approaches to substantive matters of common concern. She urged the Committee to take more closely into account the standards being established by the Committee on the Rights of Persons with Disabilities when making its own recommendations on related matters, as a common approach was a key to promoting compliance by States parties and reinforcing the coherence of international human rights law. The various committees could foster closer cooperation through the issue of joint statements and joint general comments.

11. **Mr. Conte** (International Commission of Jurists – ICJ) urged the Committee to establish clear and public guidelines on the drafting and adoption of general comments. It would also be helpful for civil society organizations to know as far in advance as possible which States parties would be presenting their periodic reports at future sessions. It was unclear from the Committee's website, for instance, which States parties were due to be reviewed at the Committee's fiftieth session in May 2013.

12. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims – IRCT) said that IRCT was working with Physicians for Human Rights, REDRESS and the Human Rights Foundation of Turkey to finalize a plan of action to monitor and promote the implementation of the Istanbul Protocol. The High Commissioner for Human Rights had expressed strong support for the plan.

13. IRCT encouraged the Committee to focus particular attention on the issue of the effective investigation of torture claims and subsequent prosecution of perpetrators, which could be the subject of a general comment or general discussion. The Committee should be as well informed as possible of the views of NGOs. To that end, a lunchtime meeting between NGOs and Committee members could be organized later in the current session.

14. Turning to the possible establishment of principles regarding the independence of members of treaty bodies, he said that it was important that affiliation with NGOs did not preclude persons from becoming members of treaty body committees. Nor should such principles impede members from engaging with NGOs. While the independence of treaty body members was important, so was their competence.

15. **Mr. Irminger** (Human Rights House Foundation) said that he wished to draw the Committee's attention to the plight of a human rights defender from Belarus, Mr. Andrei Bondarenko, who had participated in NGO meetings with the Committee in Geneva in November 2011, had made his participation in those meetings public and had since been prohibited from leaving Belarus. The Foundation viewed the travel restriction placed on Mr. Bondarenko as a reprisal for having appeared before the Committee and urged it to raise the matter with the authorities of Belarus. Under recent legislation, the Belarus State Security Committee (KGB) could draw up lists of persons prohibited from leaving the country, and it was to be feared that Mr. Bondarenko would be placed on that list.

16. Noting that the delegation of Armenia, which had appeared before the Committee the previous day, had qualified information provided by some NGOs in the State party as anti-Armenian propaganda and hate speech, he said that the Government regularly accused human rights groups such as the Helsinki Citizens Assembly of anti-Armenian propaganda as part of a broader policy of repressing civil society. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had called for an end to harassment of such groups.

17. **The Chairperson** said that the list of States parties whose periodic records would be considered at the forty-ninth session was available on the Committee's website. The list of States parties due to be examined at the fiftieth session would be finalized in the course of the current session. There had been broad participation, including by civil society groups, in the drafting of the general comment on article 14. The taking of retaliatory measures constituted a violation of the Convention and the Committee would look into specific cases with a view to ensuring compliance by States parties with their obligations under the Convention.

18. **Mr. Bruni** said that the Committee had informed the Chairperson of the Subcommittee on Prevention that it systematically questioned States parties about the implementation of national preventive mechanisms. The Committee welcomed information from the Subcommittee and NGOs on national preventive mechanisms and any obstacles to their proper functioning.

19. **Mr. Domah** said that the work of the Committee was complemented by that of NGOs, and that the latter's concerns needed to be addressed.

20. **Mr. Tugushi** said that primary responsibility for improving and promoting the work of national preventive mechanisms lay with the Subcommittee, but the Committee frequently made recommendations on the matter and could consider holding direct meetings with them. The Committee relied heavily on reports from NGOs and civil society in general, and would doubtless come to rely more heavily on reports from national preventive mechanisms. The idea of videoconferences to enable the participation of NGOs and other groups in Committee meetings could well be taken up in the future.

21. **Mr. Mariño Menéndez** expressed concern about the fact that NGOs from countries of the developing world rarely attended meetings of the Committee, mostly because they could not afford to. That was especially disappointing in the case of meetings devoted to the consideration of States parties' periodic reports. In addition to contemplating the possibility of videoconferences, cooperation between international and national NGOs should be intensified.

22. It would be useful if the Subcommittee carried out assessments of national preventive mechanisms and the difficulties they encountered. The Committee already assessed the quality of information provided by States parties when it considered their periodic reports. He requested clarification from OMCT in relation to the extension of interim measures to other stakeholders involved in proceedings before the Committee. Although the Committee could consider making follow-up visits to States parties, the resources for such visits might not be forthcoming. It was unclear whether the adoption of a code of conduct would be included in the deliberations of the intergovernmental process on strengthening the human rights treaty body system. He could see no reason why treaty body members should not also be members of NGOs or have close contact with them. Indeed, the experience acquired through working in NGOs was invaluable to experts serving on treaty bodies.

23. **Ms. Sveaass**, commending NGO support for the Committee's work, said that she had been particularly impressed by the updated information provided by NGOs on the

situation in Greece when the State party's appearance before the Committee had been postponed from the forty-seventh session until the current session.

24. The International Disability Alliance had greatly contributed to the enhancement of public awareness of issues relating to persons with disabilities, including in the context of the prevention of torture. It was important for the Committee to scrutinize the abusive conditions to which many of them were subjected in States parties. She asked whether the Committee on the Rights of Persons with Disabilities ever referred to the Convention against Torture when dealing with State party reports. Several NGO representatives had referred to the importance of general comments. She was interested in hearing about the specific purposes that they served in NGO work.

25. Referring to the proposed NGO plan of action on the Istanbul Protocol, she noted that NGOs, especially those working with torture victims, were aware of the standards laid down in the Protocol. States parties, however, were not so well informed. She enquired about the measures envisaged under the plan of action to promote compliance with the standards. She would also be interested in hearing the NGOs' assessment of the webcasting of treaty body meetings with States parties. Did they consider that it contributed to the strengthening of the treaty body system and to the dissemination of relevant information among activists who were unable to attend Committee meetings?

26. **Ms. Gaer** warmly thanked the NGOs that were participating in the voluntary webcasting of the Committee's sessions, which had already had a significant impact. The Committee had received responses from parliamentarians, senior officials, journalists and NGOs, who had been able to watch the dialogue between the Committee and representatives of their country. She felt that a formal expression of appreciation by the Committee would be in order. When the Committee had suggested at a meeting on the treaty body strengthening process that webcasting should be considered, it had been informed that such a service would cost at least US\$ 2 million per year.

27. Noting that 150 States had ratified the Convention, including about 35 in the past 10 years, she said that it was easier to endorse than to enforce. She wondered whether NGOs could assist the Committee in focusing on the 30 to 35 States parties whose initial reports were long overdue. It had become clear since the establishment of the Universal Periodic Review Working Group that the argument that some States were unable to produce reports was invalid. Virtually every State had submitted a report to the Working Group on time and sent a delegation to represent it. She would welcome suggestions regarding ways of increasing pressure on States parties to submit their reports to the Committee. With regard to Amnesty International's recommendation that lists of issues prior to reporting should be sent to States parties that had not yet submitted an initial report, she pointed out that no lists of issues were sent to States reporting under the Universal Periodic Review. Moreover, the production of a list was a labour-intensive process that placed a great burden on a small committee.

28. She was interested in hearing NGO comments on the assignment of secretariat support to the treaty bodies and cases in which available assistance had been diverted to other purposes. For instance, when the Universal Periodic Review was launched, the relevant department had been assigned 17 new posts, while the treaty bodies had been deprived of about half a dozen posts. The present High Commissioner was seeking to remedy the situation. Prior reviews of the treaty body system had referred to rationalization and efficiency. By contrast, the current review had deliberately been termed a strengthening process. However, as States became more involved in the process, the rationalization and efficiency model seemed to be taking over again. In that context, she would be interested in hearing NGO reactions to the secretariat's proposal for a calendar setting out dates in advance for the treaty body system. She also invited the NGOs to comment on the idea of conducting the dialogue with States parties by videoconference. Another possibility was to

hold Committee meetings in the different regions so that more State officials and NGOs could attend. She wondered why NGOs were not more closely involved in the inquiry process under article 20 of the Convention.

29. **Ms. Belmir** commended the valuable assistance offered by NGOs to the treaty body system by reporting human rights violations and helping to publicize international human rights instruments.

30. **Mr. Wang** Xuexian reiterated the point made by Mr. Mariño Menéndez concerning the regrettably low level of participation by representatives of NGOs from developing countries in the Committee's proceedings. It would be very helpful to discuss the situation in States parties with NGO representatives who were based in the country concerned.

31. **Mr. Bruni** said that the Committee had been informed by the United Nations Division of Conference Management that the rate of compliance with deadlines for State reports under the Universal Periodic Review procedure was 93 per cent and under the treaty body system only 14 per cent. It was essential to remedy that situation. As one commentator had put it, a code of conduct was required for States parties rather than for treaty body experts. States parties frequently included references to consultations with civil society representatives and NGOs on the preparation of their reports. The Committee usually asked whether the parties concerned would be involved in implementing the concluding observations. It would be useful if NGOs could let the Committee know whether such undertakings were respected in practice and whether they were effectively involved in follow-up activities.

32. **The Chairperson** drew attention to the constant need for the Committee to make difficult choices about which documents to have translated, as there were insufficient resources to have all documents translated in time for all meetings. It was also noteworthy that many States parties' lack of compliance with their reporting obligations was the only reason the Committee was able to keep as abreast of its schedule as it did. The Committee had renewed its request to extend its sessions from three to four weeks, since the current extension period ended in 2012. The Committee would take the priorities the NGOs had listed into consideration, including the comments on webcasting and producing more succinct documents.

33. **Mr. Kjaerum** (International Rehabilitation Council for Torture Victims) said that he would be willing to share with the Committee an informal report his organization had prepared on the webcasting of the consideration of Ireland's initial report to the Committee in May 2011. However, it appeared that the relevant staff in the States parties were not currently using the webcasts in order to follow the meetings from their capitals and prepare replies to the Committee's questions. It might be useful for the Committee to suggest such a *modus operandi* to States parties. Videoconferences were an excellent idea. The Human Rights Council was currently using video messaging with NGOs; it was, however, important to establish a dialogue rather than a one-way conversation. That said, it was important that States parties met with the Committee and held face-to-face dialogue, particularly States parties that did not report on a regular basis.

34. He recognized the need to promote States' involvement in the Istanbul Plan of Action. Given the complexity of the process of strengthening the treaty body system, he indicated that he would be willing to brief the Committee at a separate meeting. It was important that better processes were established to identify and elect treaty body members at the national level. He therefore suggested that the Committee should consider preparing a document giving a brief outline of the competencies it required to operate effectively, which would serve as guidance to States parties aiming to identify suitable candidates. He requested that, if at all possible, the Committee should avoid scheduling national NGOs to attend meetings on a Friday afternoon prior to the consideration of the relevant reports at

the beginning of the following week, as the resultant extended stay in Geneva was extremely expensive.

35. **Mr. Conte** (International Commission of Jurists – ICJ) said that the Committee's general comments were exceptionally useful. From a national perspective, civil society used them to help inform the development of law and policy and on general issues of implementation. Most importantly, the general comments informed the public at large about how the Committee treated the interpretation and application of the provisions of the Convention, with reference to the jurisprudence of the Committee, both its concluding observations and its views. The ICJ made extensive use of the general comments in its legal briefings to treaty bodies, its lobbying of governments, its briefings to the Human Rights Council and the Universal Periodic Review, and in briefings outside the United Nations mechanism, such as those to the European Court of Human Rights.

36. Replying to Ms. Gaer's question on the calendar, if it was envisaged that all States parties were reviewed within a four- or five-year period, the Committee against Torture currently had neither the time nor the resources to comply, since it had to cover some 150 States. While some committees could work in two separate chambers, that was not possible for such a small committee. The impact of the new calendar on treaty bodies' other core functions was another concern, particularly if it involved increasing the time spent on periodic reporting. Unless they were compensated in terms of time and resources, the treaty bodies would have less time to spend examining individual petitions and developing general comments. Nonetheless, having a calendar more analogous to that used by the Universal Periodic Review system might result in more compliance with reporting obligations on the part of States parties.

37. **Ms. Lee** (International Disability Alliance – IDA) said that IDA's mission was to advance the rights of children and adults with disabilities, using all the human rights instruments and in particular, the Convention on the Rights of Persons with Disabilities. That Convention contained specific provisions on protection from torture and other cruel, inhuman or degrading treatment and punishment; protection from violence, abuse and exploitation; non-discrimination; the right to liberty; and the right to live in the community. A significant part of IDA's mandate was to build the capacity of organizations for persons with disabilities. It was particularly targeting those in developing countries so that they could enhance their participation in the work of all the treaty bodies, including by following the webcasts of the Committee against Torture. The Committee on the Rights of Persons with Disabilities was taking several steps to encourage joint work with other treaty bodies, such as setting up a meeting in Madrid in June 2012, at which the Committee against Torture would be represented by Mr. Mariño Menéndez.

38. **Ms. Meraz** (World Organization Against Torture – OMCT) agreed that the Committee's general comments were an essential tool for the work of her organization on the ground. As a network of different national organizations, OMCT did its utmost to ensure that national NGOs attended Committee meetings whenever possible, within the limits of its budget. She also supported the proposal to use videoconferencing to facilitate dialogue between the Committee and NGOs on the ground. OMCT conducted follow-up missions to countries to monitor the degree to which the Committee's concluding observations had been implemented and endeavoured to report back to the Committee in that regard.

39. Replying to Mr. Mariño Menéndez's question on preventive measures, she asked whether the Committee had considered the joint proposal her organization and several others had submitted the previous year to amend rule 114 of the rules of procedure in order to include a specific reference to interim measures for family members, victims and human rights defenders.

40. **Ms. Crottaz** (Alkarama) said that her organization had prepared an informal analysis of the Committee's webcasts, which had revealed that the consideration of the fourth periodic report of Morocco in November 2011 had been viewed about 200 times. Alkarama had brought some human rights defenders to that meeting, and they had been instrumental in disseminating news of the Committee's webcasts. She would welcome official recognition from the Committee for the continued fundraising efforts of Alkarama to that end.

41. **Mr. Splinter** (Amnesty International) said that, in order to avoid the treaty body strengthening process becoming a review process, it was important that Committee members contributed to the work of the General Assembly working group. While the provisions for such participation were far from clear, he suggested that the Committee might consider a model similar to that which had been employed by the Special Procedures for the institution-building process of the Human Rights Council and the subsequent review of that body. He asked whether the meeting of chairpersons might be given a mandate to be active throughout the year so that it could ensure that the views of the broader treaty body system and membership were brought to the intergovernmental process. That would also guarantee that treaty body members were regularly updated on developments in that process.

42. **Mr. Irminger** (Human Rights House Foundation) said that the national preventive mechanisms with which his organization routinely worked would welcome the fact that the Committee valued their participation and would appreciate a stronger relationship with them in the future.

43. **The Chairperson** said that the secretariat did all it could to schedule meetings with European countries on Fridays since European delegations and NGOs could return home at the weekend. However, delegations often had commitments limiting their availability, which ultimately dictated the meeting schedule to a large degree. The Committee appreciated all the suggestions and comments from the NGOs and would discuss them in detail. In connection with the APT initiative to develop model legislation involving provisions of the Convention, particularly article 1, he recalled that the Committee often encouraged States parties to incorporate the article 1 definition of torture in their domestic legislation. The APT model legislation would doubtless be useful to that end.

The discussion covered in the summary recorded ended at 12 noon.