



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

Distr.: General
25 May 2011

Original: English

Committee against Torture
Forty-sixth session

Summary record (partial)* of the 993rd meeting

Held at the Palais Wilson, Geneva, on Monday, 16 May 2011, at 3 p.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 3.05 p.m.

Meeting with States parties to the Convention against Torture

1. **The Chairperson**, welcoming the representatives of States parties to the Convention, said that the Committee benefited greatly from its annual dialogue with States parties outside the context of the reporting procedure. He invited participants to comment on the Committee's working methods and on any other topic that they deemed to be of relevance.
2. At its thirty-eighth session the Committee had adopted a new optional procedure involving the submission of lists of issues to States parties prior to reporting. The procedure was not applicable to initial reports and States parties were free to address other topics in their periodic reports if they so wished. The Committee had decided at its forty-second session, in the light of the positive feedback received from States parties during the trial period, to maintain the new procedure.
3. The Committee had adopted 11 lists of issues prior to reporting in respect of periodic reports to be submitted in 2009. The corresponding figures for reports due in 2010, 2011 and 2012 were 9, 19 and 36 respectively. To date, 53 of the 75 States parties that qualified for the optional procedure had accepted it and 19 had not yet replied. Three of the latter had submitted a periodic report without receiving a list of issues in advance because their report had already been prepared. Only three States parties had rejected the optional procedure.
4. The Committee was currently assessing the implications of the resulting workload for its members and the secretariat and considering whether to commission an independent assessment. As the United Nations General Assembly had approved an extension of the Committee's sessions by one week for the next two years, the number of reports considered at each session could be increased.
5. The Committee had adopted an amended version of its rules of procedure at its forty-fifth session. For instance, it had reaffirmed the rule concerning the independence of Committee members. Members were not permitted to participate in the dialogue with States parties when their own States were being considered because of the possible conflict of interest.
6. The Committee was considering the adoption of a general comment on article 14 of the Convention concerning compensation for victims and rehabilitation. States parties and representatives of civil society would be consulted prior to its adoption.
7. An informal technical consultation for States parties to the human rights treaty bodies, which had been held in Sion, Switzerland, on 12 and 13 May 2011, had focused on the topic of harmonization of procedures.
8. **Mr. Lomax** (United Kingdom) commended the Committee on its pioneering initiative of adopting lists of issues prior to reporting. The United Kingdom looked forward to hearing the outcome of any assessment undertaken. The participants in the recent meeting in Sion had emphasized the need for increasing dialogue between Committee members and States parties whose compliance with the Convention was being reviewed. He asked whether the Committee would consider the option of having only one dialogue-based meeting with each State party. The Committee could perhaps submit its questions to the delegation a day or two in advance, especially when statistics were required.
9. **Mr. Hu Bin** (China) said he trusted that the Committee, in developing its working methods and rules of procedure, would focus on enhancing its fairness, independence and professionalism. Extensive consultations and constructive dialogue with States parties were essential to ensure that the Committee was aware of their concerns.

10. While China appreciated the Committee's well-intentioned desire to innovate by introducing lists of issues prior to reporting, more time was required to study the implications of the new procedure. States parties were entitled under the Convention to choose their own approach when it came to presenting relevant information concerning the discharge of their obligations. It was unclear how the Committee proposed to draft a list of issues in the absence of a national report. China had neither accepted nor explicitly rejected the optional reporting procedure. It merely required time to study its application and might reconsider its position in due course.

11. He welcomed the Committee's amendment of its rules of procedure to ensure greater impartiality and integrity, thereby responding to concerns expressed by States parties in recent years. With a view to translating that aspiration into practice, he proposed that the Committee should draft a code of conduct in consultation with States parties. The code could be modelled on that applicable to the special procedure mandate holders of the Human Rights Council (Council resolution 5/2). He was pleased to note that members of the Committee would be barred under certain circumstances from participating in the review of a State party report. The rule should be applicable not only to members who were nationals of the country concerned but also to members whose views might be tainted by other conflicts of interest.

12. He noted that, pursuant to the amended rules of procedure, NGOs were no longer required to enjoy consultative status with the Economic and Social Council. While China appreciated the input that NGOs could make to the reporting and review procedure, it stressed that their involvement should be orderly and responsible. The Committee should exercise caution in assessing the relevance of information provided by NGOs and should take serious steps to certify its veracity. While constraints of time or resources might render it difficult for the Committee to perform the task of verification with due diligence in each case, it should at least pay heed to the views of the States parties concerned. NGO information posted on the Committee's website could be interpreted as reflecting the views of the Office of the High Commissioner or the Committee itself. He therefore proposed that an internal verification mechanism should be established to prevent any abuse of authority.

13. China would submit comments on the proposed general comment on article 14 as soon as it received the draft. As practices regarding the provisions of article 14 differed markedly from one judicial system to another, in-depth research was required to take States parties' views into account. In the absence of any shared judicial practice, he queried the wisdom of issuing a general comment on the subject.

14. **Mr. Oyarce** (Chile) commended the Committee for its contribution to the development of international human rights law, noting in particular its definition of torture, its jurisprudence and the guidance it provided in its general comments on non-refoulement and on the interpretation of article 2 of the Convention. He also underlined the importance of contributions made by NGOs to the defence of human rights. The introduction by the Committee of the optional reporting procedure constituted a significant development in the process of harmonization that would hopefully be adopted by all the treaty bodies before long. He wished to know what assessment the Committee had made of the procedure so far and thanked Ms. Gaer, Ms. Kleopas, Mr. Gallegos Chiriboga, Mr. Gaye and Mr. Grossman, Committee members whose terms were coming to an end, for their work and dedication.

15. **Ms. Mellouh** (Algeria) asked whether a document distributed to States parties containing reporting guidelines might not have been sufficient for streamlining reporting procedures, rather than devising a new list of issues. She wished to know how the Committee could be sure of the objectivity and credibility of information it received and upon which it based its lists of issues, and asked whether the aim of the optional reporting procedure was not simply to bring pressure to bear on States. She agreed with China that more thought needed to be given to the procedure.

16. **Ms. Oinonen** (Finland) said that her country welcomed the optional reporting procedure, which had reduced the workload involved in compiling the State party's periodic reports and facilitated the task of gathering information. The State party, which would present its first report under the new procedure in the course of the current session, would be happy to share its experiences with other States parties. The State party also welcomed the Committee's efforts to draft a general comment on the implementation of article 14 of the Convention.

17. **The Chairperson** noted that the optional reporting procedure, the efficiency of which was still being assessed by the Committee, had received broad support, and thanked the United Kingdom of Great Britain and Northern Ireland, Chile and Finland for their positive responses to it. Of the 75 States parties that had considered reporting under the procedure, 53 had accepted it, 19 had not responded and only 3 had rejected it. The procedure allowed States parties to have a better understanding of the Committee's thinking prior to submitting their periodic reports and in no way prevented them from presenting additional information. The introduction of the procedure represented a significant increase in the Committee's workload in the short-term but should lead to a reduction in the medium-term. Under the current standard procedure, the States parties' responses to lists of issues were frequently longer than their periodic reports. The new procedure in no way undermined dialogue between the Committee and States parties.

18. He took note of the suggestion by the United Kingdom that the Committee might wish to consider reducing the number of meetings with States parties devoted to examining their periodic reports from two to one, and its request that the Committee's questions, particularly on statistical matters, be sent to the States parties in advance.

19. Welcoming China's readiness to study the adoption of the optional reporting procedure, he emphasized that all States parties were entitled to weigh up the benefits and disadvantages of the procedure before deciding whether to follow it. Noting China's suggestion that the Committee should adopt a code of conduct, he underlined that the Committee was governed by strong mechanisms that guaranteed its independence and impartiality, and that its members could not take unilateral decisions. Referring to rules 15 and 73 of the Committee's Rules of Procedure (CAT/C/3/Rev.5), on the independence of members and the obligatory non-participation of a member in the consideration of a report, he underlined that Committee members could not take part in the consideration of reports or participate in non-public consultations or meetings if any conflict of interest was present. It was equally important to note that lists of issues were adopted by the Committee as a whole.

20. With regard to the credibility of information provided to the Committee by NGOs and other sources and whether it was prudent to publicize it, he emphasized that the Committee followed certain standards in its assessment of information and that the Committee's 10 experts were elected by the States parties themselves and knew their subject well. Their credibility resided not in information or questions that reached the Committee but in the Committee's concluding observations. Referring to rule 63 of the Rules of Procedure, he said that the Committee received information from many sources other than NGOs that enjoyed consultative status with the Economic and Social Council. The Committee did not necessarily believe all the information presented to it but rather verified and analysed it carefully in conjunction with the States parties and availing itself of the expertise of the Committee's members. Many disreputable individuals and groups, including terrorists, criminals and sex offenders, appeared before the Committee, but it was obliged by the Convention to investigate any claims of torture. He wished to underline that the Committee's Web page contained a disclaimer stating clearly that information appearing there was not necessarily endorsed by the Committee.

21. Replying to questions by Algeria, he said that simply issuing reporting guidelines was insufficient from the Committee's point of view. It had therefore established an optional reporting procedure that was designed to facilitate a more focused dialogue between the Committee and States parties. He added that he failed to see how the Committee could possibly exert pressure on sovereign States and that it was not its intention to try to do so.

22. **Mr. Gallegos Chiriboga** said he welcomed the opportunity for the Committee to inform States parties of developments in its working methods. It was important to note that States parties acceded to the international human rights treaties of their own volition, thereby implying that they were prepared to submit to monitoring. The Committee had only 10 members with an increasing number of States parties, and thus an increasing workload. The use of lists of issues prior to reporting was therefore particularly important, since it streamlined the reporting procedure and saved time.

23. The Committee was constantly seeking to improve the efficiency of its working methods, and to be as well informed as possible about the situation in States parties. Greater participation of civil society, especially from developing countries, in the State party reporting process would therefore be appreciated. In that regard, consideration was being given to the possibility of using videoconferencing and Internet communications to increase public access to the Committee's work.

24. The Committee was in the process of drafting a general comment on article 14 on redress for victims of torture, or cruel, inhuman or degrading treatment. The harmonization of the treaty body system was particularly important, and States parties' views on the matter should be heard. Harmonization methods should not be driven by financial concerns, but rather should seek to improve the efficiency of the treaty bodies. States Members of the United Nations must ensure that the treaty body system had sufficient resources to function effectively.

25. **Mr. Mariño Menéndez** said that the Committee was in the process of adopting a general comment on article 14 of the Convention. The practice of adopting general comments was intended to allow the Committee to interpret an article of the Convention in the light of its own experience. Article 14 addressed reparation for victims, which was a particularly important issue, and it would be interesting to hear States parties' opinions on the issue.

26. Torture was a particularly difficult subject to address, and the public image of a State would suffer considerably if it was found to practise torture or ill-treatment. The Committee did not condemn or sanction States parties, but rather sought to provide assistance to them in meeting their obligations. He considered the idea of a code of conduct for the members of the Committee to be unnecessary, however, since the working procedures of the Committee were governed by the Convention. The Committee's work was more legally oriented than that of other treaty bodies. It was therefore difficult to apply political pressure on the Committee.

27. **Mr. Bruni** said that the Committee was free to choose its own methods for the consideration of State party reports and dialogue with States parties, since they were not set out in the Convention. When the treaty body system had first started, and the first treaty body, the Committee on the Elimination of Racial Discrimination, had commenced consideration of State party reports, it had done so without the presence of a delegation, and in closed meetings. That Committee, and the States parties to its Convention, had soon realized that the lack of dialogue was not productive, and working practices had therefore been changed to invite delegations to participate in the consideration of periodic reports. That approach had since been adopted by all the other treaty bodies. Methods had been developed and adapted over the years, as it had become clear that two separate meetings

were required: one in which the Committee could put questions to the delegation, and the other for the delegation to respond, preferably with a break in between in order to allow the delegation time to prepare its replies.

28. In the past, periodic reports of States parties had addressed every article of the Convention. Under the new optional system of lists of issues prior to reporting, States parties drafted their periodic reports in response to lists of questions submitted to them by the Committee, which led to a more targeted reporting procedure. The new approach gave States parties a better understanding of the direction the dialogue with the Committee was likely to take, and thus enabled delegations to prepare more thoroughly for their consultations with the Committee.

29. **Mr. Wang Xuexian** said that if the States parties wished to reform the United Nations they had to exercise a kind of “family planning”. Committees, subcommittees and treaty bodies were like the children of the States parties, which had the responsibility to support their offspring and provide them with enough resources. The United Nations system had been born with a chronic disease: the lack of financial resources. For their part, treaty bodies and other United Nations auxiliary bodies had the responsibility to improve their efficiency.

30. **The Chairperson** said that a very useful meeting on the harmonization of working methods among treaty bodies had recently been held in Sion in Switzerland. The 150 participants from nearly 90 countries had expressed great appreciation for the treaty body system and had examined, inter alia, the presentation and maximum length of reports, translation costs, and procedures for national consultations. Attention had also focused on whether meetings with States parties should take place face to face or by using new technology as a way to save resources, on which subject the Office of the United Nations High Commissioner for Human Rights (OHCHR) was preparing a report.

31. Participants in the Sion meeting had also expressed their appreciation for the fact that the treaty body system was made up of experts who used juridical norms to carry out their functions. That distinguished treaty bodies from State-appointed bodies and ensured their non-politicization. With a view to increasing the efficiency of the system, the OHCHR had suggested committees meet among themselves and that procedural decisions be taken by the chairpersons of committees. It would be presenting a proposal on the subject of harmonization in 2012.

32. Equality of treatment was essential to ensure the legitimacy of the system. The similar language used in many human rights treaties meant that harmonization was vital for legitimacy, because if different organs interpreted the same words in different ways the system would lose its effectiveness.

33. **Ms. Dawkins** (Australia) thanked Mr. Bruni for reminding the meeting of the genesis of interactive dialogue. The two-day format was very helpful, particularly for States which were separated from Geneva by several time zones, as it provided them with an opportunity to consult with Government. Nonetheless the one-day format was attractive and, if the presentation of the written report could be dispensed with and the Committee members could frame their questions in advance, then the interactive responses between the Committee and the State party could begin at once. She was reluctant to reduce the time spent with the Committee but, given the problem of resources, it was important to consider how money was being spent and to make changes where necessary.

34. Australia had accepted the procedure whereby the list of issues was communicated prior to reporting, and was about to begin preparing its first report under that procedure.

35. **Ms. Mostafa Rizk** (Egypt) noted that the Committee against Torture was the most advanced in terms of applying the optional procedure for reporting, and asked whether

consideration had been given to the idea of using that procedure for some reports, and then letting States parties periodically submit more comprehensive reports. Otherwise, the information on which the lists of issues were based would become increasingly limited over time. She was merely putting the idea forward for consideration, but Egypt had not agreed to that method. It could lead to problems and possible inequalities of treatment vis-à-vis other Committees or States that had not applied the new procedures.

36. She asked whether the Committee could frame its questions long enough in advance to enable the State party to choose the members of its delegation in the light of the questions asked.

37. **The Chairperson** said that consideration would be given to the ideas raised by the Australian and Egyptian delegates. Efficiency was not the only criterion; there was also the lack of money. Translation, which accounted for over 60 per cent of the Committee's expenses, was a problematic issue and an obstacle to the smooth functioning of the Committee. States had created the treaty body system and therefore had the responsibility to provide resources, especially as they had raised and channelled the hopes of all men and women for a world without human rights violations. A lot of the work of the Committee and of other treaty bodies was performed on a voluntary basis, and was not just limited to holding morning and afternoon meetings with States parties. It was such voluntary work that enabled the system to continue.

38. The list of issues prior to reporting was derived from numerous sources, including previous concluding observations, summary records, information provided by the State party, follow-up enquiries by the Committee, concluding observations by other relevant treaty bodies, reports from Special Rapporteurs and reports from national human rights institutions. The same sources were used to prepare lists of issues for States not using the optional procedure, in addition to their own reports. Summarizing information from all those sources required a great deal of effort and sometimes the matters raised did not reflect the real situation: hence the importance of dialogue with States parties.

39. Regarding the possibility of the Committee members raising questions in advance, he could not envisage how it would be possible but he would look into the matter. He wished to encourage any mechanism capable of enriching dialogue. Reducing oral exchange was not advisable but might prove necessary in view of the lack of resources.

The meeting closed at 4.50 p.m.