



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

Distr.: General
11 June 2013
English
Original: French

Committee against Torture Fiftieth session

Summary record of the first part (public)* of the 1140th meeting

Held at the Palais Wilson, Geneva, on Friday, 10 May 2013, at 10 a.m.

Chairperson: Mr. Grossman

Contents

Organizational and other matters

Meeting with States parties to the Convention against Torture

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1140/Add.1.

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

Organizational and other matters

Meeting with States parties to the Convention against Torture

1. **The Chairperson** welcomed the representatives of the States parties to the Convention against Torture. The meeting with States parties, which was now established Committee practice, provided an opportunity each time for engaging in a constructive discussion of the Committee's activities and of ways to contribute to the full realization of the Convention's objectives. He recalled that the Committee received its mandate directly from the Convention and was completely independent in its decision-making. The States themselves had called for the establishment of the Convention and, by ratifying it, had freely assumed several obligations, including the obligation under article 19 to submit periodic reports to the Committee on their implementation of the Convention. In total, 65 States parties had made the declaration provided for in article 22 whereby they recognized the competence of the Committee to examine complaints lodged by or on behalf of individuals claiming to be the victim of a violation of the Convention. The vast majority of complaints received by the Committee under article 22 referred to article 3 and, in all cases in which the Committee had concluded that the expulsion of the complainant had constituted a violation of the principle of non-refoulement, the States concerned had implemented the Committee's recommendations. That showed that the Committee's decisions under article 22 had a real impact on the course of events and it would consequently be highly desirable for all the States parties to recognize the Committee's competence under that article.

2. In relation to the first item on the agenda, namely the initiatives taken by the Committee with regard to its working methods, the Committee was pleased to note that increasing numbers of States parties were agreeing to submit their reports under the new optional reporting procedure. The procedure had been introduced to better focus the dialogue with the States parties, and the Committee was pursuing further progress in that regard. The follow-up given to its concluding observations and statements, which was implicitly part of the Committee's mandate, continued to form an essential aspect of its work. He was happy to report that the compliance rate as far as the application of interim protection measures was concerned, was extremely high.

3. He thanked the States parties that had participated in the celebration held during the session to mark the Committee's twenty-fifth anniversary, particularly Denmark and Chile, which had financed the reception, and Senegal, which had moderated one of the two panel discussions. There had been two important developments during the session: the Committee had appointed two rapporteurs, one on reprisals and another on the application of general comment No. 3 on the implementation of article 14 by States parties (CAT/C/GC/3). The appointments were the outcome of intense consultations in which States parties and civil society had played a large role. The Committee appreciated the fact that the United Nations General Assembly had granted it permission to extend its sessions, on a provisional basis, by one week so that it could consider eight State party reports at its May session and nine at its November session.

4. **Ms. Zolotova** (Russian Federation) said that, the opinion of the Russian Federation of the new optional reporting procedure, based on its experience during the examination of its most recent periodic report, was, on balance, rather negative. The list of issues drawn up prior to reporting had contained no less than 70 questions, and the Government, despite its best efforts to respond concisely as the Committee had requested, had been unable to adhere to the established page limit. The new procedure had thus failed to achieve its objective of simplifying the reporting process. Also, the dialogue, which was supposed to be better focused under the new procedure, had been no different from the dialogue held

under the traditional one. The Russian Federation was not opposed to the new procedure, but would like the Committee to examine and address its flaws. There should be some flexibility, for example, in the page limit imposed on the written replies, to take into account the varying legal and political structures of the States parties. A federation, such as the Russian Federation, for instance, had, by definition, more information to report than a unitary State.

5. She wished to know if the Committee intended to establish a more rigid framework for its follow-up activities, as the Human Rights Committee had done, because current practice consisted of a steady flow of correspondence between the Committee against Torture and the States parties between sessions, which generated an extremely heavy workload for the latter. The Russian Federation was following the Committee's efforts to enhance its working methods as part of the strengthening of the treaty-body system with great interest and wished to know the Committee's position on the proposed establishment of a global reporting calendar. The Russian Federation also wished to know if the Committee was considering ways to reduce the number of communications awaiting consideration and what its practice was as far as evaluating the implementation of the Convention in the absence of a delegation or a report.

6. **Mr. Last** (United Kingdom) said that the United Kingdom had not submitted its most recent report, which had been considered earlier that week, under the optional procedure because the preparation of the report had already been too far advanced at the time, otherwise it might have decided to do so. That had not had a negative impact on the dialogue, which had been focused and in depth, largely thanks to effective time management on the part of the Committee. The United Kingdom was nevertheless willing to use the optional procedure in the future since, in its view, it was a highly positive development. With regard to the strengthening of the treaty-body system, the United Kingdom was in favour of establishing a fixed seven-year reporting cycle, which would ensure that not too much time elapsed between the submission of a report and its consideration. He would very much like to hear the views of the Committee on the matter.

7. **The Chairperson** said that the traditional reporting procedure placed a double burden on States parties by making them report on the follow-up given to the concluding observations on the previous report and provide written replies to the list of issues drawn up by the Committee after it had received their report. And those replies were often longer than the report itself. Under the new optional procedure, however, they prepared only one document in response to a list of issues drawn up beforehand by the Committee and that served as their report. The workload for the States parties was thus considerably lightened. The ensuing reduction in translation costs was an additional, and by no means small, benefit given current budget constraints. The Committee was therefore of the view that the procedure was an undeniable step forward. That did not, however, preclude the Committee from seeking ways to improve its effectiveness. It should be noted that the list of issues drawn up prior to reporting was not prescriptive; States parties were free to raise issues not mentioned in the list, including new matters that had arisen since the list and the previous report had been issued.

8. The Committee had not fallen behind in its consideration of the draft recommendations on the communications that it had received. At its forty-ninth session, the Committee had made it a point of honour to consider all the draft recommendations submitted by the Working Group. The current backlog was due only to the fact that the resources allocated to the Working Group were insufficient for it to prepare more recommendations for consideration by the Committee.

9. As to the global reporting calendar, 26 States parties had still not submitted their initial report, 22 years after ratifying the Convention. That was obviously unacceptable to the Committee, but it should also be viewed as unacceptable by the States parties that did

submit their reports regularly since the fact that some States failed to comply with their obligations undermined the whole human rights protection system. He therefore suggested that the States parties should together weigh the possibilities of tackling the problem through concerted action.

10. The Committee was currently considering a proposed amendment to its rules of procedure to take into account the guidelines on the independence and impartiality of members of the human rights treaty bodies (“the Addis Ababa Guidelines”). Treaty bodies were entitled to decide their own rules of procedure, which guaranteed their independence. He therefore thought it would be inappropriate to set up an external monitoring mechanism, comprising States parties to the international human rights treaties, to oversee the conduct of treaty-body members. The treaty bodies’ rules of procedure already contained provisions on the matter that had already proved to work well.

11. **Ms. Gaer** said that the optional procedure of sending a list of issues to the States parties before they had prepared their periodic report had been established because the Committee had noted that the usual procedure took too long and, moreover, it was impossible to have the replies to the list of issues sent to the States parties after the submission of their reports translated in time. The new procedure had the advantage of merging several stages and thus expediting the process. However, some States parties that had opted for using the procedure had requested an extended deadline for the submission of their responses, which had delayed their consideration by the Committee.

12. The follow-up procedure was not explicitly defined in the Convention, but it was covered by article 19, paragraph 1, whereby the Committee could ask the States parties to provide supplementary reports, besides their periodic ones. The follow-up given to the Committee’s recommendations was assessed every two years. In that regard, the Committee had drawn inspiration from the evaluation systems used by the Human Rights Committee and the Committee on the Elimination of Discrimination against Women, which considered not only the States parties’ acceptance of their recommendations, but also the effectiveness of the measures taken to follow up on them.

13. As to the consideration of the situation in a given country in the absence of a delegation or a report, regrettably, the States parties had never been interested in the fact that some States had never submitted a report to the Committee against Torture or did so very irregularly. In such cases, the Committee sent reminders to the State party concerned, and, if there was no response, it considered the situation in the State party in the absence of a report or a delegation, as applicable. Since its founding, the Committee had only resorted to that extreme measure twice, and in both cases it had adopted provisional concluding observations, which were sent to the State party with an invitation to engage in a dialogue with the Committee at its next session.

14. There was apparently a proposal circulating within the United Nations system whereby States parties whose reports were long overdue would be granted an amnesty. The idea was outrageous since it would penalize the States parties that had reported regularly to the Committee and would minimize the seriousness of the lack of respect shown by some States for their treaty obligations. The proposal to establish a global reporting calendar needed to be studied carefully, and a means would have to be found for convincing the States parties whose reports were long overdue to meet their obligations.

15. **Ms. Belmir** noted that several of the 26 States parties whose initial report had been outstanding for 22 years had managed to submit their report to the Human Rights Council for the universal periodic review. She therefore did not understand why they had not managed to submit their initial reports to the Committee against Torture.

16. **Mr. Bruni**, replying to the statement made by the representative of the Russian Federation that it had not noticed any difference in the dialogue based on a report prepared

in response to a list of issues and one prepared according to the usual procedure, said that, indeed, the optional procedure did not affect the course of the dialogue with the State party. However, given that the State party's report was more targeted under the optional procedure, the Committee's expectations with regard to the content of the dialogue were more likely to be met. Admittedly, the number of questions put forward in the list of issues prior to reporting was, without a doubt, too high, and the Committee should endeavour to reduce that number.

17. He wished to stress that the Committee always provided States parties with advance notice if it decided to consider their situation in the absence of a report. The reminders it sent generally granted a one-year extension of the reporting deadline and contained a warning that the Committee might resort to considering the situation in the State party in the absence of a report. He suggested that the representatives of the States parties should raise the issue of the reports that were more than 20 years overdue for discussion at the meeting of the States parties.

18. **Ms. Suzany González** (Bolivarian Republic of Venezuela) said that the Bolivarian Republic of Venezuela was of the view that the strengthening of the treaty-body system was a necessary process and the secretariat of the Committee should be allocated funds from the regular budget of the United Nations. In addition, all the regions of the world should be equitably represented on the Committee. The Bolivarian Republic of Venezuela was currently studying the possibility of submitting its report under the new optional procedure but, as yet, was not convinced that it was more efficient than the previous one. It did not approve of the idea of establishing a global reporting calendar since it would not take into account the inequalities between developed and developing countries or the institutional weaknesses of the latter.

19. **Mr. Townley** (United States of America) said that, in the view of the United States of America, reprisals against human rights defenders should not be tolerated and the United States welcomed the appointment of coordinators for handling the issue of reprisals in each treaty body. It also supported the independence of the members of treaty bodies and viewed any initiatives likely to undermine that independence with concern. It acknowledged that the treaty bodies were authorized to establish their own rules of procedure as a means of guaranteeing their independence. The principle of ensuring equitable geographical distribution of membership should certainly be taken into consideration but should not become a binding norm.

20. **The Chairperson** said that gender parity in the treaty bodies should also be sought since the presence of women in the treaty bodies furthered the objectives of the instruments whose implementation they monitored.

21. **Mr. Jiang Yingfeng** (China) said that China was of the view that the Committee's working methods should be decided by the Committee, as set forth in the Convention. There were advantages to both the new and the traditional reporting procedures and the States parties should be able to opt for the one they considered suited them best.

22. **The Chairperson** thanked the representatives of the States parties for their participation and said that he would report on the contents of the discussion at the next Annual Meeting of Chairpersons of the Human Rights Treaty Bodies, which would take place from 20 to 24 May 2013 in New York.

The first part (public) of the meeting rose at 11.35 a.m.