

Check against delivery



**Statement by
CLAUDIO GROSSMAN**

**Chairperson
Committee against Torture**

67th session of the General Assembly
Third Committee
Item 70 (a)

23 October 2012
New York



Chairperson,
Distinguished Representatives
Colleagues, Friends and Observers

It is an honor, as Chairperson of the Committee against Torture, to address this General Assembly for the fourth time. This address coincides with a special occasion, the 25th anniversary of the entry into force of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1987 and the subsequent establishment of the Committee.

I am honored to be here in the company of my esteemed colleagues, Malcolm Evans, Chairperson of the Subcommittee on Prevention of Torture, and Juan Mendez, the Special Rapporteur on Torture, as our work is complementary. We value the opportunity today to continue the dialogue with all the member States of the United Nations for the full realization of a world without torture.

My presentation will focus on three main points: first, where we stand now with regard to the implementation of the Convention; second, the challenges the Committee is facing; and third, the way forward, particularly what measures, in the Committee's view, this Assembly should take to further the Convention's goals, the Committee's work, and more broadly the treaty body system overall.

Out of the 193 Member States of the United Nations, 153 States have ratified or acceded to the Convention, although 29 have never submitted a report to the Committee, violating their obligations and preventing the Committee from fulfilling its monitoring mandate. Others States, while having presented an initial report, have not reported to the Committee for more than a decade, despite their obligation to submit a report every 4 years.

Notwithstanding these violations, the Committee has adopted, since its establishment, 311 sets of concluding observations, which identify concerns and provide recommendations, assisting States parties in adopting effective measures to prevent torture and ill-treatment throughout the world. We value the positive responses of

numerous States that, as a result of the dialogue with the Committee, have, for instance, implemented measures to incorporate the definition of torture within their domestic systems, reaffirm the non-derogable nature of the prohibition of torture and ill-treatment, exclude from consideration confessions extracted under torture, investigate and punish the crime of torture taking into account its gravity, develop extensive training programs, ratify the Optional Protocol, the Statute of the International Criminal Court as well as other treaties, utilize the Istanbul Protocol, which is a valuable guide for doctors, lawyers, judges and the public in general to prevent and document torture, and cooperate with the Committee's follow-up procedures. We also greatly value the positive experiences that have been shared with the Committee such as the involvement of civil society in the preparation of State party reports, and the experiences of State parties in fighting discrimination, a value so important that it is explicitly mentioned in article 1 of the Convention.

With respect to individual communications, since 1988, the Committee has registered 522 complaints presented by individuals alleging violations by a State party. Unfortunately, individuals from only 65 of the 153 States parties have this possibility as 88 States have not yet made the declaration recognizing this competence of the Committee, thereby limiting the tools available to supervise full compliance with the Convention. Thus far, the Committee has considered 403 complaints and found Convention violations in 72 of them, irrespective of the interim measures taken to protect individuals.

As I have reported in prior years, the Convention has made a real difference in the lives of numerous individuals thanks to strict compliance with the Committee's decisions and interim measures. For example, you can read in the Committee's Annual Report how article 3 of the Convention serves as an effective mechanism for evaluating in concrete cases whether reasons exist to believe that sending an individual to a third country exposes her or him to a risk of torture.

However, and despite the substantial increase in the examination of cases by the Committee owing to the additional meeting time this General Assembly granted to the Committee in 2010, there is a current backlog of more than 115 cases pending before the Committee. This severely weakens the system as justice cannot be provided to

States and individuals within a reasonable time, thus diminishing the credibility of a system that was created by the Members States of the UN.

With reference to inquiries, upon receipt of allegations of systematic practice of torture in a State party, the Committee also has the mandate to institute a confidential inquiry in all States parties except in the 11 that regrettably have not recognized this competence. The Committee has undertaken eight of these inquiries, the result of the last one being included in the current annual report. Other inquiries are presently being considered by the Committee.

I call upon all States that have not ratified the Convention to do so and to those that are already a party to it to accept all the procedures of the Convention, in order to enable the Committee to fulfil the full extent of its mandate.

As to General Comments, the Committee is on the verge of adopting its third, which should be agreed upon by all members at the upcoming November session. The General Comment focuses on States parties' obligations to ensure that victims of an act of torture obtain redress and have an enforceable right to fair and adequate compensation, pursuant to article 14 of the Convention. This document will further assist States in complying with their obligations to victims.

All of the detailed and updated information regarding the Committee's activities is available in the annual report to the General Assembly which also includes the report of the Subcommittee on Prevention.

Chairperson,
Distinguished Representatives
Colleagues, Friends and Observers

Despite an impressive international legal framework and numerous mechanisms to prevent torture, this abhorrent practice continues to take place in States parties to the Convention and as well as in the 40 members States of this Organization that have yet to ratify the Convention.

The Committee is deeply concerned about this situation and, in strict compliance with its mandate, has engaged in finding new means to assist States parties in fulfilling their obligations.

The most relevant one, as indicated to you in my previous addresses to you, was the adoption of an optional reporting procedure consisting of transmitting a list of questions to States, and considering their responses as constituting the State party's report. The Committee was the first treaty body to adopt this procedure, which is now also used by other treaty bodies.

This procedure has been very successful and, since 2009, 113 States parties have been under this procedure. It is worth noting that only three States have expressly not agreed to report under it. To illustrate the importance of this simplified procedure, at the Committee's upcoming November session, four out of eight periodic reports are being considered by the Committee under this procedure, this ratio being four out of seven for the May 2013.

However, despite being cost, time and procedurally effective for States, this procedure places an additional burden on the Secretariat as well as on all members of the Committee, which with only 10 members, has one of the smallest memberships of the human rights treaty bodies.

Combined with its already heavy workload, the continued implementation of this measure is creating serious difficulties for the Committee due to a lack of meeting time, as the measure is conducted together with the many other mandated activities of the Committee to which I previously referred. The human resources of the Committee's Secretariat, in spite of the efforts of the staff, are also much too limited to adequately support the Committee's new demands.

In this context, the Committee has requested the General Assembly to continue to provide necessary financial support to enable it to remain with four weeks per session, as presented in the Committee's current annual report before you (A/67/44). The balance of the past two years with four weeks' sessions, which is detailed in our annual

report, clearly shows the benefit of that measure, especially to continue to assist States to fulfil their obligations under the Convention.

In this context, as Chairperson of the Committee against Torture, I also welcomed the report of the High Commissioner for Human Rights on ‘Strengthening the United Nations Human Rights Treaty Body System’ published in June 2012. The report identifies a comprehensive range of recommendations aimed at strengthening the treaty body system as a whole, based on a thorough three-year long consultation process. The Committee and I believe that efforts to strengthen the treaty body system, including through adequate resourcing, are necessary for the ongoing support of the system, to ensure the rights enshrined in the Convention, notably the prohibition, prevention, and *de facto* eradication of torture, which codifies a norm of *jus cogens*, the prohibition against torture and its absolute character as a non-derogable right.

We sincerely hope that the General Assembly will soon bring additional resources to our under-funded system.

Chairperson,
Distinguished Representatives
Colleagues, Friends and Observers

In the preamble to the Convention against Torture, the State parties provided that

“Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, [and]
Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world”

To achieve these goals you created an organ under the Convention, the Committee against Torture, comprised of independent experts who operate in a legal framework and apply the law to carry out the Committee’s mandate. It was an important choice, as other possible forms of supervision exist including political supervision. The value of

this choice, that is reflected in the numerous contributions made by this Committee, was recently confirmed in a decision by the International Court of Justice in the case of *Belgium v. Senegal*, where the Court relied on a decision by the Committee against Torture in reaching its final judgment.

We have not yet achieved a world free from torture, but we believe that this goal is achievable, that rights and duties need to be taken seriously, and that supervisory organs with independent experts are an essential component to achieving that goal.

We will continue to put forth our very best efforts, as a body of independent experts that supervises compliance with the obligations under the Convention in strict conformity with its mandate.

I thank you for your attention, and look forward to a fruitful dialogue.
