Statement by
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Chairperson
Committee against Torture

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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 fifth time.

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 four main points: first, where we stand now with regard to the implementation of the Convention; second, the challenges the Committee is facing; third, the latest relevant developments of the Committee work, namely the adoption of a General Comment and our policy with regard to reprisals; and fourth, the principles that guide our action.

Out of the 193 Member States of the United Nations, to date 154 States have ratified or acceded to the Convention, although 27 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, 328 sets of concluding observations, which identify concerns and provide recommendations, assisting States parties in adopting effective measures to prevent torture and ill-treatment. 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, reaffirmed the non-derogable nature of the prohibition of torture and ill-treatment, excluded from consideration confessions extracted under torture, investigated and punished the crime of torture taking into account its gravity, develop extensive training programs, ratified the Optional Protocol, the Statute of the International Criminal Court as well as other treaties, utilized the Istanbul Protocol, which is a valuable guide for doctors, lawyers, judges and the public in general to prevent and document torture, and cooperated 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 651 complaints presented by individuals alleging violations by a State party. Unfortunately, individuals from only 65 of the 154 States parties have this possibility as
89 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 438 complaints and found Convention violations in 76 of them, irrespective of the interim measures taken to protect individuals.

The Convention has made a real difference in the lives of numerous individuals. For example, you can read in the Committee’s Annual Report how article 3 of the Convention allows for the evaluation 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.

Despite, however, 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 118 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 regretfully 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.

The Committee adopted, at its last November session, a General Comment focusing 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, which will further assist States in complying with their obligations to victims, was very well received by the international community. The General Comment builds on the requirement of the Convention that each State party has to “ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.”

The comprehensive reparative concept entails restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition and refers to the full scope of measures required to redress violations under the Convention. The Committee emphasizes the importance of victim participation in the redress process, and that the restoration of the dignity of the victim is the ultimate objective in the provision of redress. The obligations of States parties to provide redress under article 14 are procedural and substantive. To satisfy their procedural obligations, States parties shall enact legislation and establish complaints mechanisms, investigation bodies and institutions, including independent judicial bodies, capable of determining the right to and awarding redress for a victim of torture and ill-treatment, and ensure that such mechanisms and bodies are effective and accessible to all victims. At the substantive level, States parties shall
ensure that victims of torture or ill-treatment obtain full and effective redress and reparation, including compensation and the means for as full rehabilitation as possible.

The Committee has also reinforced and streamlined its strategy with regard to reprisals against complainants, victims, witnesses, human rights defenders, NGOs, or anyone else who faces intimidation, ill-treatment, or any other forms of reprisals, especially if due to his or her engagement with the Committee, in accordance with article 13 of the Convention. Reprisals are a serious concern for the Committee as they constitute a human rights violation but particularly because they jeopardize the functioning of the human right system and, as such, are strongly condemned by the Committee. If individuals or groups who seek to cooperate, or have cooperated, with the Committee, either by providing information through parallel reports (article 19 of the Convention), indicating situation of systematic practice of torture (article 20), or submitting individual complaints (article 22) are unable to do so, or to continue to do so, our monitoring mandate, given by the members States of this Assembly, cannot be performed.

It is in this context of continued reports of intimidation and reprisals against these individuals and groups that the Committee designated two rapporteurs on reprisals and created a dedicated webpage on this matter, where it makes public, in full transparency, its concerns, in cases of reprisals as well as the considerations on the matter provided by the States concerned. The Committee hopes that this will be conducive to preventing reprisals and creating an environment in which everybody is able to enjoy and uphold human rights.

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.

If you look at the Committee’s work, you will see that the Committee is informed by several principles. The first is legality, i.e., applying the Convention against Torture, our normative framework, professionally, seriously and committedly. There are different forms of supervision. One is political, that takes place through government representatives. Another is treaty based, performed by independent experts, and is at times defined as semi-judicial or judicial depending on factors such as competence and authority. Each form of supervision plays a role and their outcomes should be measured by the protection of human rights. That is the raison d'être of these mechanisms.

The second principle is the independence and impartiality of our members. The Committee’s decisions are adopted unanimously and, on the rare occasion when that is not the case, that is recorded. On May 13, 2013 the Committee decided to amend its rules of procedure, annexing the Addis Ababa Guidelines, reflecting a reality that it has already been developing in its own practice. The Committee stated that “these guidelines are an important tool for the interpretation of the rules concerning the independence and impartiality of the members of the Committee.”

The third principle is efficiency. The speed of technological developments, economic constraints and the need to protect individuals require a constant monitoring of our own working methods, e.g., establishing a page limit on Concluding Observations, developing voluntary mechanisms such as the list of issues prior to reporting to which I
will refer later, communication and cross fertilization with other treaty bodies by, for instance, studying their own working methods and Concluding Observations, and implementing consulting methods with stakeholders.

The fourth principle is sound, rigorous and professional decision making that requires, *inter alia*, visibility, transparency and accessibility. As the Committee receives information from different sources, that information is published on its web site. Public sessions can be recorded and webcasted. We have also institutionalized a dialogue with Member States and civil society organizations, allowing us to hear different views for the purpose of enriching our own decision making.

The fifth principle is enhancing prevention. While the techniques that the Committee uses could be viewed as reactive, *e.g.*, reviewing reports, adopting Concluding Observations, and issuing decisions on communications, the Committee also performs an important preventative function. For instance, through its Concluding Observations, the Committee, with the richness of the aggregate experience of its ten independent experts, brings to the attention of States what steps they should take to be in compliance with the Convention and to avoid future violations. The Committee consistently reiterates the need for training and the building of local and national capacity for the purpose of promoting compliance with the obligations of States and preventing violations of the Convention. Through its system of communications, the Committee, by adopting interim measures, in numerous situations preempts a violation of the Convention. In this way the Committee is an important contributor to the strengthening of the rule of law.

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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, is consistently engaged in finding new means to assist States parties in fulfilling their obligations.

A very important one, as indicated to you in my previous addresses, 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, the Committee has engaged with 113 States parties so that they may report under this simplified procedure. It is worth noting that only five States have expressly not agreed to report under it. To illustrate the importance of this simplified procedure, at the Committee’s upcoming
November session, five out of nine periodic reports are being considered by the Committee under this procedure.

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.

The Committee was very pleased that the General Assembly provided, through its Resolution 67/232, the necessary financial support to enable it to remain with four weeks per session, as requested last year. These four week sessions enable us to continue to consider additional reports and individual cases, allowing us to manage the backlog within an environment of economic constraints.

I take note, however, of the extension of the inter-governmental treaty body strengthening process until the first half of February 2013 and hope that a final, comprehensive and sustainable solution will be reached.

The treaty body chairs, including myself, have already expressed their views on the strengthening process taking place. I refer you to our report from our meeting in New York from May 20-24, 2013. We have been active participants in that meeting and I currently have the honour to serve as chair the human rights treaty bodies, with Mr. Malcolm Evans serving as the vice chair. We express our strong hope and expectation, as stated by the treaty bodies, that any outcome of the intergovernmental process should strengthen the human rights protection that the treaty body system offers.

Let me finalize my presentation by stating that you, the Member States of the United Nations, have created a system inspired by principles of humanity and with tremendous imagination, with the purpose of protecting and promoting the inherent dignity of every human being, realizing the rule of law. Your imagination and commitment have been essential. You have created a system that even allows individuals to complain against yourselves. It is with tremendous respect for what you have done that we come here united with the goal of achieving its full realization.

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