
COMMITTEE ON ENFORCED DISAPPEARANCES

Committee prepares to receive first State reports



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Described as a ‘turning point’ by its Chair, Mr Emmanuel Decaux, the third session of the Committee on Enforced Disappearances (the Committee) moved from a previous focus on working methods and rules of procedure to being in a position where it can now look ahead at the application of these tools. The Committee met in Geneva from 29 October to 9 November 2012, and the deadline for submission of the first State reports to the Committee was December 2012.

Taking account of this important shift in the work of the Committee, Mr Decaux stressed the need to strengthen the Committee’s interaction with different stakeholders, including other treaty bodies, the Working Group on Enforced or Involuntary Disappearances (WGEID), national human rights institutions (NHRIs), and civil society. Since its inception, the Committee has put an emphasis on the crucial role these stakeholders will play in enabling it to carry out its mandate. This session was no exception, and the Committee held meetings with all these groups. However, a gap seems to be emerging between the Committee’s expressed eagerness to work with stakeholders, and its efforts and ability to build the capacity of stakeholders to fill those roles, in particular that of ‘grassroots’ NGOs.

The session also saw discussion with States and NGOs about how the Committee plans to handle its consideration of the first reports from States. Uruguay will be the first State considered by the Committee, and its report is available on the Committee’s website.¹

THE COMMITTEE’S WORK WITH STAKEHOLDERS

The role of NGOs and NHRIs was particularly stressed at this session. During a meeting held with NHRIs, Committee members identified several areas where they envisaged fruitful cooperation. NHRIs could, for example, encourage States to ratify the *Convention on Enforced Disappearances* (the Convention), provide information to the Committee about the situation in a State that has ratified the Convention, and assist in the implementation of recommendations by taking on the role of coordinating different bodies within a State.

The Chair said the Committee itself has limited resources to commit to these areas, which is why it is relying on stakeholders.² It had, however, organised workshops on ratification of the Convention and adoption of legislation for francophone countries, in cooperation with the Organisation Internationale de la Francophonie.

NGOs were also called on to assist the Committee, particularly in the area of assisting victims and their relatives to bring forward requests for urgent action or submit individual communications to the Committee. The central role the Committee envisages for NGOs was brought out through a comment from Committee member Mr Rainer Huhle, that NGOs should consider themselves ‘responsible’ for such cases. NGOs were requested to provide victims with practical assistance and advice in the submission of the report, but also to maintain the ‘information chain’ between the victim and the Committee, including by translating materials from the victim and from the Committee. Mr Huhle also noted that cases could collapse if NGOs

¹ See <http://bit.ly/GKR6cP>.

² Comment made during a meeting between NGOs and the Committee, 5 November 2012

lost contact with a victim, making it clear that the Committee sees NGOs as filling a crucial mediating role.

However, if NGOs are to carry out this role effectively, they must be aware of the Convention and its provisions. A huge lack of awareness amongst grassroots NGOs about the Convention and the Committee was raised as a concern by NGOs during the session.³ As Thailand also pointed out in the meeting between States and the Committee, human rights practitioners on the ground had particular difficulty understanding the difference between the *Declaration on the Protection of all Persons from Enforced Disappearance*, which the WGEID is entrusted with monitoring,⁴ and the Convention.

Citing the lack of knowledge about the Convention amongst many NGOs, Committee members called on better informed civil society organisations to educate their peers in this regard. However, while the Committee has constantly stressed the importance of the contribution of stakeholders, and in particular civil society, it has actually excluded civil society from some key areas of its work. This has made it difficult for NGOs to understand the Committee's methods of work.

For example, at the opening session of the Committee in November 2011, the International Coalition Against Enforced Disappearances (ICAED),⁵ called on the Committee to ensure an open and participatory process for drafting its methods of work and rules of procedure. However, the Committee has held all those discussions in closed sessions.

The trend continued at this session, with the Committee holding three thematic discussions in closed meetings.⁶ A discussion with Sir Nigel Rodley, representing the Human Rights Committee, was closed to the public. Even more surprising, given the understandable confusion amongst stakeholders about the relationship between the Committee and the Working Group on Enforced and Involuntary Disappearances (WGEID), the Committee's meeting with the WGEID was held in closed session. Not only does this prevent civil society from gaining the knowledge it needs to assist the Committee effectively, but it also keeps stakeholders at arms' length from

the Committee's work, even while it asserts that it relies on civil society to assist it in its work. If the Committee wants to make good on this claim, it must ensure stakeholders can contribute and participate in all relevant areas, as opposed to only those where the Committee lacks resources or capacity.

However, the Committee did meet with NGOs outside of its formal programme for the session. For example, members Mr Huhle and Mr Luciano Hazan convened a workshop with NGOs on methods for reporting cases to the Committee, including requests for urgent action and individual communications. The workshop revealed great interest amongst civil society in the Committee's work, but a lack of awareness, even amongst generally well-informed organisations, about working methods, particularly those methods that are unique to this Committee.⁷

PREPARING TO RECEIVE THE FIRST REPORTS FROM STATES

The deadline for the submission of the first 21 reports from States⁸ that have ratified the Convention was in December 2012. The report of Uruguay is now available on the Committee's website and will be considered by the Committee at its next session, to be held in Geneva from 8 to 19 April 2013. Information from NGOs and other stakeholders about the situation in Uruguay as it relates to the Convention should be submitted by 16 February in electronic form, and by 29 March in hardcopy.⁹

Members encouraged NGOs and representatives of victims to submit information on the situations of the countries under consideration, and stressed that the Committee was ready to take on board any information it received.

As part of the Committee's preparations for receiving its first State reports, the meeting with States focused on its Guidelines for State Reporting. Unlike other treaty bodies, the Committee does not require all States to report to it regularly. An initial report is required in all cases, but after that point additional reports will only be required from those of whom the Committee makes a specific request. In the case of

3 Meeting held between NGOs and the Committee, 5 November 2012, statement by Geneva for Human Rights.

4 The Declaration was adopted by the General Assembly in 1992. The WGEID was created in 1980 by the Commission on Human Rights and was given the mandate of assisting relatives of disappeared persons to ascertain the fate and whereabouts of their disappeared family members. The WGEID receives reports from relatives of victims and from human rights organisations and transmits cases complying with its criteria to concerned governments. When the Declaration was adopted, the WGEID was also charged with monitoring States' compliance with the Declaration.

5 ICAED consists of 40 member organisations, from Africa, Eurasia, Latin America, Asia, and the United States.

6 Discussions were held on the responsibility of States and the role of non-State actors, on trafficking and enforced disappearance, and on the principle of non-refoulement, expulsion, and extradition under Article 16 of the Convention.

7 Alongside country visits (Article 33), individual communications (Article 31), and inter-State communications (Article 32), the Committee also has two working methods that are unique to it. Article 30 of the Convention enables relatives of the disappeared person or a representative to submit a request that a person should be 'sought and found' as a 'matter of urgency'. Article 34 permits the Committee to bring to the attention of the General Assembly information of widespread or systematic practice of enforced disappearances in a territory under the jurisdiction of a State that has ratified the Convention.

8 Albania, Argentina, Bolivia, Brazil, Burkina Faso, Chile, Cuba, Ecuador, France, Germany, Honduras, Iraq, Japan, Kazakhstan, Mali, Mexico, Nigeria, Paraguay, Senegal, Spain, and Uruguay.

9 For more information, see <http://bit.ly/W3DP71>.

this additional report, the Committee may indicate the areas on which the State party has to focus its attention.¹⁰

Argentina wanted to know how the Committee planned to avoid long delays between the submission of a State report and its consideration by the Committee, particularly, whether the Committee was concerned about the impact resource constraints could have on timely translation of documents. The Chair set out the Committee's goal of having reports translated and published on its website within ten weeks of being received. Although the Chair had expressed concern about the impact of resources constraints on areas such as the Committee's ability to work to encourage States to ratify the Convention, he did not raise it as a possible limiting factor in the context of timely translation.

The Chair also stated his determination to ensure the Committee examined the situations in countries even where the State had not submitted its report on time. He added that three to four year delays in reporting, as often seen with other treaty bodies, are unacceptable and the Committee would be making all possible efforts to assist States that are late in reporting. To accommodate timely consideration of State reports, the Committee noted it would need to either add a week onto each of its current two-week sessions, or add a third two-week session per year. For this request to be considered it must be submitted to the General Assembly. However, the Committee did not do so in its 2012 report to the General Assembly, and did not specify at this session whether it intends to do so as part of its 2013 report.

CONCLUSION

The Committee has shown itself to be fully aware of the need to build effective working relationships with stakeholders, especially as it moves into the next phase of its work. However, while it has demonstrated commendable readiness to work with NGOs and NHRIs, its failure to include them in much of its work has resulted in a missed opportunity to develop genuine partnerships.

The beginning of the consideration of State reports marks another opportunity to reach out in the spirit of establishing such partnerships, in particular to 'grassroots' NGOs working in the country under review. Resource constraints limit the Committee's ability to build the capacity of civil society. However, it could explore ways of addressing those limitations, such as by setting up a voluntary fund, as suggested by NGOs, to which States could opt to donate, thus creating a pool of financial resources available for States in need of assistance to implement the Convention. ■

10 Along the lines of the List of Issues Prior to Reporting procedure, under which a treaty body develops a list of questions for the State, the answers to which form the State's report. As is the case with other treaty bodies, this procedure is not available for a State's first report to the Committee.