



Check against Delivery

7 May 2013

**25th Anniversary of the Committee against Torture
Identifying the main achievements and challenges**

Thank you Mr Chairperson,

On behalf of Amnesty International, I would like to join my predecessors in congratulating the Committee against Torture on its 25th anniversary. I also thank you for this opportunity to share our experience of working with the Committee towards the common goal of eliminating torture and other ill-treatment. I will highlight some achievements and challenges in the Committee's work, as seen by Amnesty International.

The adoption of the Convention against Torture in 1984 was a proud moment in the history of Amnesty International and other NGOs, such as the International Commission of Jurists, that campaigned for its drafting and adoption.

The prohibition against torture and ill-treatment under international law is absolute and non-derogable. Yet, out of the 150 countries monitored by Amnesty International in 2011, we documented torture and ill-treatment in 101 countries. Most governments that still use torture and other ill-treatment routinely deny it. They create structures to hide their practices. They conceal evidence of it and develop techniques of abuse that are designed to avoid detection. Torture is usually practised in secret, or in closed facilities, such as prisons or detention centres – sometimes unofficial ones - by or with the collusion of law enforcement and other government personnel, and often in an environment of impunity. States, particularly where torture is widespread, routinely fail to investigate allegations of torture and bring those responsible to account. Victims of torture rarely receive reparations.

As the body established to monitor implementation of the Convention, the Committee against Torture occupies a central place in the efforts to uphold the prohibition of torture and other ill-treatment. Through its review of states parties' periodic reports and special reports when circumstances so require, its

confidential inquiries, general comments and consideration of individual communications, the Committee is able to monitor compliance and guide state parties towards implementation the treaty through a multi-layered approach. The Committee's task is extremely difficult and complex – not only in seeking to reveal the use and extent of torture and other ill-treatment, but also in responding to their new manifestations and attempts to undermine the absolute prohibition.

Despite such challenges, the Committee has remained firm and resistant to attempts to dilute the absolute prohibition of torture and other ill-treatment in the contexts of counter-terrorism and national security.

The Committee against Torture adopted one of the first decisions finding a state party to be in violation of international human rights law for its involvement in the extraordinary rendition of an individual to a country where that person would be at risk of, and in fact was subjected to, torture despite the sending state's obtainment of diplomatic assurances. Amnesty International and others who campaigned on behalf of this individual firmly believe that the Committee's strong and principled decision in that case had a positive effect on the concerned state's cooperation from that point and the comprehensive redress subsequently given to the individual in question.

The growing use of diplomatic assurances by states to justify the transfer of individuals to a country where the person would be at risk of torture has presented a particular challenge to the Committee. Amnesty International believes that diplomatic assurances are a dangerous and unreliable mechanism that allows a sending government to circumvent the absolute prohibition of non-refoulement in article 3 of the Convention. The Committee's jurisprudence has significantly improved in the last few years with respect to its doubts that such assurances can provide an effective safeguard against torture. However, there is still scope for the Committee to take a clearer and more unequivocal position against the use of diplomatic assurances by states parties.

Amnesty International considers the death penalty to be the ultimate cruel, inhuman and degrading punishment. The organisation has therefore welcomed recommendations to states parties still carrying out capital punishment, to establish a 'moratorium of the death penalty with a view of eventually abolishing the practice.' Specifically, the Committee against Torture has also called for more transparency on the use of the death penalty, and has recognized the cruel nature of any secrecy surrounding executions, which also affects members of the family of the person sentenced to death.

The Committee has not hesitated to tackle the issue of the obligation of states to prevent and remedy abuses by non-state actors of the right not to suffer torture or other ill-treatment. This has been particularly important for ensuring that women and girls do not suffer such abuse, for example, ensuring that perpetrators of domestic violence are brought to justice or that states take necessary steps to prevent and combat trafficking of women and children,

including providing for necessary protection for victims and ensuring appropriate access to medical, social, rehabilitative and legal services. The Committee has also required that states ensure compliance with the Convention and do not deny therapeutic abortion where a woman or girl's life or health is at risk, or where she has become pregnant through an act of rape.

The Committee against Torture has also made an important contribution to the understanding of the Convention through its elaboration of general comments. The second and third General Comments are rooted in the Committee's findings and experience and offer progressive and authoritative interpretations of the Convention.

In this regard, we would like to highlight General Comment No. 2 and the important finding of the Committee that the 'obligation to prevent torture in article 2 is wide-ranging' and that it applies equally to torture and other cruel, inhuman or degrading treatment or punishment. Importantly, the same general comment also rejects "any efforts by States to justify torture and ill-treatment as a means to protect public safety or avert emergencies in these and all other situations". The general comment also explicitly mentions that national laws are to be applied to all persons without discrimination on any grounds.

As evidenced in state party reports and the Committee's consideration of individual communications, state parties consistently fail in their obligation to ensure reparation for victims of torture and other ill-treatment and their families. The impact of this failure is devastating for victims, exacerbating the impact of the horrific treatment they have suffered and prolonging the consequences. Therefore, Amnesty International strongly welcomed the adoption of General Comment No. 3 on Article 14, which provides excellent guidance on the full scope of state obligations of redress under the Convention. A more detailed commentary on General Comment No. 3 is available in our public statement that you can find at the back of the room.

In looking at the development of the Committee over the past 25 years, Amnesty International recognizes that significant efforts have been made by the Committee and its Secretariat to pioneer new working methods and to confront the increasing demands that have come with a growing number of states parties, now 153, unaccompanied by a commensurate increase in resources.

By way of example, it is encouraging to see so many states parties voluntarily opting for the List of Issues Prior to Reporting procedure. Indeed, it is noteworthy that only four have decided against accepting this procedure. We believe that the Committee could take steps to ensure that the dialogue with States Parties under review is more effective and fluent, for example by organising the questions in clusters and requiring governments to provide answers on the spot or within a few days and in writing after the consideration. Given that there were, according to the Committee's last Annual Report, 29 states parties to the Convention against Torture that have never submitted a

report, the Committee must continue to consider states parties in the absence of a report.

Another example of the Committee's innovative working practices is the follow-up procedures to its concluding observations and on decisions in individual cases. These have facilitated longer engagement by states parties and monitoring of states' steps to implement recommendations between the reporting cycles.

Persons subjected to torture and other ill-treatment are also often reluctant to recount their experience to others for fear of reprisals against them or their families. The newly created Rapporteurship on reprisals is therefore a very welcome and important first step in ensuring victims of torture can approach the Committee without fear of reprisals.

The Committee was one of the first whose sessions NGOs started to webcast. This development has been significant in ensuring wider coverage of the Committee's sessions, most importantly in the state that is being reviewed. In the context of the inter-governmental discussions on treaty body strengthening underway in New York, we would like to see webcasting of all public meetings of all treaty bodies emerge as one of the proposals that is taken forward.

We hope that the inter-governmental process results in recommendations to states that guide the selection and election of candidates who are independent and expert. We also support the High Commissioner's proposal for term limits for all treaty body members.

Finally we believe that the independence of the treaty bodies to determine their own rules of procedure and working methods must be respected in the inter-governmental process. States must also ensure that the committees are provided with adequate resources to fulfil their various tasks, particularly additional workload resulting from capacity-building measures.

Today the Convention against Torture remains at the forefront of Amnesty International's demand that states eliminate torture and other ill-treatment. We continue to lobby states to take their international obligations seriously and to comply with decisions and recommendations issued by the Committee against Torture. We believe that the role of the Committee is key in the elimination of torture and other ill-treatment and in providing guidance to states on their obligations under the Convention against Torture.

I thank you for your attention.