



OMCT ORAL STATEMENT

Informal Hearing for Civil Society – February 26, 2013 Intergovernmental Process on Treaty Body Strengthening

The World Organisation Against Torture (OMCT) welcomes the opportunity to contribute to the discussions on the strengthening of the treaty bodies.

This intervention highlights our position on the enhancement of the visibility and accessibility of the treaty body system and on the nomination and election of experts. Our suggestions and remarks are based on our long-standing engagement with the UN treaty bodies and our work at the national level seeking the implementation of their recommendations and views.

OMCT would like to recall that the success and credibility of the system will ultimately depend on State parties willingness to translate their international obligations into domestic law and to use treaty reporting as a genuine tool for dialogue on reforms that help implementing their treaty obligations. The OMCT considers that particular emphasis needs to be given in this regard to the lack of compliance with the reporting obligations of states sometimes for decades and the lack of implementation and follow-up to treaty reporting.

A. ACCESSIBILITY AND VISIBILITY OF THE TREATY BODY SYSTEM

Accessibility to the UNTB for individual and national and international NGOs is a crucial issue and one of the most important factors of the system.

1. Webcasting

In relation to the measures to increase accessibility and visibility of the treaty body system, OMCT would like to reaffirm the importance of making the work of the UN treaty bodies more visible to the national civil society, the rights holders as well as the victims of human rights violations.

In our opinion, webcasting is crucial and should indeed be implemented on a systematic basis especially since national NGOs are often not able to travel to Geneva due to budget constraints. Webcasting enables rights holders to better comprehend their rights and sensitize national NGOs on the importance of submitting information, thus reinforcing their capacities to participate in the implementation of treaty bodies' recommendations.

Webcasting could greatly impact on the capacity of public officials and thus foster the effective implementation of the Conventions at the national level. Such a process would also contribute to awareness raising and education about human rights instruments, which is key to a better respect and protection of human rights.

As previously stated in the joint statement OMCT has co-signed, there is no basis for proposals made by some States during the informal consultations that the consent of the State



party should be sought before webcasting reviews. On the contrary, webcasts should be made available to nationals of the State under review, for whom these are highly relevant.

However, webcasting should not replace physical presence of both States' delegations and civil society organisations. Indeed for many years the OMCT has implemented projects which have aimed at supporting and enabling national NGOs to participate in the process of reporting and submission of complaints to the UNTB. The access of national NGOs - as the participation of appropriate government representation - ensures an important appropriation of treaty reporting by domestic constituencies and ensures the credibility of the system. Based on our experience we believe the dialogue in Geneva and the possibility for the experts to interact directly with various stakeholders is crucial to the credibility of the treaty body system.

OMCT would also like to stress that webcasting should only be used during public sessions while NGO briefings should remain closed meetings. As a matter of precaution and to prevent reprisals against organisations and victims attending public sessions, names, identity and images of civil society members present in the room during public reviews should not be filmed or displayed through the use of webcasting.

2. Summary records

In relation to summary records, OMCT believes that some form of written transcription should remain. Despite the resource implications of summary records in several UN languages, OMCT would suggest to retain them, as they are valuable to treaty body members who are using them when reviewing a country and preparing list of issues. Summary records are also important, as they are the only written records of private meetings and decisions related to communications.

Alternatively, summary records in English could be supplemented by captioned webcasting. Indeed, the maintenance of some form of translation of the public sessions in the language of the State reviewed is paramount in order to provide to all stakeholders an equal access to the work of the UNTB. Captioned webcasting could play such a role.

3. Videoconferencing

In relation to videoconferencing, OMCT agrees that this could give the opportunity to States to have additional representatives and thus a more focused and interactive dialogue. However OMCT would like to stress that videoconferencing should not replace the physical presence of States' delegations in Geneva but only supplement it.

The use of videoconferencing reinforces the argument under which summary records should be retained and/or video captioning envisaged as webcasting of videoconferencing might prove difficult.

The use of videoconferencing should also be accessible to civil society unable to travel to Geneva in order to strengthen their participation.

4. Other measures to increase accessibility and visibility



OMCT would also like to reiterate and stress the urgent need to provide rights holders and NGOs with a full accessibility to the information.

In that respect, we refer to the comments and proposals made in the NGOs response to the Dublin statement, especially regarding the improvement of the website, which should be updated and translated in all UN languages. We also would like to stress again the positive impact of having an advance notice of UNTB examinations of State reports, adoption of the list of issues and other opportunities for civil society inputs. We encourage the UNTB to communicate their schedule in advance as much as possible, ideally two years in advance. Advance notice allows to use the reporting as a truly domestic process and to collect better data and information on the situation of the country examined. Better diagnostic on possible implementation challenges will result in turn in more targeted recommendations by the Committees.

OMCT suggests improving the visibility of the information regarding the follow-up procedure of the UNTB decisions on individual communications when there has been a violation by the State party. The information sent by the Special Rapporteur on Follow-up and the State's responses on the steps it has taken to give effect to the UNTB findings should be easily accessible on the UNTB websites. This would greatly impact the capacity of the victims and their representatives to foster the full and adequate implementation of the UNTB decisions in their respective countries. More generally, increasing accessibility of the follow-up procedure of the UNTB decisions on individual complaints will allow an improved diagnostic on their implementation.

B. Nomination and elections of experts, open public space, handbook for treaty body members and centralized treaty body elections website

Enhancing the independence, quality and integrity within the membership of the UNTB was one of the recommendations of the NGOs in their response to the Dublin statement.

1. Nomination and election of experts

An improved and transparent process of nominations and elections will positively impact on the credibility of the treaty body system and reinforce its independence.

States parties have an important responsibility in this regard to ensure that the process to identify candidates is open and transparent and leads to the nomination of persons with proven human rights experiences, a high degree of expertise in the specific area covered by the treaty and who do not hold positions which would be in conflict with their position as an “independent expert” serving on a treaty body.

National nominations should be transparent and include the participation of civil society organisations and National Human Rights Institutions at all stages of the nomination procedure. OMCT welcomes the recommendation made by the High Commissioner for Human Rights for States to put in place national policies and processes that are transparent,



open and inclusive. In that regard, OMCT suggests to draw upon best practices already implemented by certain States such as the issuance of public calls for nominations and domestic hearings.

The nomination process should also facilitate the application of under-represented groups such as persons with disabilities, persons from minority, ethnic and indigenous groups and women. This process should be made public and widely disseminated in the media and in the websites of the Government, Parliament and NHRIs. UN field offices could also play a role in that regard.

OMCT believes that the results of the national nominations should be made public and indicate how the candidate meets the criteria of expertise and independence. Information on the measures taken to facilitate the application of under-represented groups should also be made public.

In relation to the election, there is need to improve the process of selection and screening of candidates. A formal hearing or screening process should be established and facilitated by the OHCHR. As mentioned in the joint statement on membership co-signed by OMCT, States parties, treaty body members, civil society organisations and other stakeholders could be able to submit questions to the candidates on an on-line platform. Candidates could then give an oral presentation of his or her candidacy at a public hearing. This could also be made available on the on-line platform.

2. Open public space for candidates, handbook on expectations and centralized body election website

OMCT supports the idea of a harmonized election process for all treaty bodies that could be supported by a centralized treaty body webpage (or open public space) translated in all UN languages and maintained by the OHCHR. Such open public space should include information on the national process of nominations.

OMCT welcomes the recommendation of the High Commissioner for Human Rights to establish a handbook on expectations, availability and required workload. Yet the development of such a document must in no case lead to an undue interference with the independence of the treaty bodies members and methods of work of the Committees..This handbook should be translated in all UN languages, available to States prior to national nomination and, posted on the open public space.

Moreover, OMCT believes that the number of terms of experts should be limited to two for all Committees. Further consideration should also be given to the overall time experts can spend as treaty bodies members in order to foster rotation and vitality within the Committees.

OMCT thanks the co-facilitators for this opportunity to contribute, and looks forward to continuing to do so in the future.