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**Statement by  
Claudio Grossman**

**Chairperson  
of the Committee against Torture and Other Cruel, Inhuman  
or Degrading Treatment or Punishment**

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**Chairperson,**  
**Distinguished Delegates, Colleagues and Friends,**

It is an honor to address this General Assembly, now for the third time, in my capacity as Chairperson of the Committee against Torture. I am pleased to be in the company of my colleague Malcolm Evans, Chairperson of the Subcommittee on Prevention of Torture as well as with the Special Rapporteur on Torture, Juan Mendez. Our joint presence here today underscores the ongoing cooperation between the Committee, the Subcommittee and the Special Procedure of the Human Rights Council, and contributes to enhancing the understanding of our complementary and mutually reinforcing work.

For each of us this occasion is an essential opportunity to engage in a dialogue with you, member States of the United Nations, who adopted the Convention against Torture in 1984. We look forward to hearing your views as to how we can achieve full realization of the objectives of the Convention, which today has 149 States parties. Today's dialogue complements and continues the Geneva-based annual meetings that the Committee holds with States parties as well as the State technical consultation held in Sion, Switzerland, on May 12-13, 2011, concerning the Treaty Body Strengthening Process, to which I will refer later.

I intend to cover several issues in my presentation today. First, I will inform you about new developments since last year concerning the Committee's work, including critical issues arising under the Committee's individual complaints mechanism. Second, I will report on how the Committee is effectively addressing its increased workload by

utilizing the additional resources and meeting time provided by this General Assembly under Resolution 65/204. Third, I will touch upon the initiative of the High Commissioner for Human Rights to strengthen the treaty body system. Finally, I will refer to serious challenges currently facing the Committee.

With regard to all of the Committee's activities over the past year, you have before you for your consultation the Committee's annual report (A/66/44) as of June 2011.

**Chairperson, Distinguished Delegates,**

As you are aware, the Committee is mandated under the Convention against Torture to consider States parties' reports (article 19), to examine individual complaints (article 22), to undertake confidential inquiries (article 20), and to conduct other activities, including the adoption of General Comments, to facilitate and ensure full realization of the Convention.

The examination of initial and periodic reports under article 19 through dialogue with States parties constitutes a core activity of the Committee. The Committee continues to have serious concerns about reporting delays. The Committee welcomes the submission of new initial reports during the past year by Madagascar and Djibouti, which will be considered as a matter of priority at the next session beginning on October 31. The Committee also deeply regrets that only two States have submitted initial reports during the past year and that 30 States parties have yet to present their initial report, many of which are more than a decade overdue. The Committee calls

upon these States parties to promptly submit their overdue initial reports so that we can initiate a dialogue contributing to the realization of the goals set forth in the Convention.

The Committee is also very concerned that at least 65 States parties currently have overdue periodic reports, thereby impeding the monitoring functions of the Committee you established to ensure compliance with the Convention. We all know that law needs to be taken seriously, and that the Convention's obligations have been voluntarily assumed by States parties. These past due periodic reports should be submitted to the Committee without further delay.

In an effort to assist States parties to comply with their Convention obligations, the Committee introduced an optional reporting procedure in 2007. This procedure, referred to as the list of issues prior to reporting (or LOIPR), consists of a list of issues transmitted to States parties prior to their submission of a report. The replies to the LOIPR become the States parties' periodic report. This new procedure, also adopted by the Human Rights Committee in October 2009 and the Committee on Migrant Workers in 2010, provides numerous benefits: (i) it simplifies the process as State parties now need only submit one report rather than two as previously required when States had to submit replies to list of issues in addition to the periodic report; (ii) it assists States parties in preparing timely and more focused reports; (iii) it enriches the dialogue; and (iv) it results in more specific recommendations. Moreover, through the Committee's advance identification of key issues of concern, including recommendations of other UN human rights mechanisms when appropriate, the LOIPR procedure has the broader potential of strengthening coherence and follow-up to treaty bodies' recommendations. I am pleased to report that States parties have reacted favourably to this new procedure.

To date, the Committee has completed a first cycle of four years and transmitted 75 LOIPRs to States parties with reports due in 2009, 2010, 2011 and 2012. With the assistance of the Secretariat, the Committee will evaluate and improve this procedure going forward, taking into account the suggestions of States parties and civil society organizations.

Concerning reports, I would like to bring to your attention that the treaty body system as a whole is facing serious difficulties, especially with regard to the inadequate capacity of UN Conference Services to process and translate documents in a timely fashion as well as the insufficient human resources within the Secretariat in the Office of the High Commissioner for Human Rights (OHCHR). I encourage member States to reflect on the implications for the treaty body system in the absence of the allocation of significant additional resources.

Contrary to the mandatory State reporting mechanism under article 19, State party acceptance of the individual complaints procedure under article 22 of the Convention is optional. The Committee regrets that, thus far, only 65 of the 149 States parties have made the necessary declaration accepting the Committee's competence in this regard, and it calls upon the remaining 84 States parties to declare their acceptance. The individual complaints procedure is an important tool for achieving the goals of the Convention by enabling victims of torture to present their cases before the international community. It also allows the Committee to apply the Convention to real-life situations, thereby assisting State parties in fulfilling their obligations. Since last year, the Committee has considered the merits of 17 cases.

In addition to widespread ratification, another critical issue for the individual complaints mechanism is the need for full compliance with Article 14 obligations to provide remedies to victims of torture and other cruel, inhuman or degrading treatment or punishment. Under the Convention, States parties must ensure that such victims obtain redress.

I will now turn to how the Committee is addressing the increased workload by utilizing the additional resources and meeting time provided by this General Assembly.

The first measure taken by the Committee was to increase the number of reports it examines at each session, from six to nine for the November session and to eight for the May session. This will reduce greatly the back log of reports pending before the Committee and ensure that reports are examined with minimum delay primarily attributable to translation into the working languages, another process which depends on the allocation of resources. This increase in the number of reports examined at each session, in conjunction with the optional reporting procedure that the Committee continues to develop, will improve the effectiveness and efficiency of examining reports.

Second, the Committee increased the number of individual complaints reviewed at each session. In the last session, the Committee decided 12 individual cases on the merits as compared to 5 at its previous session. Here, too, however, the Committee must rely on a Secretariat which lacks the resources required to significantly increase the number of cases ready for the Committee's consideration. The problems caused by the lack of resources are compounded by the growing number of complaints submitted to

the Committee. At this time last year, 101 petitions were pending before the Committee. Currently, there are 106 despite the twofold increase in the number of cases examined by the Committee at the last session. The Committee's increasing workload reflects the positive development that individuals deem it important to seek justice through the Committee's complaint procedure. States parties should play a leading role in finding permanent solutions to these resource and workload issues so as to ensure full realization of the objectives of the Convention.

Third, the Committee dedicated more time to its important article 20 confidential procedure. When information is submitted under this procedure to the Committee, it examines situations where there are well-founded indications that torture is being systematically practiced in the mentioned State party. In this context, I would appeal to the nine States that have declared that they do not recognize the competence of the Committee provided for by article 20 of the Convention to withdraw their reservation.

The fourth measure taken by the Committee on account of the additional resources and meeting time provided by this General Assembly was to accelerate its work on the General Comments initiated during the Committee's 44<sup>th</sup> session in May 2010. The Committee had adopted a first draft, which was posted on the Committee's website for comments after the May 2011 session. Many comments were received. The Committee will soon prepare a second draft at the upcoming session and aims to adopt the final text at the following session in May 2012. This draft General Comment explains and clarifies the obligations of States parties under article 14 of the Convention 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 substantive obligations of redress include five forms of reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. The draft also refers to the procedural obligations, the implementation of the right to redress through legislation, effective mechanisms for complaints and investigations, and access to mechanisms for obtaining redress. It also enumerates possible obstacles to the right to redress and indicates what States parties should include in their reports to the Committee for the monitoring of this right.

The Committee has also been discussing a document regarding facts and evidence, designed to address important issues such as the weight that should be accorded to domestic determinations and the proper standard of proof. It also discusses the standard of reasonableness, state control or acquiescence, the exhaustion of domestic remedies, the introduction of new evidence, and due process guarantees.

I want to emphasize the importance of General Comments with regard to the Convention. They are prepared to promote and facilitate implementation of the provisions of the Convention and to assist States parties in understanding and fulfilling their obligations.

**Chairperson, Distinguished Delegates,**

Now let me turn briefly to the consultation process launched by the High Commissioner for Human Rights to strengthen the treaty body system, an initiative which the Committee fully supports and in which it has had the opportunity to participate and make proposals.



The growth of the treaty body system, which has doubled in size in recent years, has not been matched with equivalent resources. Although treaty bodies are continuously working to ensure that their working methods are efficient and effective, such as the Committee's new LOIPR reporting procedure that assists States parties with their reporting obligations and achieves better outcomes under the consideration of States reports, there is further room for improvement. However, measures that lead to increased efficiency do not necessarily reduce costs: making our work more implementable at the national level requires more investment, more means of cooperation with States and more time. During the consultations aimed at strengthening the treaty body system, there has been great support to rationalize and focus the reporting obligation of States parties. For that matter, the new reporting procedure pioneered by the Committee has been positively received by the States parties. The use of modern technologies was considered including video conferencing to reach broader audiences and enhance the possibilities to promote the values of the Convention to the general public. Other avenues discussed to improve the system included strict page limitations on documents adopted by Committees as well as those submitted by States parties, better time management during the dialogue, and more focused recommendations which would, in turn, enhance the reporting procedure and cooperation between treaty bodies and States parties. It would be useful to continue this discussion in the present forum, as the members States have an obligation to provide adequate resources for the system they created to perform effectively. I look forward to continuing our interaction with the High Commissioner and all stakeholders in this process, including member States.

## **Distinguished Delegates, Colleagues and Friends**

Thanks to the work of the international community, the unequivocal and absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment is set forth in numerous international and regional instruments including the Universal Declaration of Human Rights and specifically in the Convention against Torture, for which the supervisory organ, the Committee against Torture, was created. This framework affirms that there is no legal vacuum that would allow questioning the prohibition. These developments have been essential to advance, with legal legitimacy, the values of human dignity embodied in those treaties and conventions. Over the years the Committee has achieved important successes such as the transformation of countries' legal norms including the incorporation of the definition of torture, investigating and punishing perpetrators of torture, and excluding confessions extracted through torture from legal proceedings. These developments show the powerful impact of the Convention.

Despite these important developments, we cannot affirm that torture has decreased. As I mentioned in my first report to the General Assembly, the Committee's work over the last two decades shows that we continue to witness failures to implement the Convention's provisions and the Committee's recommendations; refusals to adopt a clear definition of torture, to criminalize torture and establish adequate penalties; failures to investigate alleged cases of torture; impunity for perpetrators of acts of torture; expulsion, return and extradition of persons to States where there are substantial grounds for believing that they are in danger of being subjected to torture; and "rendition" of suspects to countries that continue to use torture as a means of

investigation and interrogation. Deplorable conditions of detention are still the general rule. Forced disappearances continue to deny persons their basic legal safeguards, and rehabilitation or redress is rarely provided to victims of torture or their families. These failures to realize the obligations laid down in the Convention should strengthen our resolve. Achieving the goals of the Convention is doable. Let us recommit ourselves to the full realization of those goals.

Distinguished delegates, colleagues and friends: Sometimes we talk in abstract terms about torture. Statistics and normative challenges dominate the discussion on numerous occasions. Often we lose the human dimension by resorting to language that fails to fully capture the absolute horror of torture. We should not, however, lose sight of the fact that we are dealing with women, men and children. The system that you have created, through the Convention against Torture, recognizes that crucial dimension. The Committee's work reflects this foundation.

Allow me to share with you a recent case before the Committee. In that case, the complainant claimed that she would be imprisoned and tortured if returned to her country, in violation of article 3 of the Convention. Among other things, she had been arrested and, while in detention, subjected to torture, beatings and multiple rapes due to her religious and political activities. The Committee noted the claims and evidence submitted by the complainant and the arguments of the State party, as well as the recent reports by seven United Nations experts and by the United Nations High Commissioner for Human Rights on the human rights situation in the country concerned. In the light of the information before it, the Committee found that it was impossible to identify particular areas of the country which could be considered safe for the complainant and

concluded that there were substantial grounds for believing that the complainant was at risk of being subjected to torture if returned to her country. The State party against whom the complaint was filed fully complied with the decision, giving a person the chance at a new life.

In 1984, with the adoption of the Convention against Torture, you created a system that made this possible. You have contributed to the realization of its goals by saving numerous lives.

It is our shared legal duty to now achieve the full realization of the Convention.

On behalf of the Committee against Torture, I thank you for your attention.