
HUMAN RIGHTS COMMITTEE

Ethiopia, Bulgaria, and Kazakhstan under review



Photo: Alik Shahaf

Lalibela, Ethiopia.

The Human Rights Committee (the Committee) held its 102nd session in Geneva from 11 to 29 July 2011, during which it reviewed reports from Ethiopia, Bulgaria, and Kazakhstan.¹ Key themes of these reviews included women's rights, corruption, prisoner rights, and anti-terrorism legislation. The Committee chose not to review the human rights situation in Dominica in the absence of a report as originally planned, after the State announced its intention to submit its initial report (which should have been submitted in 1994) on implementation of the *International Covenant on Civil and Political Rights* (the Covenant).²

ENGAGEMENT BY STATES UNDER REVIEW

Delegations ranged from medium-sized (Ethiopia and Bulgaria, with nine and ten delegates respectively) to large (Kazakhstan, with 20 delegates). All delegations included high-level ministers and high-ranking government officials.

Ethiopia, represented by a delegation made up of various experts³ who were each able to address specific questions raised by the Committee members, provided generally informative responses. At times however, the Committee expressed dissatisfaction with inadequate answers, such as to questions concerning the absence of legal procedures to govern detention. The delegation refused to go into detail on specific cases of detainees, firmly stating that it would prefer to focus on defending the report, and denying that problems existed with this particular issue. Nevertheless, the Committee was persistent and referred back to these cases in an attempt to emphasise the gap in Ethiopia's legislative measures.

The Bulgarian delegation was cooperative and provided frank answers to the Committee's questions. Bulgaria focused on amendments to the criminal code and emphasised its new judicial approach to juvenile crimes, including the establishment of children's courts, as had been previously recommended by the Committee.⁴ The delegation⁵ consisted of various experts coming from legislative and civil service backgrounds and was therefore equipped to provide direct answers to the Committee's questions. However, the delegation was criticised for not providing clear responses about corruption cases in the country, and the protection of Roma people from discrimination.

The Kazakh delegation engaged positively, however the Committee expressed dissatisfaction with the delegation's failure to adequately respond to some questions. The Committee frequently followed up on unanswered questions and pressed the delegation for clearer information – which ultimately lead to the Kazakh delegation providing well-prepared and informative answers. Despite the delegation's overall cooperativeness, the Committee expressed dissatisfaction on a number of issues: particularly on the domestication of the Covenant within the national framework, the lack of clarity as to the number of documented cases of torture in Kazakhstan, and the issue of judicial independence.

1 All documents can be found at <http://bit.ly/nH7xC5>.

2 'Dominica undertakes to submit its Initial Report to the UN Human Rights Committee'. CCPR Centre. <http://bit.ly/qNoPyP>.

3 Ethiopia's delegation composition is available at <http://bit.ly/qRff0l>.

4 Concluding Observations of the Human Rights Committee: <http://bit.ly/q7OFyj>.

5 Bulgaria's delegation composition is available at <http://bit.ly/qkv2sx>.

NGO PARTICIPATION

A productive pre-session NGO meeting was held, at which a number of Committee members warmly received suggestions made by NGOs on improving cooperation with the Committee. The Centre for Civil and Political Rights (CCPR Centre) along with Amnesty International, presented a working document signed by 23 other NGOs.⁶ It recommended, amongst other things, that the Committee notify NGOs well ahead of time as to which countries would be reviewed at a given session in order to give NGOs sufficient time to prepare their interventions. It was also suggested that reviews of States in the absence of reports be made public. Committee members applauded this joint NGO proposal. Mr Krister Thelin and Mr Michael O’Flaherty said such initiatives illustrate why civil society participation is so important.

Committee members cited information received by NGOs several times when reviewing Ethiopia, Bulgaria, and Kazakhstan. The Committee echoed concerns from a joint NGO report about Ethiopia’s Charities and Societies Proclamation, which limits freedom of association and expression, and forbids independent NGOs from working on human rights in the country.⁷ The Committee also requested further information about allegations that the Ethiopian Government has refused to register the Ethiopia Women Lawyers Association and has also allegedly frozen the bank accounts of the NGO Ethiopian Human Rights Council.

The Committee relied heavily on NGO information when reviewing Bulgaria on issues such as impunity, excessive use of force by security personnel, hate speech, discrimination towards minorities, and several other issues. The Bulgarian delegation acknowledged some of the troubling issues pointed out by NGOs, and indicated the Government was attempting to remedy several of the cited concerns, such as addressing police violence by investigating allegations and punishing officers found to be responsible for violations.

Kazakh NGOs were well coordinated and offered a comprehensive report to the Committee on the human rights situation in the country. NGOs also held an informal lunchtime briefing with Committee members to discuss issues of concern. During the review, the Committee notably used NGO information to question the accuracy of the Kazakh delegation’s claim that there have only been three cases of torture within the country over the last four years.

CCPR Centre provided a live webcast of the meeting, marking the first time that Committee meetings have been broadcast online. This development was significant because it made the Committee accessible to human rights defenders at the national level and the wider public, including viewers who may not have otherwise had access to such information due to either lack of coverage or government censorship.

⁶ The statement can be found at <http://bit.ly/nSrW11>.

⁷ <http://bit.ly/qJAHmA>.

THEMES

Women’s rights

Many of the meetings focused on gender equality legislation and the implementation of such legislation in the countries reviewed. Despite Ethiopia’s implementation of the Federal Criminal Code’s regulations criminalising bodily and psychological harm, through practices such as female genital mutilation (FGM) and child marriage, the Committee expressed dissatisfaction with the lack of enforcement of legislation regarding gender-based violence. In response, the Ethiopian delegation limited itself to stressing the effectiveness of its criminal code, especially criminalisation of bodily and psychological harm, which had resulted in a decline in cases of FGM from 78 percent of girls to 37 percent.

Another focus area was gender equality in society. Mr O’Flaherty requested more examples to illustrate the Ethiopian Government’s commitment to promoting women’s participation in the electoral process. The delegation responded to the Committee’s concerns by referring to the national action plan drafted by the Ministry of Education, which reserved a 30 percent quota for women in education and employment. The delegation also referred to the strategic action plan by its Ministry of Justice, aimed at combatting violence against women and children.

Like Ethiopia, the Kazakh Government has a national action plan in place, entitled the Gender Equality Strategy, which aims to increase employment of women. However, the Kazakh plan is more ambitious than the Ethiopian one as it aims to have at least 30 percent of women in decision-making positions by 2016, which is 20 percent higher than the current level of 10 percent. Kazakhstan also stated that more than half of Kazakh businesses are run by women and that half the labour force is composed of women. Despite these claims, Committee members expressed concerns over women’s roles in the workplace, noting that more women acquire higher education in the country than men, yet women remain grossly under-represented in high-level positions in both the public and private sectors.

Enforcement of legislation to combat gender violence in Kazakhstan was also a concern for the Committee. Ms Lulia Antoanella Motoc pointed out that the very few cases of reported domestic violence in the country suggests domestic law is ineffective and that female victims are unwilling to report violence. The Committee called on Kazakhstan to encourage victims of gender violence to report abuses, and also called on the State to thoroughly investigate cases of gender violence, prosecute perpetrators, punish those convicted and, where possible, offer reparation to victims.

Discussions about the specific reference to sexual or gender discrimination in national legislation dominated the Bulgarian review. At present, the country has a general anti-discrimination law but it does not specify an obligation of

equal treatment of men and women. This gap was identified by the Committee as a crucial area for revision. Committee members also expressed a particular concern about vagueness of the definition of domestic violence, and the need to include a gender-neutral definition in order to prevent gender stereotyping.

Corruption

Although little time was spent on the issue of corruption in Kazakhstan, Mr Thelin did raise the issue of judicial corruption. He cited an NGO claim that while the judicial selection process in Kazakhstan is promoted as being fair and transparent, in practice, one needs 'connections' to win appointment as a judge. The delegation firmly denied this claim, saying its judicial selection process is very competitive, with an estimated 100 applicants writing exams to compete for each opening, and the results are made public. Mr Thelin replied by raising the allegation that the executive not only interferes with the appointment of judges but also limits judicial independence. Mr Thelin noted that in 2010, 125 out of 2000 Kazakh judges were disciplined by the executive. Once again, the delegation denied allegations of judicial corruption, stating that appointments are made strictly on merit and that the selection process is monitored by the media and the public.

Similar concerns were raised by the Committee during the review of Ethiopia. In particular, the Committee criticised the handling of corruption cases by the courts and the arbitrary legal system. Although the delegation emphasised that its judiciary system is effective, and all those detained have access to lawyers, the Committee was still dissatisfied by the answers given; pressuring the delegation to review the system by which cases are selected for consideration by the courts.

Corruption was a greater focus in the review of Bulgaria, than in those of Ethiopia and Kazakhstan, with Committee members spending a significant amount of time questioning the State about the issue. While the Committee commended Bulgaria for adopting an action plan in 2010 to combat corruption, there was still concern about corruption in the justice system, and in particular, the lack of convincing results in fighting high-level corruption. Mr Thelin felt that a disproportionate amount of the State's attention was being spent on tackling judicial corruption, and not enough effort and time was being invested in combating corrupt police and security forces. The delegation defended the State's anti-corruption efforts noting, as an example, that police are not immune from the law and that 97 police officers have been recently investigated on allegations of police brutality. The delegation also claimed that efforts were being made to combat high-level corruption, saying there were twelve corruption cases pending in Bulgaria involving former government ministers. Similarly, the delegation pointed out that a further 22 corruption cases were pending against high-level State officials, such as mayors, governors, and high-level policemen.

Prisoner rights

The Committee pressed Ethiopia to provide detailed statistics of people being prosecuted and kept in detention, and requested the delegation to explain why the International Committee of the Red Cross (ICRC) had been denied access to prisons in the country. During the review, Ethiopia side-stepped the Committee's concerns and gave no clear answers about the number of detainees, nor did it explain why the ICRC was denied access to the prisons. Instead, the delegation emphasised the improved conditions of prisons and detention centres.⁸ The Committee also expressed strong criticism about prison overcrowding and the lack of available information about sentenced persons. Although the Committee pressured the delegation to provide precise statistics of death sentences carried out in the last three years, the dialogue about this matter remained weak and the requested information was not supplied.

Overcrowding in prisons was a concern in the reviews of Bulgaria and Kazakhstan, however, unlike Ethiopia, both States engaged with the Committee on the matter and demonstrated efforts to improve their prison situations. Poor prison conditions, including lack of access to drinking water, irregular supplies of water and electricity, and lack of medical services, were noted as needing improvement in Bulgaria. The Committee called on Bulgaria to respect prisoner rights and implement the commitment to build new prisons. The delegation reminded the Committee that Bulgaria is already taking action to reduce overcrowding, such as using electronic tagging, and since 2005, 52 percent of convicted offenders have been sanctioned with probation as a way of reducing the strain on the prison system.

The Committee's major concern in Kazakhstan was with the negligent treatment of prisoners. The Committee expressed great concern with Kazakhstan's prison system, noting reported cases of prison violence, self-mutilation, and death of prisoners. The delegation responded by saying the State is making an effort to improve prisoner treatment, and is continuing to allow civil society monitoring of its prisons. Overcrowding was another issue, however, like Bulgaria, the delegation of Kazakhstan said the State is taking concrete measures to improve its prison system, including by constructing large, modern prisons that are in line with international standards. The State also said it has been actively revoking some criminal laws, including, in January 2011, the decriminalisation of 24 formerly offensive conducts as a means of reducing its prison population.

Anti-terrorism legislation

The Committee asked Ethiopia for more information about anti-terrorism laws and laws of detention, and how the

⁸ The Government of Ethiopia said prisoners are provided with medication, food and other services, and access to their families, lawyers, and religious counselors.

legislation is applied in practice. In particular, the Committee members highlighted the existence of a vague definition, in Ethiopia's anti-terrorism legislation, of what constitutes a terrorist attack. It said such imprecision could allow for broad criminalisation of behaviours. The delegation strongly opposed the Committee's view and said the definitions used in its laws are not vague but, rather, are consistent with international anti-terrorism conventions and the Security Council's Resolution 1566. However, the Committee maintained its scepticism about the absence of clear legal procedures for the treatment of detainees and the vague framing of what constitutes a terrorist attack.

During the review of Bulgaria the Committee also raised concerns about the issue of terrorism, but was more concerned about the lack of clear and agreed documentation, and thus definition, of terrorist acts. Ms Motoc cited NGO information when questioning Bulgaria on the way it documents terrorist acts. She asked why Bulgaria claims only one incident of terrorism in the country during the reporting period, whereas NGO research has recorded nine. The Committee also expressed concern about other inconsistencies between information recorded by NGOs and the information provided by the Government.

Terrorism legislation was a prominent topic during the Committee's review of Kazakhstan. The issue of social or racial profiling was listed as a concern, with the Committee citing NGO reports of law enforcement officials targeting certain groups, such as asylum seekers and members of Islamic groups, in their efforts to combat terror. Ms Helen Keller expressed deep concern about the broad nature of anti-terrorism legislation and its possible infringement upon the rights of Kazakh citizens. The delegation tried to respond to these concerns by saying that Kazakh law has a comprehensive list of provisions that restrict the implementation of anti-terrorism laws, and that anti-terror laws are only used after the topic is thoroughly discussed between relevant stakeholders.

OTHER DEVELOPMENTS

At the 102nd session, the Committee adopted its General Comment 34 on Article 19 of the Convention, which deals with freedom of expression. A news article on the completion of the second reading of the draft is available on ISHR's website.⁹

9 'Human Rights Committee adopts General Comment 34 on freedom of expression': <http://bit.ly/pA0QAL>.

Annual Inter-Committee Meeting

From 27 to 30 June, the 12th annual Inter-Committee Meeting (ICM) took place in Geneva, chaired by Mr Ronald Clive McCallum of the Committee on the Rights of Persons with Disabilities. Seventeen committee members from nine treaty bodies were present, including the Subcommittee on the Prevention of Torture.

Members agreed that the effective operation of the treaty body system depends on NGOs being able to engage at all stages of the review process. Mr Michael O'Flaherty, of the Human Rights Committee, voiced concern about creating formal guidelines for participation in review sessions, arguing that such modalities could be used to limit NGO engagement. The outcome of the discussion ('points of agreement'¹⁰) calls for training to be provided to NGOs on how to brief treaty bodies, to optimise the time available. It does not, however, specify who is to carry out the training.

Discussions on participation by national human rights institutions (NHRIs) focused on encouraging their greater engagement with treaty bodies. Mr O'Flaherty said limiting opportunities for engagement to A-status¹¹ NHRIs would prevent useful participation by those that do not meet this standard. The final points of agreement therefore encourage engagement by NHRIs in general.

An issue that enjoyed greater consensus was the protection of human rights defenders. Mr O'Flaherty stressed troubling reports from NGOs that human rights defenders continue to be targeted for their work with treaty bodies. The ICM adopted a point of agreement emphasising the legal obligation of States to ensure the safety of human rights defenders 'or any other person or organisation who engages with treaty bodies throughout the reporting process, (or) in the context of individual communications, inquiries and visits'.

Finally, Mr McCallum voiced concern that treaty bodies over-burden States with recommendations, and suggested either reducing the number of recommendations or making them more succinct. A point of agreement was adopted to this effect.

Regarding meetings of treaty bodies taking place outside Geneva and New York (called regional meetings), Mr Jean Zermatten, of the Committee on the Rights of the Child, warned that regional meetings would be costly and, since States reviewed during a given session are not selected by region, it could be challenging to find a mutually acceptable location for each session. The Committee adopted a point of agreement to explore working with OHCHR on potential regional meetings. ■

10 <http://bit.ly/rX4hlu>.

11 That is fully compliant with the *UN Principles relating to the Status of National Institutions* (The Paris Principles).