

## **CAT: 25th Anniversary, targeted recommendations and a less than constructive dialogue**

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The 50th session of the Committee Against Torture marked the 25th anniversary of the Committee taking up its work in 1988. Despite financial and time constraints this anniversary was marked with a half day event discussing past achievements and more importantly State obligations to provide redress to victims of torture and ill-treatment in light of the Committee's recently adopted general comment no.3 on this subject.

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The needs to put victims at the centre of redress processes to ensure effective realisation of their rights was a key message emphasised by all speakers. This, in many ways, embodies the spirit of the general comment, which has departed from the traditional reiteration of the status quo of international law towards a more practical approach providing concrete guidance to States on how to make the rights in article 14, on redress for victims, a reality. As emphasised by the Committee chair at a later occasion 'human rights begin with human beings'.

### **Important steps on quality of recommendations**

Demonstrating its willingness to walk the talk, the Committee took important steps during the 50th session to bring the general comment to life in its concluding observations. In the past, the right to redress mainly featured in the interactive dialogue with States, and in the Committee's concluding observations, as an umbrella term for a whole host of different substantive and procedural rights of victims, but was rarely addressed in any detail. However, since the adoption of the general comment in November 2012, and noticeably during the 50th session, the Committee has started to address these issues, and especially the right to rehabilitation, in significantly more detail.

As an example, a recommendation made to Azerbaijan in 2009 read 'the Committee reiterates its previous recommendation, that the State party should provide redress and compensation, including rehabilitation to victims in practice, and provide examples of such cases to the Committee.'

At this session a recommendation to Kenya refers to the recent adoption of general comment no. 3, elaborating on the obligations this imposes on the State, and calls on Kenya to:

- (a) Repeal, as a matter of urgency, the one year limitation in claims in tort against government officials;
- (b) Strengthen its efforts to reduce delays in civil compensation cases;
- (c) Enact the Victims of Offences Bill mentioned in para. 118 of its report, with the view of establishing a comprehensive legislative framework to give effect to the right to redress, including compensation and medical rehabilitation;
- (d) Consult with relevant stakeholders to properly and effectively regulate the National Fund for Victims of Torture which should be as soon as possible;
- (e) The State party should ensure that the right to rehabilitation is included in the Prevention of Torture Bill (2011), that adequate resources are allocated for effective rehabilitation treatment and programmes, including

medical and psychological, also when provided by non-State services. Rehabilitation services should be duly covered under the National Hospital Insurance Fund.

Two of the main factors contributing to State reviews that have maximum impact for real people on the ground are the elaboration of recommendation that are specific and relevant to the national context through a dialogue with the State that is as constructive as possible without compromising on the rights protected by the Convention.

### **A less than constructive dialogue**

While the Committee is taking important steps on quality of recommendations, the 50th session saw worrying examples of the dialogue being much less constructive than it could be, and illustrated how one member can undermine the good work of many.

The unconstructive exchanges were provoked by unnecessarily critical commentary by one Committee member. Rather than asking constructive questions about the situation in Kenya in relation to torture, this member proceeded simply to list out its failings. He referred to the 'official version' of events in the country as 'one big lie'. This behaviour promoted a confrontational rebuttal from the head of delegation, challenging the mandate of the Committee to have any say in monitoring the situation of torture and ill-treatment in his country.

In relation to the review of Japan, this same member was again unconstructive in his criticism of the country's system of relying on confessions to convict, describing it as a relic of the Middle Ages. The Japanese Human Rights Ambassador was provoked to lose his temper, shouting to unidentified persons present in the room to 'shut up'.

Regardless of the merit of the initial claims and the proportionality of the responses, this rather undignified behaviour by one Committee member is certainly not conducive to convincing the Government of Japan and Kenya to diligently implement the Committee's recommendations.

It is imperative that this kind of behaviour comes to an end, so that it does not continue to undermine what has, in recent years, been high quality work from the Committee. These incidents also illustrate how important it is to the effective functioning of the treaty bodies that membership should be of equally high quality across the board.