



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Summary record of the first part (public)* of the 1744th meeting

Held at the Palais Wilson, Geneva, on Thursday, 9 May 2019, at 10 a.m.

Chair: Mr. Modvig

Contents

Meeting with the Chair of the Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1744/Add.1.

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The meeting was called to order at 10 a.m.

Meeting with the Chair of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/66/2)

1. **Sir Malcolm Evans** (Chair, Subcommittee on Prevention of Torture), introducing the Subcommittee's twelfth annual report (CAT/C/66/2), said that the Subcommittee and the Committee were engaged in a common endeavour and one of the topics for discussion would be how to improve their cooperation. The report, which reflected the situation as at 31 December 2018, indicated that there were 88 States parties to the Optional Protocol to the Convention against Torture. Since then, Iceland had ratified the Optional Protocol and it was highly likely that a further State would be ratifying in the near future. The States parties were increasingly equally distributed across the world. The Subcommittee had recently held elections to select eight new members, which had resulted in a composition that was well balanced in terms of geographical diversity and gender representation and had a substantially strengthened pool of expertise. It had also elected a new Bureau.

2. During 2018, owing primarily to budgetary and staff issues, the Subcommittee had undertaken only 6 visits, down from the 8 scheduled for the year and the 10 conducted in 2017. One of the scheduled visits had been held over to 2019 and had now been undertaken. For different reasons, the visit to Rwanda, previously suspended, had been terminated. However, the Subcommittee was pursuing options for a future visit and welcomed the development of the national preventive mechanism of Rwanda. In 2019, visits had already been made to Switzerland, Costa Rica and Sri Lanka, a visit to Senegal was under way and a further visit was due to commence very shortly. The Subcommittee would then have completed five visits in the first five months of 2019, nearly as many as in the entire previous year.

3. A new addition to the twelfth annual report was the inclusion of statistics on the Subcommittee's achievements, including the more than 1,000 interviews it had conducted with detainees and relevant personnel and the types of institutions it had visited. The Subcommittee had now issued more than 80 visit reports, over half of which had been published by States parties. The Subcommittee continued to stress the preventive impact of publication, while respecting its voluntary nature. As the number of States parties rose, so did the number of meetings and the time spent on discussing the creation, development and operation of national preventive mechanisms. The Subcommittee had addressed the resulting organizational challenges by increasing its use of teleconferencing and would continue to build on that means of ensuring effective dialogue.

4. The Subcommittee welcomed the donations made during the reporting period to the Special Fund established under the Optional Protocol. The Special Fund would be able to continue its work and the allocation of grants for the current round would soon be decided. However, the funding was irregular and the Subcommittee urged better systemic support for the Special Fund. Progress had been made in implementing article 31 of the Optional Protocol, which called for the Subcommittee to cooperate with regional bodies with a similar mandate to its own. In 2018, letters concerning enhanced cooperation had been exchanged with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The Optional Protocol also provided for a roster of experts to assist the Subcommittee in its work, and he hoped that such a pool would be established.

5. Finally, the report indicated the Subcommittee's experience of backward movement in commitments to prevention of torture. The Subcommittee had observed a decline in the initial enthusiasm of many States parties to support national preventive mechanisms and had heard challenges to its mandate. The role of the Subcommittee was to work together with the Committee and States to ensure that prevention remained a priority and to close the gap between rhetoric and reality. It must also ensure that it did not become a mere forum for discussion, but that it kept the reality of the situation of vulnerable persons in detention in mind while working to bring about effective change.

6. **Mr. Heller Rouassant** said that he had been struck by the comments on the backsliding in torture prevention and the discourse from States that did not correspond to

the reality on the ground. Of even greater concern than the increased prevalence of torture and ill-treatment was the widespread acceptance of torture reflected in opinion polls in various countries. Torture was often regarded as legitimate in the fight against organized crime and such acceptance was also related to political developments. The issue was a complex one and he proposed that a group should be set up to reflect on it, comprising members from the Committee and the Subcommittee. The group could critically review the work of the two mechanisms in order to improve their efficiency

7. **Mr. Hani** said that the increase in the number of visit reports published was very positive and thought that the Committee could assist by suggesting to States that they adopt the practice. He had been struck by the reduction of 40 per cent in the number of visits completed, which was the same reduction in capacity that the Committee would face if planned budget cuts were implemented. The description of challenges to the Subcommittee's mandate reflected the situation observed by the Committee. He admired the Subcommittee's frankness in reminding States of the nature of their obligations and its wish to establish a constructive dialogue with States while never forgetting the interests of victims. He congratulated the Subcommittee on its cooperation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and wondered if there were plans to extend similar cooperation to other regional bodies such as the Committee for the Prevention of Torture in Africa.

8. He would like to know if the target mentioned in the report of 10 to 12 visits each year remained realistic. He would appreciate further clarification regarding the cancellation of the visit to Rwanda. He wished to know what strategies the Subcommittee had to convince States with overdue reports to fulfil their obligations and how the Committee could assist. The Committee had noticed that some States parties believed that the mandate of a national preventive mechanism was already fulfilled by their national human rights institutions and wondered what steps the Subcommittee had taken to give States the correct information in that regard. He would appreciate more details on the Subcommittee's cooperation with the International Committee of the Red Cross, as that organization had access to valuable first-hand information and it would be helpful for the Committee to establish similar links. He would like to know if the cooperation had included work on the International Committee of the Red Cross study on perceptions of torture, which had shown that in some countries more than half of the respondents agreed that torture could be justified. He wondered how the Committee and the Subcommittee could work together to combat that trend.

9. He would like to know if the Subcommittee had a position on two issues that had arisen during the Committee's review of the Netherlands in 2018: prisons leased to another country and the role of the respective national preventive mechanisms in that situation, and territorial exclusion like that of the Caribbean part of the Kingdom of the Netherlands from the scope of the Optional Protocol. He wished to know if the Subcommittee had worked on the issue of detention centres run by foreign military forces, for example in Mali and Afghanistan, and whether the national preventive mechanisms of the countries providing the troops had the right to monitor such facilities. He proposed that the Committee and the Subcommittee should reach a joint position on the idea of a binding international instrument to prohibit the trade in instruments of torture.

10. **Ms. Gaer** said that that she would like to know whether the Chair of the Subcommittee thought it would be valuable for the Committee to add a statement about the status of torture across the world to its own annual report. She would also appreciate clarification of the Subcommittee's selection process for the countries it would visit and whether it took into consideration the countries that were likely to be reviewed by the Committee, either to include or exclude them. She asked if the Chair of the Subcommittee had considered any further measures to increase coordination between the two bodies.

11. **Mr. Rodríguez-Pinzón** said that he would be interested to hear more about the Subcommittee's work with regional mechanisms. In particular, he wondered whether the steps recently taken by Chile to establish a national preventive mechanism owed anything to the Subcommittee's cooperation with the inter-American human rights system.

12. **The Chair** said that the impact of the Committee and the Subcommittee could be assessed in many different ways: the full picture across the globe probably showed some progress, some steps backwards and some unchanged situations. He proposed that the Committee should use its next joint meeting with the Subcommittee, currently scheduled for the November 2019 session, to discuss whether it was necessary to develop stronger tools or increase the efficiency of activities. It would be useful for the two bodies to spend half a day or a day assessing the situation and identifying ways forward. If both bodies agreed, high-profile follow-up events could also be organized.

13. **Sir Malcolm Evans** (Chair, Subcommittee on Prevention of Torture) said that he endorsed the proposal to find more opportunities for the two bodies to discuss ways forward.

14. The publication of reports was to be encouraged. Recently, Ukraine had indicated that all future reports on Ukraine issued by the Subcommittee would automatically be published. He hoped that other States might consider adopting that practice in the interests of openness and transparency.

15. As the Optional Protocol currently had nearly 90 States parties, it would not be possible to visit all of them on a regular basis in the near future. However, experience had shown that visiting 10 to 12 States per year was challenging yet manageable. The fact that the Subcommittee had only been able to undertake six visits in 2018 was highly unusual, and he hoped that those circumstances would not be repeated. Visits were not the only means of engaging directly with States; the Subcommittee also made use of teleconferencing and other forms of communication.

16. The Subcommittee had always maintained close working relationships with regional organizations and mechanisms. It took every opportunity to engage with the Committee for the Prevention of Torture in Africa, whose origins were intricately bound up with the origins of the Subcommittee. The Subcommittee had collaborated on many occasions with actors in the inter-American human rights system. In Chile, the Subcommittee had done a huge amount of work towards the establishment of a national preventive mechanism, but it was by no means the only actor in the field; non-governmental organizations (NGOs) and regional OHCHR offices had also been instrumental. The Subcommittee enjoyed very good relations with the Organization for Security and Cooperation in Europe and worked with it regularly in parts of Central Asia and Eastern Europe.

17. The fact that the Subcommittee was deepening its cooperation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), as provided for in article 31 of the Optional Protocol, did not detract from its desire to work equally well with other mechanisms. The Subcommittee had greatly benefited from the expertise of the International Committee of the Red Cross in visiting places of detention.

18. If the Committee ever decided to produce a document akin to a general comment, it might make the clarification of article 4 of the Optional Protocol the subject. The English version of article 4 specified that each State party must allow visits to any place under its “jurisdiction and control”, while some language versions stated “jurisdiction or control”. The Subcommittee had previously used a correction procedure to regularize conflicting forms of the Optional Protocol, and might seek to do so for article 4. However, the main point was that the Subcommittee had extraterritorial reach. In any case, the Subcommittee took the view that the most effective approach across the board was to ensure that national preventive mechanisms had the legal and practical capacity to visit all places of detention that fell within the jurisdiction of a State.

19. It was true that the Subcommittee’s mandate did not extend to the overseas territories of the Netherlands, an anomalous situation given that the mandate of the CPT did. Both bodies were aware of the irregularity. The Subcommittee was supportive of the Omega Research Foundation and had worked with them to produce guidebooks, handbooks and checklists for those visiting places of detention in relation to armaments, weapons and instruments of torture.

20. The States to be visited in any one year were decided upon in plenary after full reflection on how the aims of the Optional Protocol could best be achieved. It was important to bear in mind that, in addition to its official programme of visits, the Subcommittee maintained close contact with States, national preventive mechanisms and other bodies in relation to various matters. On the basis of all available information, the Subcommittee tried to consider where its visits could have the most impact. Planned visits by regional mechanisms and special procedures were also taken into account, as were the Committee's reviews of States parties under article 19 of the Convention against Torture. The Subcommittee proposed input for the Committee's lists of issues whenever possible. However, he agreed that the two bodies should seek more effective ways to facilitate that process.

21. He appreciated the Committee's support for the approach taken in paragraphs 52 and 53 of the Subcommittee's annual report. Indeed, the Subcommittee took the view that its report, while largely factual, presented an opportunity to make overarching comments. It viewed itself as particularly well placed to look at global trends, and tried to do so in an informed and yet restrained way. He encouraged the Committee to consider adopting a similar practice in its future annual reports.

The public part of the meeting rose at 11.05 a.m.