



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

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COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 834th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 16 May 2008, at 10 a.m.

Chairperson: Mr. WANG Xuenxian (Vice-Chairperson)

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.834/Add.1.

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*In the absence of Mr. Grossman, Mr. Wang Xuenxian, Vice-Chairperson,
took the Chair*

The meeting was called to order at 10.20 a.m.

ADOPTION OF THE ANNUAL REPORT OF THE COMMITTEE
(CAT/C/40/CRP.1/Add.1 to 8; CAT/C/40/CRP.2/Add.1 to 9) (*continued*)

1. The CHAIRPERSON invited the members of the Committee to resume consideration of the draft annual report of the Committee.

Chapter I. Organizational and other matters (CAT/C/ 40/CRP.1/Add.1) (*continued*)

Section F. Agendas

2. *Section F was adopted without change.*

Section G. Participation of Committee members in other meetings

Paragraph 10

3. Ms. SVEAASS asked for it to be mentioned that she had participated in a meeting on the rights of women organized by the Special Rapporteur on violence against women, its causes and consequences, in September 2007, and that she had also participated, along with Mr. Gallegos Chiriboga, in a meeting on the rights of persons with disabilities in December 2007.

Section H. General comments

Paragraph 11

4. Ms. KLEOPAS (Rapporteur), noting that it had been proposed that a summary of General Comment No. 2 on implementation of article 2 should be included, asked whether it should be incorporated in the existing paragraph or whether a separate paragraph should be devoted to it.

5. Ms. GAER said that she had made that proposal because General Comment no. 2 was a very important text which had been disseminated very widely and had met with a very large number of reactions from States parties, national human rights institutions and non-governmental organizations; it therefore deserved to be highlighted in the report. Since chapter 1, which contained a summary of the Committee's activities, was the one most frequently read, it would be very useful to give fuller details in that chapter regarding the content of the General Comment and the process that had led to its adoption. The number of the annex to the report containing the full text should also be indicated.

6. The CHAIRPERSON, noting that all the Committee members approved that proposal, invited Ms. Gaer to draft the text of the summary, which the Rapporteur would incorporate into the final version of the report.

7. *Section H was adopted, subject to drafting changes.*

Section I. Activities of the Committee in connection with the Optional Protocol to the Convention

Paragraph 12

8. Ms. KLEOPAS (Rapporteur) said that, in addition to the first joint meeting with members of the Subcommittee on the Prevention of Torture on 20 November 2007, it

should be noted in the paragraph that on 13 May 2008, the Committee against Torture had met with the Chairperson and Vice-Chairperson of the Subcommittee who had come to introduce the Subcommittee's first annual report, and had decided to transmit that report to the General Assembly by incorporating it into its own annual report.

9. Ms. BELMIR pointed out that the Committee would not have had the opportunity to examine the Subcommittee's report in detail.

10. The CHAIRPERSON recalled that the Committee had decided to consider the report of the Subcommittee at its November session.

11. Ms. MORALES (Secretary of the Committee) explained that the report of the Subcommittee had not been submitted for approval to the Committee; while Committee members were free to examine it and comment on it, they could not in any event alter its content.

12. Ms. GAER said that activities in connection with the Optional Protocol were of particular importance and deserved a prominent place in the Committee's report. In that context, it would be useful to include the full text of the joint statement, which had been published following the first joint meeting with the Subcommittee, in an annex or, preferably, in section I. Fuller information should also be provided about the proceedings of the meeting and the content of the discussion and it should be noted that the Committee had decided to consider the report of the Subcommittee at its November session.

13. Mr. MARIÑO MENÉNDEZ said that while it was true that more details should be given about the 13 May 2008 meeting, there should be no more than the shortest possible factual account, which should merely recall the purpose of the meeting, mention the Subcommittee members present (Ms. Casale and Mr. Petersen), briefly summarize the content of the Subcommittee's report and set out the Committee's decision to transmit the report to the General Assembly and to consider it at its November session.

14. The CHAIRPERSON noted that the proposals of Ms. Gaer and Mr. Mariño Menéndez were along the same lines and seemed to have the general support of the Committee. A new paragraph incorporating the various elements referred to would therefore be drafted and added.

15. *Section I was adopted, subject to drafting changes.*

Section J. Joint statement on the occasion of the United Nations International Day in Support of Victims of Torture

Paragraph 13

16. The CHAIRPERSON recalled that the joint statement proper would be considered subsequently in closed meeting.

17. Ms. GAER asked whether it was really necessary to include the text of that statement in the section under consideration and whether it might not be enough to give the symbol of the document or press release in which it would be issued.

18. The CHAIRPERSON concurred with Ms. Gaer. Paragraph 13 would be amended accordingly.

19. *Section I, as amended, was adopted.*

Section K. Participation of non-governmental organizations and national human rights institutions

Paragraphs 14, 15 and 16

20. Ms. GAER said that she would like the paragraphs to be more fleshed out, giving details about how non-governmental organizations and national human rights institutions participated in the examination of States parties' periodic reports and other ways in which the Committee collaborated with them. The contribution of academics also deserved to be stressed and welcomed.

21. Ms. BELMIR said that the proposed text did not sufficiently highlight the contribution of international human rights institutions; the information they provided to the Committee was just as useful as that communicated to it by non-governmental organizations. Indeed, it was through cross-analysis of the data supplied by both types of body that the Committee was able to distinguish real fact from subjective interpretation. The text should consequently be recast so as to give due weight to the contribution of national institutions.

22. *Section K was adopted, subject to drafting changes to take into account the suggestions of Committee members. Chapter I (CAT/C/40/CRP.1/Add.1) was adopted, subject to drafting changes.*

Chapter II. Submission of reports of States parties under article 19 of the Convention (CAT/C/40/CRP.1/Add.2)

Paragraphs 1 and 2

23. *Paragraphs 1 and 2 were adopted without change.*

Paragraph 3

24. On the proposal of Mr. MARIÑO MENÉNDEZ, it was decided to specify the number of States parties concerned, in order to relativize the figure of 227 reports overdue, as some States were several reports late.

25. *Paragraph 3, as amended, was adopted.*

Paragraph 4

26. Ms. GAER expressed concern that the Committee did not seem to have adopted a clear position on the question of the submission of several reports in a single document. In her opinion, it should continue to be envisaged only as an exceptional measure.

27. Following further comments by Mr. MARIÑO MENÉNDEZ, Mr. GALLEGOS CHIRIBOGA and Ms. MORALES (Secretary of the Committee), the CHAIRPERSON said that it was preferable not to reopen the debate on the question at that stage and hence to maintain the proposed wording.

28. *Paragraph 4 was adopted without change.*

Paragraphs 5 and 6

29. *Paragraphs 5 and 6 were adopted without change.*

Paragraph 7

30. Replying to a question from Mr. KOZALEV, Ms. MORALES (Secretary of the Committee) said that nine States parties had announced that they would follow the new procedure whereby written replies to the list of issues would constitute the report under article 19 of the Convention. That would be indicated in the last sentence.

31. *Paragraph 7, as amended, was adopted.*

32. At the request of Ms. KLEOPAS (Rapporteur), Ms. MORALES (Secretary of the Committee) read out the financial implications of the new procedure referred to in paragraphs 5 to 7; they would be contained in an annex to the Committee's report on its session. The amounts shown corresponded to one additional four-week session, in anticipation of 11 reports to be considered.

33. *Chapter II (CAT/C/40/CRP.1/Add.3) was adopted, subject to drafting changes.*

Chapter III. Consideration of reports submitted by States parties under article 19 of the Convention (CAT/C/40/CRP.1/Add.3)

Paragraphs 1, 2, 3, 4 and 5

34. *Paragraphs 1, 2, 3, 4 and 5 were adopted without change.*

Paragraph 6

35. On the proposal of Ms. GAER, it was decided to add "at the end of its deliberations" in the first sentence, so as not to suggest that the adoption of new rules for submission might have been dictated to the Committee from outside,

36. *Paragraph 6, as amended, was adopted.*

Paragraph 7

37. *Paragraph 7 was adopted without change.*

Paragraph 8

38. Ms. KLEOPAS (Rapporteur) said that the Bureau had wished to put on record the decision to revise the guidelines for initial and periodic reports in accordance with the reporting guidelines for the core document since it had felt that it was necessary for the Committee to start thinking about the matter and to make up its mind soon.

39. Ms. GAER said that she had represented the Committee against Torture at meetings on the common core document. The idea of such a document had been adopted in order to avoid repeating a number of pieces of information concerning countries in each report to the various committees. The Committee against Torture had just revised its own guidelines when the reporting guidelines for the common core document had been approved by the chairpersons of bodies established under international human rights instruments and the inter-committee meeting and it had therefore not undertaken any further revision at that time. It would nevertheless be desirable for it to take steps to that end at the current meeting, if only for the sake of rationalization and economy. The most important task would then be to decide which questions came under the common core document and which were those that should be included in the Convention-specific implementation report.

40. In reply to a question from Ms. SVEAASS and Ms. BELMIR, Ms. MORALES (Secretary of the Committee) confirmed that the recent recommendations of the Committee inviting various States parties to submit a core document in accordance with the harmonized guidelines contained in document HRI/GEN/2/Rev.4 fitted into the new system. Since States parties were already being led to prepare a core document, revision of the Committee's guidelines would facilitate both the preparation and the examination of their reports, in particular the compilation of the list of issues.

41. The Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, for their part, had already adopted revised guidelines; the Committee on Economic, Social and Cultural Rights and the Human Rights Committee were currently engaged in preparing their own revised guidelines. If the Committee against Torture wished in turn to embark on such a process, the first stage would be to ask one or two of its members to consider the modalities and make proposals.

42. Mr. MARIÑO MENÉNDEZ approved the idea of undertaking a process of revision and suggested that the symbol of the document containing the reporting guidelines for common core documents should be indicated in paragraph 8.

43. The CHAIRPERSON proposed that the proposed paragraph should be retained, with just the addition suggested by Mr. Mariño Menéndez, and that the Committee members who would be entrusted with responsibility for actually undertaking the revision should be designated at the next session.

44. *Chapter III (CAT/C/40/CRP.1/Add.3) was adopted, subject to drafting changes.*

Chapter IV. Follow-up on conclusions and recommendations on States parties reports (document without symbol distributed in English only)

45. Ms. GAER (Rapporteur for follow-up to concluding observations), introducing the summary table of replies received by the Committee at 15 May 2008 as follow-up to concluding observations, recalled that the Committee had adopted that procedure at its thirtieth session, in May 2003, and that, at its thirty-eighth session, it had decided to make public all documents prepared under that procedure – follow-up reports received from States parties, letters from rapporteurs, replies from States parties – by posting them on the webpage of the Office of the United Nations High Commissioner for Human Rights dedicated to the activities of the Committee.

46. Between May 2003 and 16 May 2008, the closing date of the fortieth session, the Committee had asked 67 States parties to transmit to it within one year information on the follow-up action taken on some of the recommendations set out in its concluding observations. Of those 67 States parties, 53 should have sent that information by 18 May 2008 and 33 had done so. Only two of the 14 States parties whose replies had been due since May 2007 (Hungary and the Russian Federation) had done so within the time limit. However, even though few States parties had forwarded the requested information to the Committee in good time, 25 States out of 33 had transmitted it to the Committee three or four months after the due date. She had sent a reminder to those States parties that had still not sent a reply one year after the deadline and most had replied within four months. In view of the effectiveness of reminders, she intended in future to send a reminder every six months before the deadline.

47. Once those reports had been transmitted to her, she first checked whether all the points on which the Committee wished to have information had been addressed, then whether the information was satisfactory and, lastly, whether further information was needed, in which case she sent a letter to the State party requesting clarifications on certain issues. States parties that had not forwarded any of the requested information received reminders. Between the thirty-eighth session and 18 April 2008, she had sent letters to the Governments of Bosnia and Herzegovina, Chile, Croatia, Finland, Greece, Nepal and Sri Lanka.

48. The correspondence with the States parties had brought to light a number of items on which the Committee had needed systematically to request further information from them; those items would be listed in the annual report.

49. The content of the letters she had sent to the States parties would not be reproduced in the annual report but any Committee members that so desired could ask her for a copy.

50. Ms. SVEAASS said that the follow-up process was very important, not only for the Committee, but also for the Subcommittee on the Prevention of Torture, which would certainly read with great interest the information provided by States parties on mechanisms for monitoring detention facilities.

51. Ms. BELMIR said that it would be useful to emphasize, in the letters to States parties, the need to improve their methods for gathering data and compiling statistics.

52. Ms. GAER (Rapporteur for follow-up to concluding observations) said that the quality of statistics was indeed a problem under the follow-up procedure. States sometimes submitted raw data, with no explanation, so that it was not possible to form a clear idea of the situation in the country or to determine in what areas or detention facilities torture prevention measures should be taken on a priority basis.

53. The CHAIRPERSON thanked Ms. Gaer on behalf of the Committee for her excellent work and said that he hoped that she would be willing to continue to assume that responsibility. In chapter IV of the annual report, the table drawn up by Ms. Gaer would be preceded by a summary of considerations based on experience with the follow-up to concluding observations.

54. *Chapter IV was adopted, subject to additions.*

Chapter V. Activities of the Committee under article 20 of the Convention (CAT/C/40/CRP.1/Add.5)

Section B. Summary account of the result of the proceedings concerning the inquiry on Brazil

55. Mr. MARINÑO MENÉNDEZ (Rapporteur for article 20) recalled that he had been part of the mission tasked by the Committee to visit Brazil in order to undertake a confidential inquiry under article 20 of the Convention. The visit had been satisfactory even though only the future would tell if it had helped to improve the situation in that country's prisons. The Brazilian Government had already put into effect some of the Committee's recommendations before the arrival of the mission and had recognized its usefulness in preventing and punishing torture. The Government had agreed to the publication of the Committee's report under article 20 of the Convention and of its own reply; it could therefore be considered that the

follow-up to the mission of inquiry would give way to the usual procedure for submitting and considering periodic reports.

56. *Chapter V was approved, subject to drafting changes.*

Chapter VI. Consideration of complaints under article 22 of the Convention (CAT/C/40/CRP.1/Add.6, document distributed in English only)

Section A. Introduction

57. Mr. MARIÑO MENÉNDEZ (Rapporteur for new complaints and interim measures) pointed out that, in paragraph 55 of the draft, the figures corresponding to the number of States that had declared that they recognized the competence of the Committee to receive and consider complaints under article 22 of the Convention would be checked and, where necessary, amended by the Secretariat according to the situation as at 18 May 2008.

58. *Section A was approved subject to necessary changes.*

Section B. Interim measures of protection

59. Mr. MARIÑO MENÉNDEZ (Rapporteur for new complaints and interim measures) said that, in 95 per cent of cases, States parties had acceded to requests addressed to them for interim measures. Sometimes, however, States refused or did not honour their commitments and returned the person concerned to his or her country, which could constitute a violation of the Convention. In such cases, it had for some years been the practice of the Committee to remind States parties that they were required to cooperate in good faith with the Committee and to abide by their commitments when they accepted a request for interim measures. In view of the little time available to the Committee, a detailed review of the situation regarding interim measures would be provided at the next session.

60. *Section B was approved without change.*

Section C. Progress of work

61. Mr. MARIÑO MENÉNDEZ (Rapporteur for article 22) said that section C gave an account of the work of the Committee at its thirty-ninth session and would be supplemented by the decisions taken at its fortieth session. A paragraph would be added to reflect additional information on the case of *Suleymane Guengueng and others* (Communication No. 181/2001) supplied on the previous day by a representative of the Senegalese embassy. It would consequently be made clear that Senegal had made progress in implementing the decision of the Committee (CAT/C/36/D/181/2001) and that Senegal had amended its domestic law to establish its jurisdiction over acts of torture alleged to have been committed by Hissène Habré in Chad many years previously and that it was willing to initiate legal proceedings. Senegal had stated, however, that it needed financial assistance for that purpose. A working group had been set up to determine the amount of resources required. A group of States members of the European Union had expressed their readiness to release funds to facilitate the launching of the trial procedure and the Senegalese Government had also declared its intention to make a financial contribution. An agreement was about to be concluded between the parties concerned and when the Committee received a copy of the official correspondence between them – which the representative of the Senegalese embassy had undertaken to transmit to the Committee as early as possible – , it could remind the State party

that legal proceedings must be initiated in order for the victims to be able at least to apply to the courts and, where appropriate, to obtain compensation.

62. *Section C was adopted, subject to drafting changes.*

63. *Chapter VI (CAT/C/40/CRP.1/Add.6) was adopted, subject to drafting changes.*

Chapter VII. Future meetings of the Committee (CAT/C/40/CRP.1/Add.7, document distributed in English only)

64. Ms. MORALES (Secretary of the Committee) said that in the draft distributed to members, two sets of dates were proposed for the forty-second session; the dates finally decided were from 27 April to 15 May 2009).

65. *Chapter VII, as amended, was adopted.*

Chapter VIII. Adoption of the annual report of the Committee on its activities (CAT/C/40/CRP.1/Add.7, document distributed in English only)

66. *Chapter VIII was adopted without change.*

67. *The draft annual report of the Committee (CAT/C/40/CRP.1/Add. 1 to 8; CAT/C/40/CRP.2/Add. 1 to 9) was adopted as a whole, subject to drafting changes.*

ORGANIZATIONAL AND OTHER MATTERS (Agenda item 5)

68. Ms. MORALES (Secretary of the Committee) said that, at its forty-first session, the Committee would consider the reports of Belgium, China (including the Special Administrative Regions of Macao and Hong Kong), Kazakhstan, Kenya, Lithuania, Montenegro and Serbia. At its forty-second session, it would consider the reports of Chad, Chile, Honduras, Israel, Nicaragua, New Zealand and the Philippines, and at its forty-third session, the reports of Armenia, Brazil, Finland, Hungary, Kyrgyzstan, Libyan Arab Jamahiriya, Mauritius, Mexico, Morocco, Russian Federation, Saudi Arabia and Slovenia.

The first part (public) of the meeting rose at 12.25 a.m.