

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

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Summary record of the 1506th meeting Held at the Palais Wilson, Geneva, on Tuesday, 18 April 2017, at 3 p.m.

Chair: Mr. Modvig

Contents

Consideration of reports submitted by States parties under article 19 of the Convention

Initial report of Pakistan

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention

Initial report of Pakistan (CAT/C/PAK/1)

1. At the invitation of the Chair, the delegation of Pakistan took places at the Committee table.

2. **Mr. Michael** (Pakistan) introducing the initial report of Pakistan, said that the text had been drafted through an inclusive process involving government departments at the federal and provincial levels, as well as civil society and NGOs. Despite the challenges that Pakistan faced, notably its limited material, human and technical resources, it remained firmly committed to protecting human rights and prohibiting torture.

3. That commitment was enshrined in the Constitution and long predated the country's ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Legislation such as the Criminal Procedure Code and the Penal Code, as well as the 2002 Police Order, prohibited public officials from engaging in any act of torture and provided safeguards for prisoners and detainees in custody. Provision was also made for oversight mechanisms, and officers found guilty of committing acts of torture could, regardless of their rank, face terms of imprisonment of up to 5 years. Antiterrorism legislation also contained safeguards to protect detainees and was in line with the country's human rights obligations.

4. Under the law, any evidence found to have been obtained under threat or promise was deemed inadmissible. The Investigation for Fair Trial Act and the corresponding Investigation for Fair Trial Rules, which had been codified in 2013, contained guidelines on the application and enforcement of warrants and regulated the admissibility of evidence obtained under such warrants. A bill to prohibit custodial torture was currently being examined by parliament with a view to the adoption of comprehensive legislation that would address all aspects of torture as set forth in the Convention.

5. In February 2016, the Government had launched a national action plan for human rights and allocated a total of 750 million Pakistan rupees (PR) for its implementation. Among other areas, the plan focused on policy reform, access to justice, the implementation of international treaties and the strengthening of national human rights institutions. Each province had its own human rights department, while district committees had been created to monitor human rights issues at grass-roots level. The committees were made up of police and administrative officials, as well as representatives of civil society, and reported to a national task force, chaired by the Minister for Human Rights, which was responsible for overseeing the action plan as a whole. The plan also included measures to reinforce human and technical resources, build capacity among law enforcement personnel, launch a rehabilitation programme for incarcerated persons and improve forensic sciences with a view to more effective investigations into alleged human rights violations. In fact, reliance on forensic evidence in criminal investigations was increasing and had resulted in a significant decrease in incidents of custodial torture.

6. The National Commission for Human Rights, set up by an act of parliament and operational since May 2015, had authority to undertake investigations into human rights violations anywhere in the country. In accordance with the Paris Principles, it was financially independent. The National Commission on the Status of Women had also been made financially autonomous and had the same independent powers as a court to take action in cases of violations of women's rights. In October 2016, parliament had passed bills to amend criminal legislation in such areas as rape and honour killings. Other recent measures included the creation of the National Council for the Rights of Persons with Disabilities and the National Commission for the Rights of Children.

7. A liaison committee between police and citizens had been active in Sindh province for more than a decade and had played a significant role in addressing citizens' complaints and helping to monitor and prevent crime. Other advances, such as an e-policing system in Khyber Pakhtunkhwa province and the computerization of police records in Punjab province, had also helped to monitor and report cases of torture and other crimes. Human rights units within the Supreme Court and the high courts sought to provide redress in cases of complaints, including complaints of torture, against State officials. In a number of judgments, the courts had found in favour of victims and perpetrators had been punished.

8. Prisons and other places of deprivation of liberty were periodically visited by committees comprising judges, lawyers and representatives of civil society, to ensure that adequate food and other basic necessities were being provided. Inmates were free to share their views with the committees, which had the power to recommend measures to the prison authorities to redress any grievances.

9. Codes of conduct had been devised by the provinces for their police officers, prison staff and other law enforcement officials. For example, public prosecutors were required to ensure that evidence was lawfully obtained, that victims and witnesses were duly informed of their rights, and that appropriate action was taken against officials who used unlawful methods. The provinces also provided gender sensitivity training for officials and had established special procedures for female suspects, complainants and witnesses. In 2006, the Ministry of Law and Justice had introduced reforms under which police officers of all levels received training in equality, justice and non-discrimination. Police and judicial academies had incorporated human rights education, including torture prevention, into their curricula. Furthermore, the Government had run a number of workshops and seminars to raise public awareness about the prohibition of torture, while the country's free and vibrant media and its active civil society also played an important role in that regard.

10. **Ms. Gaer** (Country Rapporteur) said that, as Pakistan had ratified the Convention in 2010, the initial report was five years late and, while she was pleased to see that it was largely in line with the Committee's guidelines and provided an overview of relevant laws, she was disappointed to find that it contained information on only a handful of cases reflecting the application of legislation. She was surprised, moreover, to see that the delegation did not include members of the military or intelligence services, which had a particular responsibility in meeting the State party's obligations under the Convention.

11. The Committee had received information suggesting that State officials and forces associated with the State were practising torture on a widespread scale, and she would be interested to hear the delegation comment on the discrepancy between the picture of the country given in the initial report and that which emerged from the Committee's own survey of credible and publicly available information.

12. Local and international human rights organizations had reported that torture was endemic in the police system and had documented scores of cases of acts that amounted to torture, ill-treatment or abuse. Moreover, hundreds of unofficial torture cells were allegedly being operated off police premises right across the country, and the Committee had seen no information suggesting that officers who engaged in torture were, in fact, prosecuted and punished. In that regard, she wished to know whether the police officials implicated in the case of *Muhammad Amin v. State* had been convicted of any offence and, if so, what punishment they had received. More generally, she would appreciate detailed information about all reported allegations of police torture that had been registered since 2010. How many of those cases had led to prosecutions and convictions? She also hoped that the delegation could provide information about cases where police officers had been punished for committing offences "ancillary to torture", as mentioned in the initial report, and where officers found guilty of perpetrating torture had received a disciplinary rather than criminal sanction.

13. Military and intelligence forces were also reportedly implicated in acts of torture and in what appeared to be enforced disappearances. The officially constituted Commission of Inquiry on Enforced Disappearances had reported nearly 1,200 unresolved cases between 2010 and 2016, while the United Nations Working Group on Enforced or Involuntary Disappearances had concluded that a climate of impunity existed in that regard. The Committee understood that complaints of torture against military personnel were investigated by the military, but it had received no detailed information about reported cases. Could the delegation provide that information, notably about a case from March 2014 in which army officers were allegedly implicated in the enforced disappearance of 35 persons from an internment centre in Khyber Pakhtunkhwa province?

14. The Committee had also received information pointing to the involvement of intelligence agencies and paramilitary forces in torture and enforced disappearances in the parts of the country in which they operated. In that context, she wished to know whether any inquiry had been launched into alleged enforced disappearances by the Frontier Corps in Balochistan, notably that of Shulam Mohammed Baloch, Lula Baloch and Sher Mohammed Baloch, and whether the delegation could provide more details about the inquiry into the May 2016 death of Aftab Ahmad, reportedly at the hands of the Pakistan Rangers.

15. The Committee was concerned that the State party was not exercising due diligence to prevent members of extremist groups from perpetrating violence, including torture. The State party's intelligence agencies had been accused of offering sanctuary to a number of armed groups, which were reportedly able to raise funds through criminal activities, including kidnapping for ransom. In that connection, she would be grateful for information on cases in which members of extremist groups had been prosecuted for abduction, sexual abuse and related offences, and cases in which the perpetrators of sectarian attacks had been prosecuted. She wished to know whether the State party had opened criminal investigations into allegations that officials had acquiesced to violence by non-State actors amounting to ill-treatment and, if it had, what the results of those investigations had been.

16. In addition, it seemed that the State party was not exercising due diligence to prevent domestic violence and so-called honour killings. The Human Rights Commission of Pakistan had recorded numerous cases of violence against women and girls, while the Ministry of Law and Justice and a number of NGOs had recorded numerous so-called honour killings. Two recent examples were the cases of Zeenat Rafiq and Qandeel Baloch. In that connection, she would be grateful for information on cases in which the perpetrators of so-called honour killings had been prosecuted. An update was also needed on the status of the bill put forward to remove the possibility of "forgiveness" on the part of victims' families in cases of so-called honour killing.

17. The Committee would appreciate information on the provision of fundamental legal safeguards, including data on any cases in which law enforcement officials had been disciplined for failing to grant detained persons access to counsel; cases since 2010 in which detained persons had benefited from legal aid provided at the State's expense; any cases in which officials had been disciplined or punished for failing to present a detained person to a magistrate within the established time frame; and cases since 2010 in which a magistrate had ordered a detained person to be released following a habeas corpus petition. On that last point, she wished to know how many habeas corpus petitions had been filed, how many had been granted and whether any such petitions had led to a criminal investigation being opened. In addition, it would be helpful to learn whether the State party planned to supplement its laws to provide for further fundamental legal safeguards, in particular the right of detained persons to receive an independent medical examination and their right to have their details recorded in a comprehensive, accurate and accessible detention register.

18. In the light of the fact that persons detained under the Anti-Terrorism Act of 1997 could be denied several of the safeguards against torture available to other detained persons, the Committee would appreciate additional information on the application of that Act. In particular, it would be useful to know how many persons had been detained under the Act without charge and the average length of their detention; how many persons detained under the Act without charge and the average length of their detention; how many persons detained under the Act had been charged and were awaiting trial, and the average and maximum length of detention for such persons; what measures had been taken to review the cases of all persons detained under the Act to ensure that they were either formally charged or released; and whether the State party planned to repeal or amend the Act. Additionally, the delegation was invited to inform the Committee of the number of persons detained under the regime instituted by the 23rd amendment to the Constitution, pursuant to which State officials had enhanced powers of detention, and of any measures planned to ensure that persons suspected of terror-related offences were not held in incommunicado detention.

19. With regard to the perpetration of enforced disappearance and torture by military and intelligence officials, the Committee would like to know whether any progress had been made in resolving cases of enforced disappearance, whether the perpetrators in those cases had been held accountable, whether there were plans to establish enforced disappearance as a separate offence under the Penal Code, and what measures had been planned to strengthen the independence of the Commission of Inquiry on Enforced Disappearances. It would be useful to learn whether any investigations or prosecutions related to torture had been initiated in response to the many complaints received by the National Commission for Human Rights, why the Commission had been prevented from investigating complaints filed against the intelligence agencies or armed forces, what measures had been taken to ensure that it had adequate resources, and why a representative of the Commission had not been permitted to travel with the delegation to Geneva for the current meeting.

20. The Committee would be grateful for an update on the investigations under way in connection with the allegedly enforced disappearance of the journalist Zeenat Shahzadi and the alleged abductions of the human rights defenders Waqas Goraya, Asim Saeed, Salman Haider and Ahmed Raza Naseer. The delegation was invited to comment on continued reports of intimidation and harassment against human rights defenders, lawyers, journalists and members of their families, and to provide examples of investigations into complaints of such intimidation and harassment and information on any resulting prosecutions, trials and penalties.

21. Information would be appreciated on the measures of rehabilitation and redress awarded to women under the Punjab Protection of Women against Violence Act. She wished to know how many complaints of violence against women had been received since 2010, how many such complaints had been investigated, how many prosecutions and convictions had followed, what penalties had been imposed, and the average length of time between the filing of such a complaint and the end of a trial. In addition, the delegation should explain what was being done to prevent women from being subjected to violence sanctioned by parallel justice systems, what other measures had been taken to protect women from violence, how many protection orders had been requested and granted since 2010, and what efforts were being made to ensure that the minimum legal age of marriage was set at 18 years for both men and women.

22. She asked what constraints might be preventing the police from performing their duties in a professional manner and thereby increasing the risk of torture. In the light of the findings of a recent Human Rights Watch report on police abuse in the State party, it would be helpful to learn what measures had been taken to improve the conditions in which police officers worked and to ensure that they were given the resources and training necessary to conduct their work in a professional manner.

23. It was regrettable that the State party had not provided data on the conditions in places of detention, as the Committee had received reports of severe overcrowding and extremely poor conditions. In that connection, comprehensive data were needed on all places of detention, including their official capacity and current occupancy rates, disaggregated by category of detainee, as was information on the measures taken to improve conditions. It would be helpful to know what measures had been taken to reduce long-term pretrial detention, in how many cases alternatives to pretrial detention had been used and how many female detainees and female guards there were at each facility. Furthermore, she would appreciate data, disaggregated by place of detention, on deaths of detainees that had been attributed to the actions of either public officials or other detainees since 2010. In particular, she wished to know how many such deaths had occurred, how many investigations had been opened, whether any individuals had been prosecuted and, if they had, what the outcomes of those prosecutions had been.

24. In view of the information provided by the Society for the Protection of the Rights of the Child, it would be helpful to learn what measures were being taken to protect detained juveniles from sexual abuse and to punish the perpetrators of such offences. With regard to monitoring, further information was needed on the work of the jail committees mentioned in paragraph 55 of the State party report, in particular information related to their receipt and handling of complaints of torture or ill-treatment; she would also

appreciate the provision of data, disaggregated by facility, on visits to places of detention conducted by the Human Rights Commission of Pakistan, NGOs and the International Committee of the Red Cross (ICRC). In that connection, she wished to know what measures had been taken to establish an independent and systematic national monitoring system for all places of detention, and whether the State party planned to ratify the Optional Protocol to the Convention.

25. She would be interested to learn how many internment centres were operational in the Federally Administered Tribal Areas and the Provincially Administered Tribal Areas, how many persons were being detained at those centres, whether it was true that members of the detained persons' families and civil society representatives, including representatives of ICRC, had been refused access to them, whether measures had been taken to improve the access of independent monitors to the centres, and how many visits had been conducted to them by representatives of ICRC and members of the detained persons' families.

26. The Committee had received reports that, in practice, law enforcement officials were reluctant to issue a First Information Report in cases of torture, despite being required to do so. In addition, it seemed that, although victims could file a complaint with their Justice of Peace regarding the refusal by law enforcement officials to issue a First Information Report or their delay in doing so, such complaints were dealt with in an unsatisfactory manner. In that connection, she wished to know how many First Information Reports related to torture had been received since 2010, how many of those cases had led to criminal proceedings, and whether there had been any cases in which Justices of Peace had intervened at the request of victims and had successfully facilitated the investigation of allegations. In addition, it would be helpful to learn how many complaints related to torture had been received by the commissions provided for under the Police Order of 2002 and how many of those complaints had led to the opening of an investigation. Confirmation was needed that those commissions were indeed operational.

27. She wished to know what measures had been taken to guarantee the independence of the District Standing Medical Boards, which issued medico-legal certificates, how many such certificates had been issued in cases of alleged police abuse, and whether any such certificates had been used to support the prosecution of an official. In addition, she asked how many complaints of torture perpetrated by members of the armed or associated forces had been received, how many of those complaints were currently under investigation, whether criminal proceedings had been brought in connection with any of those complaints and, if they had, what their outcomes had been.

28. **Ms. Belmir** (Country Rapporteur) said that the State party's legislative framework for the prevention of torture consisted of texts originating in various legal traditions, including sharia. While the State party's criminal legislation and Constitution contained a number of provisions related to torture, and the Committee had acknowledged a number of recent developments on that front, the legal definition of the crime of torture, which seemed to comprise only acts inflicted for the purpose of extracting information or a confession, was not fully in line with the definition set out in the Convention, where acts inflicted for other purposes could also qualify as torture.

29. Referring to reports that the Protection of Pakistan Act had resulted in numerous cases of enforced disappearance, incommunicado detention, prolonged pretrial detention and breaches of fundamental safeguards, especially on the part of military institutions, she asked whether the Act remained in force despite its planned two-year validity, whether it had achieved its purpose and whether it had been replaced by other measures. She wished to know whether steps had been taken to ensure that minors were not tried before special or military courts and how the rights of persons held in police custody were enforced, given the judiciary's lack of independence. She also wished to know whether the videos showing people being severely beaten by the police that were circulating on the Internet were real, and what efforts were under way to train police officers in new interrogation techniques. She noted that the burden of proof should not be on the alleged victim of torture.

30. Regarding extradition, she asked how the State party reconciled its use of the term "fugitive offenders" with the principle of the presumption of innocence, how it assessed a requesting State's good faith, whether the persons concerned had the right to legal

representation and whether extradition orders were appealable. In the light of reports that Afghan refugees were mistreated and that their camps, businesses and homes were subject to raids, it would be helpful to know whether the tribal areas where many of them lived were integral parts of the country or had a special status.

31. The delegation should comment on reports that corporal punishment, including whipping, stoning, amputation and death, were considered lawful and had been imposed on minors by special and military courts without the requisite safeguards. It would be interesting to know in what specific cases the State party had exercised universal jurisdiction or had thwarted another State's attempt to exercise it. While the considerable efforts to give better training to law enforcement officers were commendable, she wondered why were they not bearing fruit in practice.

32. **Mr. Bruni** said that, while the State party had been well within its rights to make a reservation regarding article 20 of the Convention, it would be interesting to know what had prompted that decision and whether the reasons for the reservation still stood. He asked what the status was of the Police Order of 2002, whereby police officers who committed acts of torture were liable to imprisonment and a fine, whether it applied nationwide and, if not, how the police forces were regulated, and what the penalties for torture were in different parts of the country. Noting that the Order provided for the possibility of disobeying an unlawful order, he wished to know what the exact procedure was, what sanctions, if any, there were for refusing to carry out such an order, and how the person concerned was protected from retaliation. How did the State party reconcile its narrow definition of torture, which applied only in the context of obtaining confessions, with its obligations under the Convention?

33. He wished to know when the Torture, Custodial Death and Custodial Rape (Prevention and Punishment) Bill 2014 would be adopted. He would appreciate more information on the status and powers of the jail committees, in particular whether they could visit places of detention and how they protected the rights of prisoners. Referring to paragraph 58 of the report, he wondered how feasible it was for a prisoner to reach the Chief Justice freely and confidentially without the interference of the prison authorities against whom a complaint was being filed. He enquired whether the alarming findings of a study on physical and sexual abuse of prisoners and their fear of reporting incidents, which had been published in a national newspaper in June 2016, were true. Information on the approval of the Jail Manual and on any anti-torture measures that it contained would be useful. Noting that a complaint against a police officer had to be made within six months of the alleged offence, he asked whether the same time frame applied to complaints of torture and ill-treatment given that a traumatized person, particularly if still detained, could not be expected to react so quickly. He stressed that three months' solitary confinement was lengthy, especially if it constituted a large portion of the overall sentence, and in any case grossly exceeded the internationally accepted maximum duration of 15 days. Under what circumstances was solitary confinement applied?

34. **Ms. Racu**, expressing serious concern at the widespread use of corporal punishment against children, asked whether the Prohibition of Corporal Punishment Act (2017) had entered into force. She noted that the Act did not ban corporal punishment in the home and that the use of such methods in schools partially explained the extremely high dropout rate. She requested updated figures regarding corporal punishment in children's care homes and juvenile detention centres, and asked what measures were envisaged, including awareness-raising campaigns, to prohibit all forms of corporal punishment against children in all settings.

35. **Mr. Hani** asked whether the National Commission for Human Rights had participated in consultations during the preparation of the initial report and whether it would be included in the follow-up process further to the Committee's consideration of the report. The country's diverse judicial systems, particularly the powers of law enforcement that fell primarily to the provincial governments, gave rise to a risk of inconsistency in law and in practice between federal and provincial law and between substantive and religious law. Highlighting the fact that punishments such as whipping, stoning and amputation had been outlawed under sharia law in many Muslim countries for many years, and that the Committee on the Rights of the Child had recommended in 2016 that the State party should

review its laws and practices in that respect, he asked whether such punishments, which were in contravention of the Convention, were permitted in law and in practice, and what measures were envisaged to put an end to them. He also asked what the status was of the 2014 bill on the prevention of torture, which would give the legal backing necessary to guarantee real protection against torture.

36. **The Chair** asked which authority ensured that independent investigations were conducted into cases where evidence of torture had been detected by medical professionals. He welcomed the use of modern forensic techniques to extract confessions and the consequent decrease in custodial torture. He invited the delegation to provide details in that regard, including figures and data sources.

37. Ms. Gaer said that she would appreciate information on the numbers and outcomes of complaints made by prisoners of ill-treatment or torture by prison authorities, and on any sentences imposed against prison officials further to such complaints. Were measures being taken to establish an independent and confidential mechanism whereby detainees could file complaints of torture or ill-treatment? Expressing concern that the Federal Investigation Agency was not sufficiently independent of the police to investigate allegations of torture committed by police officials, she asked whether measures were also being taken to establish an independent body to investigate such allegations and ensure the absence of hierarchical or institutional links between the suspected perpetrators and the investigators. She wished to know whether the Witness Protection Act, passed in the province of Sindh in 2013, extended protection against reprisals to persons alleging torture by the police; whether data could be provided on the victims and witnesses who had been granted protection in cases involving conduct prohibited under the Convention; whether measures were being taken to ensure protection in provinces other than Sindh; and whether any prosecutions had been brought against police officers who had threatened persons complaining of torture or ill-treatment by the police. Did protection against reprisals cover suspending or reassigning police and other officials accused of torture, pending investigations into the allegations?

38. Article 26 of the Actions (in Aid of Civil Power) Regulation, 2011, as well as legislative amendments allowing military courts to try civilians for offences related to terrorism and granting military court personnel retrospective immunity from prosecution for actions taken in good faith, appeared to leave the door open for immunity from prosecution for acts of torture. She asked what measures were being taken to ensure that the legislation would not be interpreted in that way. In the light of alternative reports concerning the extension of the jurisdiction of military courts to try persons accused of offences related to terrorism, and the conditions of military court hearings, she would appreciate information on what steps had been taken to remove the jurisdiction of military courts over civilian cases and to empower civil courts to try military personnel accused of acts of torture or enforced disappearance of civilians. She asked what the legal status was of military judges. She invited the delegation to provide information and examples of good practices regarding measures to protect judges from threats and intimidation.

39. In view of reports that confessions made before a district superintendent of police were deemed admissible under the Anti-Terrorism Act, she would appreciate data on cases where such confessions had been admitted by the courts. Might amendments to the Act be considered in order to prohibit the admission of confessions made without the presence of a magistrate? What measures were in place to ensure that confessions obtained through torture were not used in judicial proceedings, and what steps were being taken to combat police threats against victims who failed to repeat their confession before the courts? She wondered whether the Government intended to propose its own bill to incorporate the definition of torture.

40. She asked what was being done to combat trafficking in persons and related acts, including forced labour and begging, and sexual exploitation. Data would be appreciated on persons afforded protection in State-run shelters and given redress, and on investigations and prosecutions of Government officials involved in cases of trafficking in persons and forced labour.

41. The delegation should give details of measures to ensure that victims of torture obtained compensation and medical and psychological support, even in cases where the perpetrator was not identified or convicted; annual data on compensation, rehabilitation and redress afforded to victims of torture committed by State authorities; and information on specific public or private rehabilitation programmes in place for victims of torture. In the light of the recent case of Mashal Khan, a university student reportedly killed on his university campus by fellow students amidst accusations of blasphemy, and of reports of attacks on transgender persons, she asked what responsibility the State had to protect citizens against violence by private individuals, how it ensured due diligence, and whether investigations were carried out in that regard.

42. Highlighting the case of Junaid Hafeez, who had been held in solitary confinement since May 2014 pending his trial for blasphemy, she asked whether the State party could provide data on the number of prisoners held in solitary confinement for their own safety; what the average duration of solitary confinement was for persons accused of blasphemy and related offences; and whether measures were being taken to ensure that the conditions in which those persons were held did not amount to cruel, inhuman or degrading treatment. Lastly, she asked whether the use of fetters was permitted in law, what restrictions were in place in that regard and whether any prosecutions had been brought for the unauthorized use of fetters.

43. **Ms. Belmir** said that she would like details regarding the jurisdiction of the Federal Shariat Court in relation to other courts in the country, its composition, its working methods, the probative value of its decisions, recourse to appeal and how access to that court was guaranteed for those concerned. She was deeply troubled by so-called honour killings of women and instances where the murderers were pardoned by the victim's family, further normalizing a problem that was already entrenched in society. Moreover, women who were arrested or tried were frequently subjected to the same offences committed by judicial officials as those for which they were the target of honour killings in society, thereby reinforcing the widespread impunity for all such acts of violence against women. Political will to remedy that situation was critical; the measures to be taken should include the drafting of new legislation and the development of public awareness campaigns.

The meeting rose at 6 p.m.