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Twentieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 336th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 May 1998, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.336/Add.1.

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Second periodic report of Israel (CAT/C/33/Add.3)

1. At the invitation of the Chairman, Mr. Baker, Mr. Shaffer and Mr. Galilee (Israel) took places at the Committee table.

2. Mr. BAKER (Israel) said he wished to stress that his Government, which took its obligations under the Convention very seriously, had always cooperated with the Committee, and hoped to conduct a candid, constructive dialogue during the consideration of the second report. When the previous reports had been submitted, the delegation of Israel had described the dilemma faced by that country, which must confront the terrorism that imperilled its security while respecting international human rights standards, among them in particular the provisions of the Convention. At the close of the consideration of the previous report, the Committee had acknowledged that dilemma, but had not, to the surprise of the Israeli Government, recognized a central component of the Israeli legal position, namely, that the interrogation procedures used to prevent acts of terrorism in no way constituted torture as defined by article 1 of the Convention or cruel, inhuman or degrading treatment within the meaning of article 16. That position derived from a legal interpretation of the Convention which would require, on the part of the members of the Committee, an in-depth analysis of the meaning of the terms used in the Convention and of the intentions of the States that had drafted it, as well as of the scope of articles 1 and 16. The conclusions and recommendations formulated by the Committee at the close of the consideration of the previous report suggested that no such in-depth analysis had been conducted. Any interpretation of interrogation procedures must take into account the restrictive scope of the prohibition set out in article 1, in particular since that definition included an important specific criterion, that of the severity of the pain or suffering. Every act or measure should be examined on its merits and in relation to the circumstances, and a sweeping generalized interpretation did not fulfil the requirements of the Convention. The same comment was applicable mutatis mutandis to the implementation of article 16. Since the Committee was not a political organ of the United Nations, but a specialized expert forum whose competence was recognized in a specific field, it should avoid taking generalized positions. The discussions that had taken place during the consideration of the previous report clearly demonstrated the need to study each interrogation procedure on its merits and not to make hasty generalizations. On the basis, for example, of allegations by non-governmental organizations, the Committee had determined that subjecting detainees to very loud music constituted a form of torture or cruel treatment, even though his delegation had explained that the volume was turned up high in order to prevent communication between detainees while under investigation. It was not a measure used to extract information or confessions, and it therefore did not fall under article 1. Before reaching its conclusions, had the Committee considered the criterion of severity of suffering set out in the Convention? The Committee had likewise determined that hooding detainees under special conditions was tantamount to torture, but had not inquired whether that practice was used to obtain information or

whether, as the Israeli delegation had explained, its purpose was to prevent detainees from communicating among themselves. The Committee had chosen to base its determination on allegations made by non-governmental organizations and disregard the State party's explanation, for reasons that were not detailed in the conclusions. He instanced another conclusion which had surprised the Israeli authorities: the Committee had determined that exposing detainees to "cold air to chill" constituted a violation of articles 1 and 16, although Israeli officials had consistently denied the use of such a procedure.

3. He wished to reiterate a statement made by the Israeli delegation during the eighteenth session, namely, that prohibition of torture formed part of Israeli law. Accordingly, officials who conducted interrogations were not authorized, and never had been authorized, to use torture, even in cases where the use of such procedures might have prevented terrible attacks. The use of cruel, inhuman or degrading procedures was likewise prohibited during interrogations. Nor had Israel ever claimed that the struggle against terrorism constituted an exceptional circumstance that justified the use of torture.

4. Both the report submitted to the Committee and the statement made by the Israeli delegation had described the circumstances under which the Landau Commission's guidelines authorized the use of "moderate physical pressure". In formulating those guidelines, the Landau Commission had taken into consideration international and regional human rights treaties as well as travaux préparatoires, with a view to ensuring that interrogation methods complied with international standards. The Committee's general determination to the effect that Israeli interrogation procedures constituted violations of articles 1 and 16 raised the question whether it had undertaken a close analysis of each of the acts attributed to the Israeli authorities. The question might also be asked whether the Committee had taken note of the paragraphs in the special report of 1997 (CAT/C/33/Add.2/Rev.1) that discussed the guidelines established in accordance with the criteria set out in the Landau report for the interrogation of suspects by the General Security Service (GSS). Those guidelines established that such pressure must never reach the level of physical torture or ill-treatment. It was of course possible that GSS officials might commit irregularities, but in that case they were punished by the authorities for breaking the law. It should be very clear that Israel neither permitted nor justified torture or cruel, inhuman or degrading treatment. Article 1 of the Convention implied that pressure that did not cause severe pain or suffering did not constitute torture. Article 16 likewise implied that certain forms of pressure could not be considered cruel, inhuman or degrading treatment.

5. Confronted with the persistence of terrorism, the Israeli authorities had no choice but to continue adopting effective investigative methods in an attempt to prevent or at least limit such attacks. In that regard, the situation showed little improvement. Since 1993, the year the Oslo agreement had been signed, 244 Israelis had been killed. During the past year alone, 60 terrorist acts had been committed in Israel, leaving 27 people dead and 340 wounded. It must be realized that the number of victims would be much higher if the Security Service had not managed to prevent certain attacks. In 1997, three major terrorist cells had been exposed and dismantled; they had

planned murders, kidnappings, bus hijackings, attacks in public places, and other acts. Through the use of moderate physical pressure - never torture or cruel, inhuman or degrading treatment - bloodbaths had been avoided.

6. Although its views apparently differed from those of the Committee, the Israeli Government had nevertheless taken careful note of its recommendations, as some developments showed. For example, since the previous May, the number of complaints lodged by detainees who had undergone interrogations had significantly diminished. Furthermore, several legal and administrative remedies, described in detail in the special report published as CAT/C/33/Add.2/Rev.1, were available to detainees. During the consideration of that report, the Israeli delegation had explained the nature of the procedure for judicial review of interrogation procedures, which allowed all detainees who deemed that they had not been properly treated during an interrogation to submit a petition directly and immediately to the Supreme Court sitting as a High Court of Justice. That right applied to all persons, whether or not Israeli, including residents of the territories. Since apparently no such remedy existed in any other country, the Israeli authorities had been surprised that the Committee had not mentioned it in its conclusions as one of the positive developments.

7. The substance of the discussions with the Committee during the presentation of the previous report had been brought to the attention of the executive authorities and the judiciary. The High Court of Justice had scheduled for discussion a number of general petitions concerning interrogation procedures and had arranged that, exceptionally, nine judges would preside over the hearing. That showed that the Court intended to give particular prominence to its decisions in that domain. Contrary to the claims of non-governmental organizations, the High Court of Justice had never condoned or permitted torture. The full proceedings in the Hamdan case had been recounted in detail in the previous report; it should be remembered that the Supreme Court had determined that although maintaining the interim injunction was unjustifiable, the lifting of that injunction did not authorize the use against the petitioner of interrogation procedures that violated the law.

8. With regard to new developments in the legislative sphere, the second periodic report described in detail the General Security Service Bill; having first been considered by the Knesset, it was now being studied by a parliamentary committee. It provided for the tightening of checks and controls over the activities of the General Security Service, which would be monitored not only by a service comptroller and a State Comptroller, but also by a ministerial committee and a parliamentary committee to which reports would be submitted every three months. Other legislative reforms should also be pointed out: following up the enactment of the Basic Law: Human Dignity and Liberty, several provisions regarding arrest and detention had been adopted, among them the standing orders for the police and prisons service and the Criminal Procedure (Enforcement Powers - Arrest and Detention) Law of 1996, which ensured maximum protection for the rights and liberties of a person throughout the arrest and detention process. Meanwhile, the Kremnitzer Committee had published a report containing specific recommendations for the prevention of acts of violence by police personnel and recommending institutional as well as educational and disciplinary measures to minimize

police brutality. Various mechanisms for reviewing the actions of law enforcement officials had been created, and were described in detail in the report. The Police, the Prisons Service, the General Security Service and the Defence Forces were all subject to administrative or legal procedures.

9. In conclusion, it should be remembered that all Israel's reports, together with the statements of the Israeli delegation before the Committee, should be considered as an integrated whole. He hoped that the members of the Committee would give due consideration to all those elements, and would focus on the legal and practical dilemma faced by Israel in its implementation of the Convention. He was confident that an exchange of views with the Committee and a constructive analysis conducted by the Committee in good faith would assist the Israeli authorities in their efforts to achieve the goals of the Convention.

10. The CHAIRMAN (Rapporteur for Israel) thanked Mr. Baker for his introductory statement. Referring to the consideration of Israel's previous report, he recalled that the Committee had asked the delegation a number of specific questions which it had refused to answer, invoking security reasons; that was what had prompted the Committee to base its determinations on the reports of non-governmental organizations. Speaking in his capacity as Rapporteur, he observed that the second periodic report of Israel (CAT/C/33/Add.3), due in November 1996, had not been received until 6 March 1998. In its conclusions on the special report dated 18 February 1996 (CAT/C/33/Add.2/Rev.1), the Committee had asked Israel to submit, along with its second periodic report, information concerning any measures it had taken in response to the Committee's conclusions and recommendations, for consideration during the November 1997 session.

11. The Committee took note with satisfaction of the reforms set forth in the Basic Law: Human Dignity and Liberty, the General Security Service Bill, the proposals of the Kremnitzer Committee, the creation of a national public defender's office, and the recommendations of the Goldberg Committee. With regard to the Basic Law: Human Dignity and Liberty, he noted that two derogations were possible, and asked for clarifications on that matter, in particular, whether a state of emergency had been put into effect since the founding of the State of Israel. He would also like clarifications on the rules of evidence, since paragraph 89 of the report referred to "recommendations aimed at ensuring that false confessions were not extracted by illegal means". He would like to know what was meant, in paragraph 91, by the words "real violence". An explanation of the last clause, "independent evidence of guilt that was discovered by an inadmissible confession will still be admissible", would also be welcome. Although the information provided concerning the reform of the General Security Service was indeed interesting, the question arose whether a security official who acted in conformity with the law could himself be held accountable. It would also be useful to know the nature and scope of administrative detention in Israel, in the occupied territories and perhaps in South Lebanon, the legal basis for that administrative measure and its maximum term. Could a suspect be detained incommunicado, and for how long? Was it true that a Lebanese detainee had been held for 11 years without being charged? According to information available to the Committee, that detainee had been arrested not because he had constituted a danger to the security of the State but as a bargaining counter.

That case, if true, required an explanation under article 16 of the Convention. The Committee would like to know how many persons were currently held in administrative detention, to what population group they belonged, and whether they had access to a judicial review procedure, and in particular recourse to habeas corpus.

12. Paragraphs 58 and 64 of the report seemed to contain contradictory information, stating on the one hand that, on the arrest of any person, notification must be made to a relative or to another person close to the detainee, and on the other that until recently the law had not granted prisoners and detainees the right to telephone. Since the enactment of the Criminal Procedure Law of 1996, did detainees have the right to use a telephone immediately after their arrest? Did access to a telephone depend on whether or not the detainee had been charged?

13. Returning to the matter of the severity of the pain, he said that the Committee was not satisfied with being assured by a country delegation that acts inflicted on a person never caused pain severe enough to constitute torture. It was the Committee which had to make up its mind on that question, and therein lay the whole problem: during the consideration of the previous report, the delegation had refused, for security reasons, to indicate what methods were used. The Committee had consequently been obliged to base its determinations on testimony gathered from persons who had undergone interrogation, and on reports drawn up by NGOs. The Committee was now in a position to declare with full knowledge of the facts, on the basis of its discussions with the Israeli delegation and a number of decisions handed down in Israel, that some interrogation procedures used by the General Security Service, such as hooding prisoners, depriving them of sleep by exposing them to loud music, restraining them in painful positions, and shaking them violently, indeed violated articles 16 and 2 of the Convention, a fortiori if those methods were used in combination. The Committee had also learned that the use of those methods was not unusual, nor prompted by necessity in isolated cases, since the Israeli authorities did not consider them to be cruel, inhuman or degrading treatment within the meaning of article 16 of the Convention. That, therefore, was the new starting point for the continuation of the dialogue between the Israeli delegation and the Committee.

14. Mr. SØRENSEN (Alternate Rapporteur for Israel) said his first concern would be the implementation of article 10 of the Convention (paragraphs 28 to 31 of the report). Regarding police officials, he inquired whether the content of article 1 was taught to them during training and whether investigatory methods were taught in entry-level or only in continuing education courses. What training was provided to members of the General Security Service?

15. It would be useful to know how prison guards were recruited, what prior education they had received, and whether they were given general human rights training. The education of doctors was no less important, since unfortunately some of them helped to “refine” torture methods used during interrogations. They must also learn to recognize possible signs or after-effects of torture on the bodies of their patients.

16. The measures adopted by the Israeli authorities to implement the provisions of article 11 of the Convention, which provided that States parties should keep under systematic review interrogation rules, instructions, methods and practices, were described in detail in the report. Paragraph 33 indicated that the State Comptroller, in his conclusions on the activities of the GSS investigative unit from 1990 to 1992, had noted several instances of deviations from the Landau Commission's guidelines, and had recommended measures to ensure compliance. Could the Committee obtain a copy of that report? The same paragraph stated that the Comptroller's findings had not yet been made public; did that mean that they would be made so eventually? He reiterated the Committee's wish that the Landau Commission's secret guidelines should be made public.

17. Paragraphs 34, 35 and 36 of the report dealt with the ministerial reviews instituted in conformity with the recommendations of the Landau Commission and conducted periodically with regard to GSS interrogation guidelines. He found it somewhat surprising that the special Ministerial Committee should be headed by the Prime Minister, who probably had very little time to devote to that task. In accordance with the recommendations of the Ministerial Committee, new guidelines for GSS investigators had been published which clearly established the need to specify, in every case, the purpose and justification for the use of limited pressure. In his view, an investigator must find it very difficult to remain always within the law with regard to the methods used, since the guidelines were kept secret and also periodically revised. In that regard, the Committee would like to know by what procedure an investigator who had contravened those confidential guidelines could be summoned to appear before a court. It would also like an explanation concerning the use of "exceptional methods" in situations in which vital information was concealed. Paragraph 35 of the report also indicated that it was expressly forbidden to deny food or drink to suspects or to refuse them permission to go to the lavatory. If that was so, what about sleep deprivation?

18. With regard to the duration of solitary confinement, which according to paragraph 55 could be extended for additional periods up to a total of 14 days, he would like to know if that regime could be imposed on a detainee frequently - more specifically, whether it could be imposed every month.

19. Paragraph 58 indicated that upon the arrest of any person, notification must be made to a relative or other person close to the detainee regarding the fact of the arrest and the place of detention. Should it therefore be concluded that incommunicado detention did not exist? Did detainees have the right to communicate with a lawyer, and to be seen by a doctor of their choice, from the start of their detention? With regard to visiting rights, he would like to know the maximum length of a visit for convicted prisoners, since only one visit was authorized every two months.

20. Turning to the implementation of articles 12 and 13 of the Convention, he inquired whether complaints about mistreatment by GSS investigators, which were considered by the Department for Investigation of Police Personnel (DIPP), were reviewed by any other service before being submitted to DIPP.

The Committee would like to know how many members of the GSS had been brought to trial as a result of investigations, during 1995 and 1996, for example, whether they had been convicted, and the nature of the sentence.

21. With regard to article 14, clarifications would be useful concerning a new bill submitted to the Knesset whose effect would apparently be to restrict the possible grounds for compensation, and in particular to abolish it for victims suffering from a disability of less than 10 per cent; moreover, that provision would be retroactive. He wondered whether such a law would not be incompatible with the terms of article 14.

22. With regard to Israel's response to the conclusions and recommendations formulated by the Committee at its previous session (A/52/44, paragraphs 253 to 260), he would like to offer his point of view as a medical doctor who had been concerned, since 1984, with matters relating to torture, had examined many victims, and had visited police stations and prisons, including some where torture was practised. Since 1994, the Committee had maintained the view that the "Landau rules" could and probably would allow torture to be practised within the meaning of article 1 of the Convention. In 1997, the Committee had had to conclude that its fears had been well founded. It had, he must add, been wrong at that time to refer (in paragraph 257 of its annual report) solely to information from non-governmental organizations and to testimony from persons who had been interrogated, since the High Court had itself taken note, for example, of the use of sleep deprivation. High Court documents relating to the Ghanimat case (HCJ 3282/97) revealed that Mr. Ghanimat had been restrained in very painful positions for prolonged periods; a medical report addressed to the High Court by an eminent orthopaedist indicated that restraining him with his knees tightly bent had caused painful and disabling lesions. An internationally renowned neurologist who had also examined Mr. Ghanimat had certified that his allegations, to the effect that his hands and feet had been very tightly shackled, were corroborated by the medical examination which revealed a permanent local loss of sensation. Those forms of treatment fitted the three criteria set out in article 1 of the Convention: they undoubtedly caused severe suffering, they were intentionally inflicted (as recognized by the authorities themselves) for the purpose of obtaining information, and they were inflicted by public officials.

23. The Israeli authorities had given a reason for hooding detainees; but the fact remained that putting someone's head in a bag for six hours on end, as had been the case with Mr. Ghanimat, inflicted, from a medical point of view, severe mental suffering, and there were other ways of keeping a detainee from communicating with others. That treatment had been inflicted on him intentionally, for the purpose of quickly extorting a confession. The report under consideration showed that Mr. Saba had been subjected to the same treatment.

24. In paragraph 49 of the report and elsewhere, the Israeli Government invoked necessity to justify depriving a detainee of sleep. But torture was not authorized even in emergency situations; Mr. Ghanimat had been permitted to sleep for about one hour in 24 over the course of 4 days, which from a medical point of view constituted torture. In another case brought before the High Court (HCJ 2210/96), the detainee had been kept awake for 39 hours

followed by 5 hours' rest, then for 47 hours with 2 hours' rest, and then for 22 hours with 5 hours' rest, 47 hours with 5 hours' rest, 46 hours with 5 hours' rest, and finally 48 hours with 6 hours' rest. The situation had perhaps been urgent, but that unquestionably constituted mental torture.

25. Wholly reliable sources indicated that in some 6,000 to 8,000 cases the GSS had resorted to the procedure that consisted in violently shaking the detainee. He had spoken of that practice at length during the eighteenth session, demonstrating that such treatment caused severe suffering and was of course inflicted intentionally and for the purpose of obtaining information. That being so, and contrary to what was said in paragraph 49 of the report, the measures in question were indeed forms of torture. The question of the threshold beyond which suffering could be considered severe had also been discussed in 1997, and in the view of many medical experts of the highest level of competence that threshold had been passed in all the cases in question. The Israeli authorities acknowledged that such procedures were inflicted intentionally by public officials with a view to obtaining information; once again, there was no doubt that those cases fell within the meaning of article 1 of the Convention. The methods in question were used by members of the GSS, who were undoubtedly normal human beings but worked under terrible conditions in which attacks were planned, secret instructions were continually modified, and they were expected to comply with the law while at the same time being officially or unofficially authorized to violate it in order to get results. He understood their difficult situation and fully recognized that they were fighting against the abominable phenomenon of terrorism, but they must do so by legitimate means and not by torture.

26. The first written law of Denmark, his country of nationality, had proclaimed as early as 1241 that the country would be built on the rule of law. Israel, a country celebrating its fiftieth anniversary and still being built, should not put its officials in such a terrible situation. Political problems should be resolved not by torture but by negotiation. The year 1998 was also the fiftieth anniversary of the Universal Declaration of Human Rights, and in December 1997 the General Assembly had decided by consensus to declare 26 June the International Day in Support of Victims of Torture. To mark those three events, Israel should consider making the declarations provided for under articles 21 and 22 of the Convention, withdrawing its reservation to article 20, and making a larger contribution to the United Nations Voluntary Fund for Victims of Torture. During the Second World War, he had sympathized with the plight of the Jews and tried to help ease their sufferings; since that time, the Danish people had cared deeply about their fate. He therefore continued to hope that Israel would implement the Committee’s recommendations.

27. The CHAIRMAN, speaking in his capacity as Rapporteur for Israel, said he wished to raise a different kind of question. Israel apparently applied a dualistic system, which required a legislative enactment for an international instrument to be effectively incorporated into domestic law, a step which had not been taken in the case of the Convention against Torture. That was surely the reason why so many interim injunction applications, addressed to the Supreme Court sitting as a High Court on behalf of detainees requesting that the GSS should not be permitted to apply the “Landau rules” to them, had prompted decisions based on the legal notion of state of necessity, one of the

arguments often invoked being that since the “Landau rules” themselves were based on the notion of necessity, the application of those rules by the GSS was thereby justified. In that context, he would like to know whether under Israeli law the “moderate physical pressure” which those rules permitted was considered as justifiable assault or as a practice wholly in conformity with the law. Centuries had passed since the poet Milton had written, “Necessity is the tyrant’s plea”.

28. Mr. EL MASRY said that he was glad the matter of necessity had been raised, and that he was quite unconvinced by the explanations offered. If Israel no longer based its use of the “Landau rules” on the principle of necessity, how did it justify it? What could be the rationale for permitting investigators to violate the Penal Law by, for example, shaking someone to death? That was a crucial and very troubling matter, since torture was therefore in fact part of the Israeli legal arsenal and had been codified as a legal practice.

29. Paragraph 5 of the report stated that laws which ran counter to the provisions of the Basic Law prohibiting violation of the life, body or dignity of persons but had been enacted prior to it could not be deemed void. It was nevertheless stated that such laws would be interpreted in accordance with those fundamental principles: was that merely the view of the author of the report, or was it a binding rule? For example, was the notorious practice of destroying the homes of the families of persons accused of a terrorist act, which was an extrajudicial punishment and a dissuasive measure, considered a violation of the Basic Law?

30. The revisions to the Penal Law described in paragraph 27 of the report could not have an effect on the practice of torture for so long as it was not classified as a separate, punishable crime. For so long as the current interrogation practices enjoyed official support, such provisions would not make it possible either to dissuade or to punish the torturers. Furthermore, paragraphs 32 to 51 of the report described a system that had been set in place to allow Parliament and the Government to review interrogation practices. Had that mechanism ever questioned the legality and legitimacy of the interrogation procedures, or was it limited to reviewing deviations from the Landau Commission’s guidelines?

31. Paragraph 75 of the report provided a great deal of statistical data. He would like to know whether any GSS officials had yet been prosecuted for offences committed in the performance of their functions. In 1995, Abd al-Samad Harizat had died after having been violently shaken by a GSS official: had criminal proceedings been taken against him, and had the prohibition of that “torture method” been considered? Were detainees given a medical examination before being subjected to that treatment, and was the interrogation conducted in the presence of a medical doctor?

32. With regard to the treatment of detainees and prisoners (paragraphs 52 to 69 of the report), he understood that Palestinian detainees were deprived of certain rights: did detainees who were in the hands of the GSS enjoy the right to have visitors, to receive mail, to use a telephone, and to meet with a lawyer? According to some sources, Palestinians detained in those occupied territories subject to military authority were sometimes permitted no contact

with the outside world for as long as 90 days, which, if that information was correct, was far too long. He would therefore like to know the real facts of the situation and have detailed information about the living conditions of Palestinian detainees, which according to some sources were deplorable.

33. Mr. Sørensen had mentioned the fiftieth anniversary of the creation of Israel; 1998 also marked the fiftieth anniversary of the Nakba, the great Palestinian “catastrophe”, showing the truth of the saying that one man's joy was another man's sorrow. For half a century, tens of thousands of uprooted people had lived in abominable conditions without the right to return home, which constituted a flagrant violation of their human rights and a continual torture.

34. The CHAIRMAN remarked that that was a very broad use of the concept of torture.

35. Mr. CAMARA associated himself with the questions raised by the Rapporteur and the Alternate Rapporteur. With regard to the matter of the admissibility of evidence, he inquired what had been the practical outcome of the recommendations of the Goldberg Committee. Furthermore, he would like to know the status of the amendment to the Evidence Ordonnance [New Version], 1971, that was being prepared by the Ministry of Justice, according to paragraph 90. Had a draft law to that effect been tabled, and if so, on what date? At what stage of consideration was it? He would also like clarifications concerning the last sentence in the report, which stated that independent evidence of guilt that was discovered by an inadmissible confession was still admissible.

36. Mr. MAVROMMATIS congratulated the State party on the occasion of the fiftieth anniversary of its independence, and offered his best wishes for peace in that region.

37. The State party’s introductory statement presented a large number of clarifications concerning both the previous report and the report under consideration. With regard to the argument invoking a situation of necessity, he reiterated his view that nothing could justify torture or maltreatment. The Committee was aware of the difficulties faced by the State party owing to the violence and terrorism directed against it, which all agreed in condemning. However, while the State party could and must take measures to fight terrorism and protect itself therefrom, it must do so without resorting to methods which, by consenting to become a party to the Convention against Torture, it had pledged itself not to use. Resorting to the use of force and to practices that were prohibited both by the Convention against Torture and by the International Covenant on Civil and Political Rights would lead nowhere.

38. Under the current circumstances, consideration should perhaps be given to requiring the routine presence of a judge during interrogations. He would like to know how interrogations were conducted; once force was resorted to, the burden of proof fell upon those whose practices were challenged, not on those who complained of the methods used.

39. He was pleased that the State party had agreed to move forward the date of the consideration of its second periodic report; he was confident that the State party would accord attention to the Committee's observations, and that the dialogue could prove fruitful. He urged the State party to make the declaration provided under article 22 of the Convention, which would be one of the best ways of showing that it was committed to transparency and rejected the use of illegal methods.

40. Referring to article 4 of the Convention, he noted that the death penalty or a mandatory life sentence could be applied which would exclude the possibility of appeal; clarifications on that matter would be welcome.

41. He welcomed the very detailed statistical information. In paragraph 82 of the report, he noted a disparity between the number of complaints filed for maltreatment on the part of the GSS and the number of times that proceedings had led to penal sanction. Lastly, with regard to article 15, he was disturbed to learn that independent evidence of guilt that was discovered by an inadmissible confession was still admissible.

42. Mr. YAKOVLEV said he was disturbed that the Israeli delegation had, in its introduction, broached the notion of the severity of any suffering inflicted. Within the context of articles 1 and 16 of the Convention, the notion of relativity in a matter of principle opened the door to excesses of every kind.

43. The CHAIRMAN invited the delegation to reply to the Committee's questions at the next meeting.

44. The Israeli delegation withdrew.

The first part (public) of the meeting rose at 12.30 a.m.