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Chair: Mr. Braun (Luxembourg)

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The meeting was called to order at 3.05 p.m.

Agenda item 70: Promotion and protection of human rights (*continued*)

(a) Implementation of human rights instruments (*continued*) ([A/74/40](#), [A/74/44](#), [A/74/48](#), [A/74/55](#), [A/74/56](#), [A/74/146](#), [A/74/148](#), [A/74/228](#), [A/74/233](#), [A/74/254](#) and [A/74/256](#))

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(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) ([A/74/166](#), [A/74/188](#), [A/74/196](#), [A/74/268](#), [A/74/273](#), [A/74/275](#), [A/74/276](#), [A/74/278](#), [A/74/303](#), [A/74/311](#) and [A/74/342](#))

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (*continued*) ([A/74/36](#))

1. **Mr. Modvig** (Chair of the Committee against Torture), introducing the report of the Committee against Torture ([A/74/44](#)), said that 169 countries were now States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention against Torture Initiative and the capacity-building programme run by the Office of the United Nations High Commissioner for Human Rights (OHCHR) had played a crucial role in the recent increase in ratifications.

2. In the past year, the Committee against Torture had considered 16 State reports. The Committee was currently unable to fulfil its monitoring mandate in full because 25 States parties had never submitted a report and a number of additional States were years behind in their reporting obligations. The Committee had examined the situation in a small number of States parties that had not submitted any reports. It had also been pioneering a simplified reporting procedure designed to reduce the reporting burden on States

parties, which had now been accepted as valid by 100 States parties. The Committee continued to receive a large number of individual complaints but had been working to reduce the backlog by considering a greater number of complaints during its sessions and establishing an intersessional working group to make recommendations to the Committee on cases likely to be discontinued or determined inadmissible. At the end of the sixty-seventh session, 177 complaints had been pending consideration, which represented a slight reduction in the backlog. The ability of the Committee to monitor full compliance with the Convention was limited by the fact that only 68 States parties currently recognized the competence of the Committee to receive and monitor individual complaints under article 22 of the Convention. The remaining States parties were encouraged to recognize that competence in order to increase the protection of their citizens against torture.

3. United Nations anti-torture mandate holders, namely the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, had prioritized cooperation and coordination through joint activities and statements. The annual interactive discussion in the Third Committee would greatly benefit from the participation of the Boards of Trustees of the Voluntary Fund. The Committee against Torture had also continued to participate in an annual meeting with the European Court of Human Rights, the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights.

4. A serious weakness in the current review procedure was that, with a few exceptions, only reporting States parties were examined. In their June 2019 position paper, the Chairs of the human rights treaty bodies had suggested the adoption of a fixed review schedule, which would prevent non-reporting States parties from avoiding the regular scrutiny provided for under the human rights treaties. In the case of the Committee against Torture, that would mean scheduling a review of each State party every four or five years, which would increase the number of reviews conducted every year. That increase would be possible provided that the Committee enhanced its working methods and received the necessary resources. It intended to examine possible means of increasing its review capacity and would report its findings to the Third Committee at the seventy-fifth session of the General Assembly. He appealed for States parties to

protect the mandates of the treaty bodies, which comprised a legally based protection system established by States. He concluded by recalling that States parties had an obligation to protect from reprisals any civil society representatives that cooperated with the treaty bodies.

5. **Mr. Elizondo Belden** (Mexico) said that his Government was committed to combating torture and other cruel, inhuman or degrading treatment or punishment and would take action in response to the valuable comments and observations provided by the Committee against Torture following the submission of the seventh periodic report of Mexico on measures taken to implement the Convention against Torture. His delegation welcomed the recent ratifications of the Convention and would be interested to know what actions the Committee against Torture planned to take in order to promote universal ratification.

6. **Ms. Korac** (United States of America) said that her delegation welcomed the decision by the Committee against Torture to adopt a mechanism to prevent, monitor and follow up on reprisals against civil society organizations, human rights defenders, victims and witnesses following their engagement with the treaty body system. The United States had no tolerance for torture or other cruel, inhuman or degrading treatment or punishment and would continue to hold States accountable for fulfilling their international obligations. Her Government had demonstrated its commitment to combating torture by providing support to victims and taking seriously its obligations under the Convention against Torture and the International Covenant on Civil and Political Rights. Torture and other cruel, inhuman or degrading treatment or punishment were unacceptable, counterproductive and destructive to any communities that allowed such abuses to take place. Member States should strengthen their capacity to prevent those abuses, including by establishing appropriate accountability mechanisms. She asked what impact reprisals against those who cooperated with the treaty bodies had had on the work of the Committee against Torture.

7. **Ms. Diedricks** (South Africa) said that her delegation had presented its second periodic report under the Convention against Torture in 2019 and had now established a national prevention mechanism. Her Government had had difficulties coping with the reporting burden in the past and therefore welcomed the simplified reporting procedure, which had enabled her Government to submit a focused and detailed report, as a means of strengthening cooperation between States parties and the Committee against Torture. The additional work associated with the drafting by the

Committee of lists of issues prior to reporting, as required under the simplified reporting procedure, should be taken into account in the treaty body review process. She asked what other matters should be considered during the review process, in particular with regard to the individual complaints procedure and the issue of reprisals.

8. **Mr. Matt** (Liechtenstein) said that his delegation supported the call for better protection for civil society representatives who engaged with the treaty body system. He asked whether the Committee against Torture agreed with the view of some human rights organizations and activists that the practice of separating migrant children from their parents and detaining those children in order to deter migration was a violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. His delegation considered the capital punishment system, including methods of execution and the conditions of detainees awaiting execution, to amount to torture or other cruel, inhuman or degrading treatment or punishment and would therefore be interested to know whether the Committee planned to draft a general comment on that topic.

9. **Ms. Wacker** (Observer for the European Union), encouraging all States parties to fulfil their reporting obligations under the Convention against Torture, said that such reporting was crucial to the implementation of the Convention and the ability of the Committee against Torture to carry out its monitoring functions. Her delegation welcomed the efforts of the Committee against Torture to enhance its working methods and participate in the strengthening of the treaty body system. In that regard, her delegation welcomed the position paper of the Committee against Torture on the treaty body strengthening process. The need to better align the procedures and working methods of the different treaty bodies must be balanced against the requirements related to the specific mandates of each treaty body and the flexibility needed to enable States that were not currently fulfilling their reporting obligations to do so. In that connection, she asked what form a coordinated but sufficiently flexible approach to the scheduling of State party reviews and reporting deadlines might take. She also requested further details about how conducting some or all dialogues with States parties in regional hubs, rather than in Geneva, could strengthen the Committee's work and increase its capacity.

10. **Mr. Driuchin** (Russian Federation) said that the international community's work on the crucial matter of preventing torture and other cruel, inhuman or degrading treatment or punishment continued to be

plagued by the application of double standards. Member States should not chastise other States for supposed violations of human rights while turning a blind eye to their own. The abuses perpetrated at the Guantanamo Bay detention centre and the abduction and detention of Russian citizens such as Konstantin Yaroshenko and Viktor Bout by United States intelligence agencies were prime examples of that hypocrisy. Other democracies were also practicing torture and other cruel, inhuman or degrading treatment or punishment, as evidenced by the treatment of Wikileaks founder Julian Assange by the authorities of the United Kingdom and the Canadian practice of holding prisoners in solitary confinement for extended periods of time. All of the aforementioned situations should be monitored by the United Nations anti-torture mechanisms.

11. His delegation was not satisfied with the efforts of the Committee against Torture to implement General Assembly resolution [68/268](#) on strengthening and enhancing the effective functioning of the human rights treaty body system. Despite significant increases in funding and meeting time, there had been no improvement with regard to the backlog of individual communications or the number of national reports examined by the Committee during its sessions. He requested an explanation of the Committee's failure to use its time effectively and urged the Committee to focus on implementing its mandate rather than spending time on additional functions it had taken upon itself without the agreement of States parties.

12. **Ms. Lodberg** (Denmark) said that the reporting process under the Convention against Torture provided States parties with an important opportunity for self-examination and the public expression of their stances on torture and other forms of ill-treatment. Her delegation welcomed the efforts of the Committee against Torture to enhance its working methods and participate in the process of strengthening the treaty body system. In that regard, her delegation welcomed the position paper of the Committee against Torture on the treaty body strengthening process. She asked how strengthening the treaty bodies would help ensure timely reporting.

13. **Mr. Xing** Jisheng (China) said that his Government consistently fulfilled its obligations under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and engaged in candid dialogue and cooperation with the Committee against Torture. His delegation valued and respected the work of the Committee against Torture but wished to highlight that the Committee did not have a mandate to issue general comments of an interpretive nature. The only reference to general comments in the

Convention was in article 19, pursuant to which the Committee was allowed to make general comments on national reports. The Committee should act in accordance with the original meaning of the Convention and refrain from inappropriate or overly broad interpretations of its provisions, in order to avoid changing the nature and scope of the obligations of States parties. Moreover, when addressing topics on which States parties had diverging views, the Committee should exercise caution and solicit views from a wide range of stakeholders, in particular States parties.

14. **Mr. Modvig** (Chair of the Committee against Torture) said that the Committee did not approach non-States parties unasked to encourage them to ratify the Convention against Torture, but it collaborated closely with the Convention against Torture Initiative in its efforts to promote universal ratification and met on an informal basis with representatives of States that wished to discuss the implications, requirements or procedures associated with ratification.

15. Reprisals had not prevented the Committee against Torture from receiving information or reports from civil society, although meetings were sometimes kept very low-profile for the sake of the security of the persons engaging with the Committee. A member of the Committee had been appointed rapporteur on reprisals. The Assistant Secretary-General for Human Rights had also provided assistance with regard to reporting and addressing reprisals.

16. The simplified reporting procedure had not increased the workload of the Committee, and it might even reduce it. The preparation of lists of issues prior to reporting did require more work initially, but it resulted in a reduced workload after submission of the reports, since they were then more focused.

17. While the 2020 review of the treaty body system was supposed to strengthen the treaty bodies, it seemed that their funding might actually be reduced in 2020. Six of the ten treaty bodies had been at risk of having their third annual session cancelled in 2019 owing to a lack of funds. The treaty body Chairs had discussed the problem with the High Commissioner for Human Rights and the Secretary-General as a serious and urgent matter, and they welcomed the stopgap measures taken that had prevented the cancellation of the sessions in 2019. However, the risk of future financial constraints had not been eliminated. It should be borne in mind that the treaty bodies were legally based mechanisms endorsed by the General Assembly; as such, their mandates were not subject to renewal and their funding

should not be considered available for reallocation as necessary.

18. The Chairs of the treaty bodies had put forward a number of ideas to ensure stable funding for their future work, such as the establishment of a fixed reporting schedule. Such a system, which would involve carrying out reviews regardless of whether a report had been submitted on time, would involve conducting a greater number of reviews annually and could therefore function only if working methods were enhanced. In that regard, the Committee against Torture had been considering reducing the cost of reviews by moving dialogues with States parties from Geneva to regional hubs and using smaller teams to conduct them. The concluding observations could then be adopted later, in plenary. Such a change could potentially increase the Committee's review capacity fivefold. If that system were adopted, provision could be made for adjusting the reporting schedule slightly to avoid situations where a State party would have to report to numerous treaty bodies within a period of one or two years.

19. Under certain circumstances, the separation of migrant children from their parents could constitute ill-treatment. While the Convention against Torture did not categorically prohibit capital punishment, the conditions surrounding it, such as the conditions on death row and ineffective execution methods that caused suffering, might well amount to ill-treatment or even torture.

20. The Committee had reduced the backlog of individual complaints. However, the Committee's ability to reduce the backlog was partly dependent on the Secretariat being provided with sufficient resources, and during some sessions the Committee had not been able to examine the target number of complaints because the secretariat had not been able to prepare enough cases. The Committee against Torture agreed that general comments should simply provide guidance on the implementation of the Convention against Torture; they should not expand the obligations of States parties.

21. **Sir Malcolm Evans** (Chair of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), introducing the twelfth annual report of the Subcommittee (CAT/C/66/2), said that the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been ratified by 90 countries. While that was an impressive number, many States parties to the Convention had yet to ratify the instrument, including some that had undertaken to do so during their universal periodic reviews.

22. The reach of the Optional Protocol system was measured not only by ratifications but also by the establishment of national preventive mechanisms. Each State party was obliged to establish a national preventive mechanism within one year of ratification, but 22 had not yet done so. The establishment of mechanisms was more than three years overdue in 12 of those countries, and more than a decade overdue in Benin, Bosnia and Herzegovina, Chile, Liberia and Nigeria. Those States were failing to honour not only the letter but also the spirit of their obligations under the Optional Protocol, and many seemed to lack a sense of urgency about the matter. The Subcommittee appealed to all States parties that had not yet established a national preventive mechanism to do so and stood ready to support them in that regard. The Subcommittee was deeply concerned about the administrative and legislative actions taken by some States parties over the past year to hamper or undermine the ability of their national preventive mechanisms to conduct their work. In all such cases, the Subcommittee would honour its mandate to support the work of national preventive mechanisms and seek to engage with the States concerned with a view to resolving the situation.

23. Ensuring that national preventive mechanisms were effective and well supported was particularly important in the light of the reduction of the Subcommittee's capacity to fulfil its mandate to visit States parties. In the past it had undertaken approximately ten visits per year, but that had declined in recent years and only six visits had been conducted in 2018, largely owing to a lack of capacity within its secretariat. Seven visits had been conducted in 2019. It had not been possible to conduct the planned visit to the State of Palestine because of continuing difficulties in acquiring the necessary travel documentation from a non-State party to the Optional Protocol. The visits scheduled for the latter part of 2019, including a visit to Bulgaria for which concrete plans had been made, had had to be cancelled as a result of the recent decision to cut the Subcommittee's budget for the year. That situation was wholly improper and threatened the integrity of the Optional Protocol system. It was extremely inconvenient to the Governments, civil society organizations and national preventive mechanisms that had carried out a great deal of preparatory work for visits that had ultimately been cancelled. It was imperative that the Subcommittee be given the necessary resources to fulfil its mandate in a planned and orderly fashion.

24. While the longstanding expectation was that the frequency of the Subcommittee's country visits should be in line with the length of the reporting cycles of the

other human rights treaty bodies, it was currently operating closer to a twelve-year cycle, which was wholly inadequate. The Subcommittee was a visiting mechanism and must not be denied the practical possibility of conducting visits, which were crucial to its efforts to help States parties align their detention systems with international standards. The Subcommittee routinely used electronic communication in its dealings with States parties, but core elements of the Subcommittee's mandate, such as observing the conditions in places of detention and interviewing detainees and staff, could not be fulfilled remotely. It should be borne in mind that those most affected by the constraints on the Subcommittee's work were States parties and persons held in places of detention.

25. As for positive developments, the Subcommittee now had access to interpretation when it met in dual chambers, which had significantly increased the volume of work it was able to complete during its plenary sessions. An increasing number of States parties were choosing to make their reports public, and national preventive mechanisms were becoming more established and having a greater impact. At least 20 countries had benefitted directly from assistance from OHCHR to establish or strengthen their national preventive mechanisms. A number of States parties had demonstrated support for the prevention of torture by contributing to the Special Fund established by the Optional Protocol, which had funded some of the assistance provided by OHCHR. The Subcommittee had worked closely with the Committee against Torture, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture. The Third Committee might wish to consider including the Board of Trustees of the Voluntary Fund in its interactive dialogue with the United Nations anti-torture mechanisms at future sessions.

26. The Subcommittee remained committed to the prevention of torture and its plans for 2020 currently included conducting ten country visits and continuing to support the establishment of national preventive mechanisms, providing guidance to existing national preventive mechanisms and working with its partner organizations at the international and regional levels. However, its capacity to realize those plans was not entirely in its own hands.

27. **Ms. Wacker** (Observer for the European Union) said that given the importance of the Subcommittee's work in preventing torture and driving implementation of the Convention against Torture at the national level, its inability to fulfil its mandate gave serious cause for

concern. She asked what States could do to support the work of the Subcommittee, which seemed to be struggling with diminishing human resources while the number of States parties to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment continued to grow.

28. **Mr. Ruidíaz Pérez** (Chile) said that Chile fully supported the United Nations anti-torture mechanisms and had been a founding member of the Convention against Torture Initiative. In April 2019 his Government had adopted a law designating the national human rights institution as the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment. The law established an obligation for all State authorities to collaborate with the national preventive mechanism and consider how to implement the recommendations of the Committee against Torture. The law provided a broad definition of places of detention so as to accord far-reaching powers to the national preventive mechanism.

29. **Ms. Lodberg** (Denmark) said that her delegation firmly supported the mandate of the Subcommittee, which provided an innovative, sustained and proactive approach to the prevention of torture and ill-treatment. Her delegation welcomed the ever-increasing number of States parties to the Optional Protocol and encouraged all those that had not yet done so to comply with their obligation to designate or establish independent, effective and properly resourced national preventive mechanisms. She asked how the Subcommittee would be able to assist States in that regard in 2020, taking into consideration the financial constraints imposed in 2019. Recalling the affirmation in the report of the Subcommittee that discussions concerning the 2020 review appeared not to be properly taking into account the needs of the Subcommittee, she asked what effects the process would have on the work of the Subcommittee and how its needs could better be taken into consideration.

30. **Sir Malcolm Evans** (Chair of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) said that providing the Subcommittee with the necessary resources to enable it to conduct an appropriate number of visits was important, but more creative measures were also needed to enable it to effectively support the huge number of States parties to the Optional Protocol. Forums should be established for States parties and the Subcommittee to examine the possibilities in that regard. One possible solution might be for the Subcommittee to work in cooperation with regional organizations with similar mandates. In the meantime, States parties should not hesitate to approach the Subcommittee to discuss

national compliance matters outside the context of country visits.

31. The Subcommittee welcomed the establishment by Chile of a national preventive mechanism and looked forward to receiving formal notification to that effect at its next session. Once it had reviewed the information provided by Chile, it would consider removing Chile from the list of non-compliant States parties to the Optional Protocol. The progress made by Chile was an example of how communication between the Subcommittee and States parties could lead to significant achievements.

32. Even with a reduced visiting schedule, the Subcommittee could help States work towards establishing national preventive mechanisms through frequent contact, including between sessions. Country rapporteurs often corresponded regularly with their points of contact in States parties, in particular when a State was in the process of establishing its national preventive mechanism. Electronic communication would never replace visits but could serve as an innovative way for the Subcommittee to provide additional assistance to States parties. Meetings in person or by videoconference to discuss specific proposals were extremely useful. The Subcommittee did not prescribe a particular model for national preventive mechanisms, as there was no one-size-fits-all approach, but it could provide advice and assistance in what often proved to be a difficult process. He encouraged States parties that had not been in contact with the Subcommittee to bear in mind its willingness to support them.

33. The 2020 review of the treaty body system was an opportunity to set the work of the Subcommittee on a more sustainable path for the future, but discussions thus far had been primarily focused on the reporting process used by the other treaty bodies. The Subcommittee would continue to press for its particular working methods and needs to be taken into account.

34. **Mr. Melzer** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment), encouraging Member States to consider including the Board of Trustees of the Voluntary Fund in future interactive dialogues with the United Nations anti-torture mandate holders, said that he continued to receive requests for urgent action daily but, owing to a persistent lack of resources and capacity, only a fraction could be adequately considered. He thanked the Government of Switzerland for its support and would appreciate any additional financial and human resources that other States were able to provide.

35. In June 2019, he had become only the second special procedure mandate holder to conduct an official visit to the Comoros. The visit had regrettably been terminated early, as he had been unable to obtain full access to all places of detention, but he would submit a report to the Human Rights Council with a view to holding a constructive dialogue with the Government. He would conduct a visit to the Maldives in November 2019, and he had received invitations from Burkina Faso, Mongolia and Paraguay. The United Kingdom had facilitated a visit by the Special Rapporteur to Mr. Julian Assange in prison in London in May 2019. Although two medical experts had determined that Mr. Assange displayed symptoms of long-term psychological torture, none of the States concerned had agreed to investigate or provide redress for their alleged involvement in his abuse as required of them under international human rights law. All States should bear in mind that under international law, wherever there were reasonable grounds to believe that an act of torture had been committed by persons under their jurisdiction, their competent authorities were required to conduct a prompt and impartial investigation, prosecute and punish the perpetrators and ensure that victims received redress and rehabilitation services.

36. Presenting his interim report on domestic violence as a human rights issue ([A/74/148](#)), he said that the domestic violence perpetrated every day against millions of children, women and men was often little less than torture or ill-treatment. His recommendations were focused on strengthening the capacity of States to fulfil their obligations to prevent and address torture and other cruel, inhuman or degrading treatment or punishment in the context of domestic violence. In that regard, States should ratify the relevant legal instruments; ensure that they had adequate laws, policies, practices and judicial procedures in place; adopt measures to protect victims and potential victims; and ensure that victims received appropriate compensation and the fullest possible rehabilitation. The report outlined additional mechanisms and services that should complement legal proceedings in order to protect the rights of victims and the best interests of children. States should also address the discriminatory patterns, structural subordination and systemic marginalization underlying most forms of domestic violence.

37. Domestic violence claimed a similar number of lives to armed conflict and, like war, brutalized humanity and traumatized countless individuals, in particular women and children, on a daily basis. As long as domestic violence was considered a private matter, the promises of the Universal Declaration of Human

Rights and the 2030 Agenda for Sustainable Development would never be realized. He hoped that his report would encourage and enable States to prevent and respond to such abuse in accordance with their international obligations concerning the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

38. **Mr. Leval** (France) said that his delegation would continue to support and fully cooperate with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. His Government had promoted the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and was currently conducting a large-scale national consultation with a view to eradicating domestic violence. His delegation commended the work of the Committee against Torture and called on all States parties to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to comply with their obligations, in particular with regard to reporting. It also welcomed the work of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the accession to or ratification of the Convention by the Bahamas, the Gambia and Samoa. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment was absolute in all circumstances. France would fight to prevent impunity for torture and cruel, inhuman or degrading treatment or punishment and defend all victims of such acts.

39. **Ms. Ní Chonchúir** (Ireland), reiterating her delegation's support for the mandate of the Special Rapporteur, said that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment was absolute under international law, and all States must end such practices as a matter of urgency. Her delegation was deeply concerned by the findings of the report of the Special Rapporteur. As part of its strategy to combat domestic, sexual and gender-based violence, her Government had adopted a law improving victim protection and support in 2018. Ireland had also ratified the Istanbul Convention. She asked what States could do to support the work of civil society organizations that assisted victims of domestic violence.

40. **Mr. Elizondo Belden** (Mexico) said that his delegation supported the Special Rapporteur's mandate and his efforts to combat torture and domestic violence. His Government was taking steps to combat torture and impunity, with a view to their eradication. In that connection, it had adopted a general law on the prevention, investigation and punishment of torture, which was in line with international standards, and was

currently working to ensure the full application of the law throughout the country. He asked the Special Rapporteur to share good practices or success stories concerning the establishment of databases and effective data collection methods.

41. **Mr. de Souza Monteiro** (Brazil) said that domestic violence was a crucial human rights issue. In many cases it was analogous to torture and other cruel, inhuman or degrading treatment or punishment. Despite progress at the normative level, the number of individuals and families affected by domestic violence in Brazil remained alarmingly high. Given the fundamental role played by the family in the promotion and protection of human rights, including the rights of women, it was crucial to support the family in all its dimensions. Particular attention should be given to families in precarious socioeconomic situations. To address violence against women, including femicide, his Government had launched a process to review the normative framework, propose concrete measures to protect women from aggression and develop prevention initiatives, including education programmes. As part of that process, it had amended its legislation to make it easier and faster to take steps to keep the aggressor away from the victim. It was also expanding and reforming the national network of women's shelters. His Government was firmly committed to the elimination of domestic violence and would continue to support the mandate of the Special Rapporteur.

42. **Mr. Sylvester** (United Kingdom) said that his Government unreservedly condemned the use of torture, an abhorrent violation of human rights and human dignity that had a devastating impact on society and individuals alike. His Government was working closely with its partners to eradicate torture, which regrettably continued to be practiced with impunity in many parts of the world, and encouraged non-States parties to ratify and implement the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The United Kingdom had helped fund the work of the Association for the Prevention of Torture, which assisted States in ratifying the Optional Protocol to the Convention against Torture and establishing national preventive mechanisms. His Government complied with its international obligations and called on all Member States to do the same. It did not participate in or condone torture for any purpose. In that connection, his delegation rejected the allegations that Mr. Assange had been subjected to torture as a result of actions by the Government of the United Kingdom. Moreover, Mr. Assange had not been arbitrarily detained; he had been free to leave his place of residence at any time. He

asked what States could do to promote broader ratification of the Optional Protocol.

43. **Ms. Wacker** (Observer for the European Union) said that her delegation was committed to ensuring respect for the universal and absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and was therefore gravely concerned about the staggering levels of domestic violence mentioned in the report of the Special Rapporteur. She asked how States could identify victims in order to conduct the prompt and impartial investigations called for in the report. She would also be interested to know what States could do to empower victims or potential victims to resist or escape from situations of domestic violence.

44. **Ms. Přikrylová** (Czechia), congratulating Kiribati and Samoa for becoming States parties to the Convention against Torture, and Iceland and South Africa for ratifying the Optional Protocol in 2019, said that her delegation supported the work of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and hoped to see an increase in the number of its visits to places of detention in different States parties. Pursuant to article 11 of the Optional Protocol, the Subcommittee should provide guidance to individual national preventive mechanisms.

45. With regard to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, her delegation agreed that domestic violence was a major human rights issue of public concern that amounted to cruel, inhuman or degrading treatment or punishment and that States accordingly had an obligation to prevent it. Her delegation supported the Special Rapporteur's recommendation that States change any laws, policies or practices that allowed husbands to "chastise" their wives or children; excluded marital rape from criminal prosecution; restricted rights to divorce, property inheritance or child custody; or limited the capacity of victims to prevent, escape from or otherwise protect themselves from domestic violence. Her delegation also encouraged the Committee against Torture to take the issue of domestic violence into account in its examination of national reports.

46. **Mr. Habib** (Indonesia) said that his Government was working to combat domestic violence through legislation on protection and accountability; programmes to prevent domestic violence and empower society to support victims in reporting abuse; the provision of health services and shelters; and awareness-raising efforts executed in cooperation with

local governments, human rights institutions and civil society organizations. He would be interested to know what measures States could take to ensure restorative justice.

47. **Ms. Korac** (United States of America) said that her delegation was concerned about reports of violence by all sides in the context of the crisis in the Anglophone region of Cameroon, including allegations of torture perpetrated by Government authorities with the aim of intimidating detained individuals and others. The alleged torture of inmates, including protestors detained since 2018, in Nicaraguan prisons was deplorable. Her delegation also condemned the reports of torture by Iran of labour activists, ethnic and religious minorities, prisoners of conscience and persons holding dual nationality. It was dismayed by the lack of accountability in relation to alleged torture and extrajudicial killings in Chechnya and by credible reports indicating that criminal investigators in Surgut, Russian Federation, had received promotions after torturing Jehovah's Witnesses. With regard to Venezuela, her delegation condemned the nearly 7,000 extrajudicial killings allegedly committed by the former Maduro regime since 2018, as highlighted in the recent report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Bolivarian Republic of Venezuela ([A/HRC/41/18](#)), and also the reported torture of military and civilian detainees, including naval captain Mr. Rafael Acosta Arévalo, who had died in custody in Venezuela in June 2019. Arbitrary detentions, torture and extrajudicial killings carried out by the Assad regime in Syria were a cause of deep concern. According to information from the Syrian Network for Human Rights, nearly 14,000 Syrians had been killed by torture at the hands of the regime since 2011. Crematoriums would not hide the atrocities perpetrated by the Syrian Government, which amounted to crimes against humanity. Her delegation condemned the torture, degrading treatment and physical abuse to which Uighurs and other minorities in China were being subjected in an attempt to erase their ethnic and religious identities. She asked what steps the international community could take to further integrate victims into the process of eliminating torture.

48. **Ms. Jankovic** (Switzerland), reaffirming her delegation's support for the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, said that while domestic violence affected people of every gender, socioeconomic status and level of education, it frequently occurred where there was multidimensional

discrimination. Women, children, lesbian, gay, bisexual, transgender and intersex persons, older persons, persons with disabilities and undocumented migrants were therefore particularly vulnerable. She asked for further information concerning the legal consequences of considering certain forms of domestic violence to be torture or ill-treatment. She would also be interested to know at what point physical discipline of a child should be considered torture or ill-treatment.

49. **Mr. Cepero Aguilar** (Cuba) said that States must adopt measures to reduce the risk of domestic violence and ensure that victims received appropriate support and reparation. Their efforts must include the promotion of gender equality and women's empowerment. Since high-quality education for all was a determining factor in empowering all persons and creating fairer societies, his Government guaranteed free universal education at all levels. It had also adopted legislation criminalizing all forms of domestic violence. He encouraged the Special Rapporteur to continue to analyse the torture and other cruel, inhuman or degrading treatment or punishment suffered by migrants, in particular the abuses experienced by migrants at the southern border of the United States of America as a result of the xenophobic policies of the current Government of that country.

50. **Ms. Lodberg** (Denmark) said that extending the definition of torture and ill-treatment to cover domestic violence was appropriate, as actions that were considered to be ill-treatment when they took place during the interrogation of the most serious criminals could not be considered lawful when carried out in the home. She asked how the brutalizing effects of domestic violence on society manifested themselves, and which of the many recommendations set out in the report of the Special Rapporteur were most important in preventing and combating domestic violence.

51. **Mr. Driuchin** (Russian Federation) said that the underlying causes of domestic violence could only be eradicated through preventive measures such as empowering women economically, addressing stereotypes concerning the roles of women and men in society, supporting families and combating poverty and social inequality.

52. **Mr. Xing Jisheng** (China) said that his delegation rejected the accusations made against his country by the representative of the United States. The situation in Xinjiang was not a human rights concern; his Government was simply implementing counter-terrorism and deradicalization programmes, which were not targeted at any particular ethnic or religious groups. The United States was ignoring the facts in order to

smear the reputation of China and create a pretext for interfering in its internal affairs and hindering its development. By obstructing counter-terrorism efforts in Xinjiang, the United States was effectively protecting terrorists and condoning terrorism. He called on all Member States to condemn the United States practice of bullying and applying double standards to his country, and an increasing number of others, as part of its "America First" policy.

53. **Mr. Zavala Porras** (Costa Rica) said that his delegation condemned all forms of torture and other cruel, inhuman or degrading treatment or punishment. His country had been an early promoter of the Convention against Torture and the Optional Protocol thereto and had received its first visit from the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2019. He asked how the concepts enshrined in the Convention against Torture could help address the structural gender-based discrimination and exclusion at the root of violence against women, and how the framework for combating torture could be used to address violence against women, corporal punishment, human trafficking and discrimination against persons with diverse sexual orientation.

54. **Mr. Al Khalil** (Syrian Arab Republic) said that his delegation condemned the violations of international law and human rights by the United States in various countries, including the Syrian Arab Republic. The United States had used illegal weapons, including white phosphorus, against civilian populations and tortured detainees at the Abu Ghraib and Guantanamo Bay prisons. His delegation also strongly condemned the imposition of unilateral coercive measures by the United States and some of its allies, and also the collective punishment by the United States of migrants, including children who had been separated from their parents in violation of their human rights. The representative of the United States had no right to lecture other States on the importance of human rights while her own Government continued to perpetrate systematic human rights abuses on a daily basis. His delegation also condemned the inhuman treatment of the Arab population in the occupied Arab territories, including the occupied Syrian Golan, by the Israeli occupying forces. His Government had acceded to the Convention against Torture in 2004 and had enshrined the prohibition of torture and ill-treatment in its domestic legislation.

55. **Mr. Melzer** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) said that his research on domestic violence had shocked him far more than he had anticipated. Cruelty in the home could match that of the worst war

zone interrogation rooms. Domestic violence affected a huge portion of humanity, in all countries and cultures. Up to 1 billion children had experienced violence in the home, ranging from slaps to horrifically severe abuse.

56. The legal consequence of considering domestic violence to amount to torture and other cruel, inhuman or degrading treatment or punishment was that States would have a legal obligation to prevent it. He was convinced that, in terms of intentionality and the pain and suffering caused, domestic violence was torture or ill-treatment. The terms “torture” and “ill-treatment” covered a huge range of abuse, from humiliation and psychological manipulation to mutilation and murder. The threshold for considering an act to be degrading treatment was fairly low; systematically insulting or humiliating a family member might be degrading treatment.

57. The key question was what States could do about abuse that took place behind closed doors. Another challenge was that perpetrators of domestic violence often had economic, social, legal or emotional power over their victims that did not exist in other torture situations, which made it more difficult to ensure effective and adequate enforcement of the law and protection of victims. There was no one-size-fits-all approach; measures would have to be adapted to address the particular context and causes of abuse. To shield themselves from manipulation and undue social pressure, State authorities confronted with circumstances indicative of domestic violence should systematically conduct investigations *ex officio*, rather than waiting until a report was made, as victims of domestic violence might be hesitant to take action against perpetrators. Civil society organizations could play an important role in drawing the attention of the authorities to homes and families where they suspected domestic abuse was taking place.

58. States should take a comprehensive approach guided primarily by the rights and needs of the victims, including when the victims were children. Ensuring that protective measures and criminal processes were based on the rights and needs of victims would involve designing and implementing protection- and redress-oriented mechanisms. Victims without full legal capacity, such as minors, should be given support in taking their own decisions. Where appropriate and where the victim had given free, genuine and informed consent, criminal proceedings could be complemented – but not replaced – by mediation, conciliation and restorative justice measures. The nature of any restorative measures taken would depend on the context.

59. The purpose of his report was to trigger discussion. Many actors would need to be involved in the identification of effective measures to combat domestic violence. However, the primary objective of efforts to address domestic violence must be to prevent the victim from being further exposed to violence or retraumatized by the measures or procedures undertaken by the authorities in response to the abuse, which was unfortunately very common. Victims must also receive just compensation and the resources and support they needed to maintain a dignified life free of domestic violence in the long term.

The meeting rose at 5.05 p.m.