



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

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COMMITTEE AGAINST TORTURE

Thirty-eighth session

SUMMARY RECORD OF THE 753rd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 30 April 2007, at 10.30 a.m.

Chairperson: Mr. MAVROMMATIS

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The meeting was called to order at 10.35 a.m.

OPENING OF THE SESSION BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL (item 1 of the provisional agenda)

1. Mr. BRUNI (Representative of the Secretary-General) declared open the thirty-eighth session of the Committee against Torture, and informed the Committee of developments relating to human rights treaties and their monitoring bodies since the previous session in November 2006. The Subcommittee for the Prevention of Torture, established under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, had held its first session in February 2007, prior to the commencement of its work to monitor places where persons might be deprived of their liberty. Brazil, Cambodia, Estonia, Liechtenstein, New Zealand and Slovenia had become parties to the Optional Protocol, bringing the total number of States parties to 34.
2. The body of human rights norms had been enriched with the adoption of three new instruments. Eighty-six States and the European Community had signed the Convention on the Rights of Persons with Disabilities, and 47 States had signed its Optional Protocol. In addition, the International Convention for the Protection of All Persons from Enforced Disappearance, which constituted a great step forward in the historical development of international law, had been signed by 59 States. The Convention recognized that enforced disappearance could be considered a crime against humanity in certain circumstances. Furthermore, it prohibited secret detention and required that States should hold detainees in officially recognized places, maintain up-to-date and detailed records of all detainees, allow them to communicate with their families and counsel, and provide access to competent authorities. Those were all critical measures for preventing enforced disappearance and minimizing the risk of torture and death. The Convention also established the right of families to know the fate and whereabouts of detained relatives. He assured the Committee that the Office of the United Nations High Commissioner for Human Rights (OHCHR) would continue its support for the independent monitoring mechanisms established under the new treaties.
3. Responsibility for the Committee on the Elimination of All Forms of Discrimination against Women had been transferred to OHCHR, and so, from January 2008 onwards, that Committee would meet in Geneva.
4. The Human Rights Council had held its second, third and fourth sessions, and two special sessions on Israeli military incursions in the Occupied Palestinian Territory and on the situation of human rights in Darfur respectively. With the approach of the deadline for the Council to conclude its institution-building processes, at its next session it would focus on the establishment of the universal periodic review mechanism, and the review of all mandates and mechanisms inherited from the former Commission on Human Rights.
5. Turning to the reform of treaty bodies, he said that the working group on reservations had reconvened in December 2006, at which time recommendations for the harmonization of the working methods of treaty bodies vis-à-vis reservations in the list of issues and concluding observations had been made. The report of the working group would be submitted to the

sixth inter-committee meeting and the nineteenth meeting of chairpersons, which would then decide whether another meeting of the working group should be convened. In that regard, he drew attention to the forthcoming discussion organized by the International Law Commission with human rights experts on reservations to human rights treaties; it was scheduled for May 2007.

6. In November 2006, a working group on the harmonization of the working methods of treaty bodies had discussed the proposals of the various bodies, based on the High Commissioner's concept paper and proposal for the creation of a unified standing treaty body. The working group had also formulated preliminary points of agreement. At a meeting in April 2007, the working group had proposed the establishment of a mechanism to strengthen the harmonization of the treaty bodies' working methods.

7. The High Commissioner's Office continued to engage in action at the country level in support of treaty bodies, including action in relation to the implementation of their recommendations. In that context, treaty body and special procedures experts, members of the Voluntary Fund for Technical Cooperation in the field of Human Rights, representatives of United Nations specialized agencies and OHCHR field staff had attended a seminar on technical cooperation and follow-up to concluding observations in November 2006. Participants had discussed the format and substance of concluding observations and their implementation at the national level, taking into account the respective role of the above-mentioned actors in enhancing the impact of treaty bodies at the country level.

8. With reference to reporting guidelines under article 19 of the Convention against Torture, he said that, with the submission of periodic reports by Belgium, Chile, Israel, New Zealand and Slovakia since the previous session, the Committee had received a total of 31 reports for consideration.

9. He assured the Committee that the Treaties and Council Branch was ready to provide any assistance the Committee might require, and expressed his best wishes for a productive and successful session.

10. Mr. GALLEGOS CHIRIBOGA highlighted the importance of the adoption of the new international human rights instruments, the expansion of the body of human rights treaties, and the work under way to harmonize the working methods of treaty bodies. He also stressed the need to support OHCHR in its efforts to cope with its increased workload, in terms of both financial resources and structural support. He understood that the Committee was keen to consider that matter, but he believed it would be useful to first hold consultations with OHCHR in order to better understand its needs, and to support the increased institutionalization of the protection of human rights. He commended the comprehensive report of the representative of the Secretary-General that covered key elements of concern to the Council, and stressed the need to take the time necessary to reach effective decisions geared to the promotion of human rights.

11. Mr. BRUNI (Representative of the Secretary-General) agreed that the adoption of new treaties, increased monitoring functions and expanded responsibilities implied a greater need for all forms of resources, and reiterated the commitment of his Office to strengthening its capacity

to support treaty bodies. He pointed out that the emerging role of those bodies included not only the classic reporting procedures, but also the optional procedure of individual petitions, visits in cases of serious treaty violations and a full range of monitoring mechanisms, which constituted a series of new activities for the future and a challenge for the secretariat.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (CAT/C/38/1)

12. The provisional agenda (CAT/C/38/1) was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

13. Mr. MARIÑO MENÉNDEZ asked whether the Committee would consider the relationship between itself and the Subcommittee for the Prevention of Torture, in particular with reference to article 20 of the Convention and its implementation.

14. With regard to the discussion of the general comment that was scheduled for 14 May 2007, he asked whether the relevant texts would be available in the various working languages.

15. The CHAIRPERSON assured Mr. Mariño Menéndez that all parties concerned were keen to explore the relationship between the Committee and the Subcommittee for the Prevention of Torture, and he looked forward to a joint meeting which would permit an exchange of views with members of the Subcommittee.

16. Ms. MORALES (Secretary of the Committee), referring to article 20, said that a reply, in English only, had been received from the State party in question on 12 April. She doubted whether translations into the Committee's other working languages would be available at the current session. As to the Committee's general comment relating to article 2, the only text available was that circulated at the end of the Committee's previous session; the Committee member responsible for that matter had not yet submitted an updated text for circulation.

17. The CHAIRPERSON said the Committee must move forward with those and other matters but the absence of various members inevitably affected its programme of work.

18. Ms. MORALES (Secretary of the Committee) said that written replies available as United Nations documents, albeit not in all languages, had been received from the States parties whose reports were to be considered at the current session. She therefore suggested that the Committee might not need the full allocation of time for each report and some additional time might become available for questions such as those arising in connection with article 20.

19. Mr. WANG Xuexian said that although it was important to consult non-governmental organizations (NGOs), there had been occasions when the Committee had wasted its time by scheduling meetings with such organizations but none had attended. The secretariat should make every effort to confirm organizations' intention to attend. Furthermore, if only one organization indicated it would be present, perhaps it could simply be asked to submit a presentation in writing.

20. Ms. SVEAASS enquired whether any representatives of national human rights mechanisms would be attending the current session.

21. Ms. MORALES (Secretary of the Committee) said the relevant human rights mechanisms in all the States parties whose reports were to be considered had been invited to attend but none had accepted the invitation.
22. Ms. CONNORS (Senior Human Rights Officer) drew the attention of Committee members to the report of the eighteenth meeting of the chairpersons of the human rights treaty bodies (A/61/385) on the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, and also to the advance unedited version, in English only, of the report of the working group on harmonization of the working methods of treaty bodies relating to the State party reporting process.
23. She recalled that Ms. Gear had represented the Committee at the first and second meetings of the working group on harmonization of the working methods of treaty bodies in June 2006 and April 2007 respectively. At its second meeting, the working group had suggested the establishment of a mechanism to strengthen the harmonization of working methods. The inter-committee meeting would be asked to choose between two possible types of mechanism.
24. One alternative would be a group made up of a representative from each treaty body, with membership flexible in order to take into account the need for varying types of expertise based on the items under discussion. The group would meet two or three times a year for a period of two years, with a mandate to make concrete proposals for consideration by the treaty bodies in areas such as the consideration of State party reports, lists of issues, targeted reporting, country rapporteurs, treaty-specific terminology and guidelines, procedures for follow-up and pre-sessional working groups, general comments, consideration of the situation in a State party in the absence of a report, and other areas where a common approach might be desirable. The group would also consider the relationship between the treaty bodies and the Human Rights Council, on the one hand, and the new gender agency headed by an Under-Secretary-General, on the other. The creation of that agency would be discussed by the General Assembly. The inter-committee meeting and meeting of chairpersons of human rights treaty bodies would be held more than once a year to consider the group's recommendations.
25. The second option would be the creation of a more policy-oriented body made up of the chairpersons of the treaty bodies and their representatives, with no limit on the number of members. It would be modelled on the coordinating body for special-procedure mandate-holders and would make recommendations on reporting and communications procedures, meet once a year and complement or replace the inter-committee meeting. The latter option was preferable given the fact that the inter-committee meeting had no authority to take decisions binding on the various treaty bodies. If the new body replaced the inter-committee meeting, it should have some formal relationship with the Human Rights Council in the context of the universal periodic review of States parties, and also with the new gender agency.
26. She stressed the need for the more effective sharing of information among treaty bodies and for harmonization of procedures, for example with regard to communications. Seminars and workshops should be organized to that end. There was also a great deal of support for the right of members of treaty bodies to participate in the procedures of other treaty bodies as observers and for cooperation in the drafting of general comments and recommendations.

27. The secretariat had been requested to provide an overall analysis of concluding observations, views and comments, highlighting examples of divergence and consistency, and to prepare a comparative chart on treaty bodies' working methods; an updated version of that chart would be circulated to the Committee. The secretariat had also been requested to prepare a strategy for the dissemination of core documents and communications procedures, organize seminars on thematic areas of relevance to all treaty bodies, and facilitate interaction among country rapporteurs with a view to strengthening the constructive dialogue with States parties.

28. She noted that guidelines on a common core document had been accepted at the most recent inter-committee meeting, and States parties were encouraged to take those guidelines into account when preparing their core documents. Timor-Leste and Turkey had already submitted reports to other bodies accompanied by a core document that followed the guidelines, and Australia would soon follow suit. Treaty bodies were encouraged to review their own guidelines in the light of the new common guidelines and include in their concluding observations the recommendation that States parties consider preparing a common core document with a view to facilitating reporting and make that document widely available to their domestic institutions.

29. The CHAIRPERSON welcomed the progress being made towards a more pragmatic approach to the work of the treaty bodies and stressed that the Committee must discuss the proposed reforms so that its representatives to the mechanisms concerned would be able to transmit its views.

30. Ms. SVEAASS asked whether there had been any discussion of the proposal to establish a single body on communications.

31. Ms. CONNORS (Senior Human Rights Officer) said that the Human Rights Committee (HRC) was opposed to that proposal, which had been made by the Committee on the Elimination of Racial Discrimination (CERD), even though the latter had suggested that role could be played by HRC. The latter Committee had in fact asked CERD to withdraw the proposal, which it had refused to do. HRC had nonetheless suggested that joint seminars should be organized on procedures for dealing with communications, so there might be some flexibility in its position.

32. The CHAIRPERSON said that the International Covenant on Civil and Political Rights was very broad in scope and contained provisions that related to the work of other treaty bodies but were often more limited than the provisions of more specialized instruments. It was therefore natural that HRC should play a leading role in the area of communications, but no group or individual had unlimited expertise and he hoped that that Committee would moderate its position.

33. Mr. GALLEGOS CHIRIBOGA stressed that international instruments were the outcome of often long and difficult negotiations between States. The signatories to such instruments accepted the role of the United Nations treaty bodies and the contribution they could make. The bodies responsible for promoting reform and harmonization should be careful to avoid the perception that they might be going beyond any mandate arising out of the agreed international instruments, and at the same time promote measures aimed at encouraging and facilitating timely fulfilment of their obligations by States parties. A common report for all treaty bodies, for

example, would be seen as a positive step by Governments. Any measures and reforms proposed by bodies such as the inter-committee and chairpersons' meetings or any new coordinating mechanism would be of a largely administrative nature and could be submitted for discussion at meetings of States parties.

34. He stressed the need to provide the secretariat with the resources it needed as its workload increased and wondered whether new technology might be harnessed to make the secretariat more effective. The main focus of any reform must be to make the procedures for individual communications as effective as possible in order to protect the human rights of the persons concerned.

35. Mr. WANG Xuexian said he shared many of the concerns raised by Mr. Gallegos Chiriboga. He also wondered whether a new coordinating body made up of the chairpersons and representatives of the treaty bodies would be any more effective than the current inter-committee and chairpersons' meetings.

36. The CHAIRPERSON said it was his understanding that the current meetings of chairpersons would be phased out and the new coordinating body would deal with more practical matters.

37. Mr. MARIÑO MENÉNDEZ requested clarification as to whether the proposed coordination body would replace the inter-committee meeting and meeting of chairpersons. He asked whether States parties had expressed their views on the matter and whether the issue had been addressed by the General Assembly or the Human Rights Council. He also requested further information on the proposed new gender mechanism.

38. Ms. CONNORS (Senior Human Rights Officer), referring to the suggestion that the secretariat should take "executive" action on organizational matters, said it appeared from the outcome of various inter-committee meetings and meetings of chairpersons that the treaty bodies themselves wished to be involved in such matters. She stressed that neither the working group on the harmonization of working methods of treaty bodies nor the proposed coordination body would address substantive issues. If it was decided to extend the mandate of the working group, the inter-committee meeting and meeting of chairpersons would be retained but the meetings would be more frequent, while if a coordination body was set up, the two series of meetings would be phased out. The working group had noted that one of the limitations of the inter-committee and chairpersons' meetings was that, since neither mechanism had any real decision-making powers and they met only once a year, it could take several years for an outcome to be reached. Consequently, if a coordinating body was established, it was likely that it would be invested with a decision-making mandate. As the working group had met only recently, States parties had not yet had the opportunity to submit any feedback on its report and no submission had been made to the Human Rights Council on the matter.

39. Responding to the question on the proposed gender mechanism, she recalled that, as gender issues were currently addressed by a number of divisions in the United Nations system - the Division for the Advancement of Women, the Office of the Special Adviser on Gender Issues and Advancement of Women and the United Nations Development Fund for Women - it had

been suggested by the United Nations High-Level Panel on System-Wide Coherence that a strengthened coordinated and consolidated gender architecture should be established and be headed by an Under-Secretary-General. Regardless of what form the gender architecture took, the working group had agreed that there should be a relationship between the treaty bodies and any gender architecture created. In that context, she noted that OHCHR had a joint work plan with the Division for the Advancement of Women, which included issues relating to treaty body work.

40. Ms. BELMIR, noting the many obligations of States parties to the human rights treaties to submit reports, respond to complaints and reply to questionnaires, stressed the importance of setting realistic deadlines for the satisfactory performance of such tasks. The establishment of a coordination mechanism could play an important role in that regard.

41. Mr. KOVALEV agreed that there was a need to develop coordination among treaty bodies, particularly in view of the fact that new treaty bodies continued to be established.

42. The CHAIRPERSON said that the Committee would return to the issue and reach a decision on which proposal it wished to support.

43. Mr. WANG Xuexian asked whether the secretariat could provide the necessary assistance in ensuring that travel arrangements were dealt with in a timely fashion.

The meeting rose at 12.15 p.m.