



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

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COMMITTEE AGAINST TORTURE

Forty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)*
OF THE 836th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 3 November 2008, at 10 a.m.

Chairperson: Mr. GROSSMAN

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* The summary record of the first part (closed) of the meeting appears as document
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The meeting was called to order at 10.40 a.m.

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

1. Mr. SCHMIDT (Representative of the Secretary-General) opened the forty-fourth session of the Committee against Torture and announced that the High Commissioner for Human Rights, who was not currently in Geneva, would address the Committee during the session.
2. The sixtieth anniversary of the Universal Declaration of Human Rights would be celebrated on 10 December 2008; on that occasion, the United Nations system as a whole would undertake to promote the principles and ideals enshrined in that instrument, in particular justice and equality for all. Many United Nations agencies, together with local partners, were emphasizing specific areas of human rights closely related to their work and to the needs of the communities in which they operated. The Office of the High Commissioner had devoted a page of its website to the anniversary, which provided updated information on cultural initiatives, public discussions and other activities to mark that event.
3. In preparation for the Durban Review Conference, which would be held in spring 2009, as well as the sixtieth anniversary, in December 2008, of the Convention on the Prevention and Punishment of the Crime of Genocide, the Office of the High Commissioner had begun to think about ways of strengthening the prevention and punishment of genocide, described by some as “the crime of crimes”. The previous High Commissioner had already urged the Human Rights Council to study the possibility of creating a dedicated mechanism to monitor the application the Convention on the Prevention and Punishment of the Crime of Genocide or of establishing an inquiry procedure through the adoption of an optional protocol to the Convention on the Elimination of All Forms of Racial Discrimination, which would sound an early warning about situations at risk of degenerating into genocide. The preparatory committee of the Durban Review Conference was planning to devote part of its work to the possible preparation of such a protocol.
4. In October 2008, the Office of the High Commissioner had organized a seminar in order to seek a balance between the right to freedom of expression and the need to enhance protection against all forms of incitement to hatred, discrimination, hostility or violence. He hoped that the views expressed on that occasion would guide States where, increasingly, multicultural and multiethnic communities coexisted.
5. The seventh inter-committee meeting and the twentieth meeting of chairpersons of treaty bodies had been held in June 2008; three members of the Committee, Mr. Grossman, Ms. Gaer and Mr. Mariño Menéndez, had participated. Discussions at the inter-committee meeting had again focused on the harmonization of the working methods of the treaty bodies. In order to ensure a more continuous exchange of views between the Committees on that and other matters, it had been recommended at the 2007 inter-committee meeting that meetings should in future be held twice every year. The second annual meeting would therefore be held from 3 to 5 December 2008; the Committee would be required to designate those of its members who would attend. It had also been recommended that one of the two annual meetings should be devoted to the improvement and harmonization of the

human rights treaty bodies' working methods. Accordingly, the eighth inter-committee meeting would focus in particular on revised guidelines, follow-up to concluding observations, consideration of a country situation in the absence of a report and the relationship between the reporting mechanisms of the various treaty bodies and the universal periodic review mechanism of the Human Rights Council. On the latter point, the need to develop effective cooperation between the treaty bodies and the Human Rights Council and to strengthen the institutional links between the two systems had been clearly recognized by everyone, both at the last inter-committee meeting and at the last meeting of chairpersons of the treaty bodies, as well as at the meeting on 26 June 2008 attended by the chairpersons of the treaty bodies and the States parties.

6. Since the Committee's fortieth session, the universal periodic review working group had met twice and reviewed 32 countries. The information contained in the concluding observations of treaty bodies was largely reproduced in the compilations made by the Office of the High Commissioner for the universal review and it was frequently referred to in the context of the actual review or in the outcome documents. The attention of the State party concerned was also drawn, during the review, to the importance of ratifying the main human rights treaties and withdrawing any reservations entered upon accession to any particular instrument. Conversely, reference could be made, during a treaty body's examination of a periodic report, to commitments made by the State concerned during the universal periodic review. Such had been the case, in particular, at the fortieth session of the Committee Against Torture.

7. On 18 June 2008, the Human Rights Council had adopted resolution 8/8 on torture and other cruel, inhuman or degrading treatment, a copy of which had been included in the working file of Committee members. Furthermore, the Convention on the Rights of Persons with Disabilities had entered into force on 3 May 2008 and a new treaty body would be tasked with monitoring its implementation. States parties would soon be electing the members of the new Committee, some of whom could have disabilities. No doubt the Office of the High Commissioner would consequently need to make a few arrangements in readiness for the first session, to be held in February 2009.

8. The Committee on the Elimination of Racial Discrimination, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the Committee on the Elimination of Discrimination against Women had adopted revised reporting guidelines, and the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child had advanced in the revision of their own guidelines. He hoped that the Committee Against Torture would start to consider in the current session a preliminary draft of revised guidelines for reporting by States parties under article 19 of the Convention.

9. There were now 45 States parties to the Convention and 37 to its Optional Protocol since ratification by Bosnia and Herzegovina in October 2008. The Secretariat had received three additional reports since the fortieth session, namely, the sixth periodic reports of France and Switzerland and the second periodic report of Yemen.

10. During the current session, the Committee would examine the reports of seven States parties: Belgium, China and its two Special Administrative Regions of Hong

Kong and Macao, Kazakhstan, Kenya, Lithuania, Montenegro and Serbia. It would continue its work under articles 20 and 22 of the Convention and would adopt lists of issues that would be sent to States parties whose reports were to be examined at the next session (Chile, Israel, New Zealand and the Philippines). In keeping with its usual practice, the Committee would not send any list of issues to States parties preparing to submit their initial reports, namely Chad, Honduras and Nicaragua. In addition, the Committee would meet with members of the Subcommittee on Prevention of Torture, the Special Rapporteur on torture and representatives of United Nations agencies and non-governmental organizations. Lastly, it would follow up on its concluding observations and examine individual communications.

11. The CHAIRPERSON thanked Mr. Schmidt and said that he looked forward to the High Commissioner's visit to the Committee, which might usefully be made a regular feature in future. He invited comments from members of the Committee.

12. Ms. SVAESS said that the new reporting guidelines adopted by other treaty bodies might offer the Committee valuable pointers for the revision of its own guidelines and should consequently be submitted to the members of the Committee for consideration.

13. Ms. GAER requested further information about the progress of the Committee's work in that regard.

14. Mr. NATAF (Secretary of the Committee) said that the Committee had examined a preliminary draft of the new guidelines but that no final decision had yet been taken. Given that it had been decided at the last inter-committee meeting that all the treaty bodies should have adopted their new guidelines by no later the end of 2009, the Committee had until its November 2009 session to reach a final decision on the matter.

15. Ms. BELMIR noted that an inequality between States was created by the fact that some had already been reviewed under the universal periodic review while others had not; the former benefited from additional guidance on how best to discharge their obligations under the instruments to which they were parties.

16. Mr. GALLEGOS CHIRIBOGA said that the universal periodic review and the treaty bodies' examination of country reports were two quite separate exercises. The former had a general scope while the latter was treaty-specific. The fact that only part of the recommendations made by treaty bodies were reflected in the compilation made by the Office of the High Commissioner for the purpose of the universal periodic review meant that a selection was made; the criteria of selection should be known. As the conclusions of the universal periodic review did not cover all States' obligations under the instruments to which they were parties, it was important to recall that States must take into account all the recommendations made by the treaty bodies and not only those highlighted during the universal periodic review.

17. Mr. SCHMIDT (Representative of the Secretary-General) recalled that Human Rights Council resolution 5/1 explicitly limited the number of pages of documents prepared for the purposes of the universal periodic review. The Office of the High Commission was therefore obliged to make a selection from among the various treaty bodies' recommendations, which it did by means of an extremely complex matrix, while nevertheless taking care to ensure that the concerns of the treaty bodies were duly reflected in the compilation.

ADOPTION OF THE AGENDA (Provisional agenda item 2)

18. Ms. GAER requested that consideration of the report she had prepared in her capacity as Special Rapporteur for follow-up to concluding observations, scheduled for Friday, 14 November, should be postponed until the following week.

19. The CHAIRPERSON proposed that the meeting on Thursday, 20 November should be devoted to considering the report on follow-up to concluding observations, on the understanding that the amount of time deducted from the time allotted for consideration of communications would be made up for at another moment during the session.

20. *The proposal was adopted.*

21. *The provisional agenda (CAT/C/41/1) was adopted.*

The first part (public) of the meeting rose at 11.30 a.m.