



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

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Summary record of the first part (public)* of the 996th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 18 May 2011, at 10 a.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.996/Add.1.

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Fifth and sixth periodic reports of Finland (continued) (CAT/C/FIN/5-6)

1. *At the invitation of the Chairperson, the members of the delegation of Finland took places at the Committee table.*
2. **Mr. Kosonen** (Finland) said that the Committee had often remarked on the lack of a specific provision on torture in Finland's domestic legislation, and the State party had always replied that, by virtue of the combined effect of several articles, its legislation fulfilled the requirements of the Convention. Finland had since closely studied the possibility of including an explicit definition of torture in its Criminal Code and had amended its criminal legislation after an extensive national debate involving members of an inter-ministerial working group, academics and civil society.
3. A new provision aimed at strengthening the absolute prohibition of torture, expressing the particularly serious nature of that type of offence and underlining the fact that Finland supported the absolute prohibition of torture under all circumstances had been added to Chapter 11 of the Criminal Code, concerning war crimes and crimes against humanity. Moreover, the provisions of that chapter had been amended by Act No. 212/2008 to bring them into line with the provisions of the Rome Statute of the International Criminal Court (ICC). Torture was now mentioned as a specific crime against humanity and as an element of war crimes.
4. At the beginning of 2012, an independent human rights centre would be established under the Office of the Parliamentary Ombudsman in line with the Paris Principles. It would be responsible, for instance, for promoting and monitoring the implementation of international human rights instruments ratified by Finland. It would include a multi-stakeholder human rights board to promote coordination of fundamental and human rights issues and serve as a shared channel for the exchange of information and as an organ for cooperation.
5. With regard to ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government would submit to Parliament in autumn 2011 a proposal that the Parliamentary Ombudsman should act as the national mechanism to prevent torture and be granted the powers referred to in the Optional Protocol. In spring 2011, Parliament had passed a series of amendments to the Pretrial Investigation Act, the Coercive Measures Act and the Police Act. The amendments had strengthened fundamental and human rights and improved judicial review of coercive measures. A suspect's right to have the legality of actions taken by the police reviewed by the courts would be expanded. The legality of searches of premises, which could be conducted only with a warrant, could be referred for judicial review. Legal protection of suspects remanded in police custody had been improved through supplementary regulations regarding restriction on their communication. Travel restrictions were being applied increasingly as an alternative to pretrial detention.
6. Since the beginning of 2011, even petty assault constituted a publicly actionable offence when the victim was a minor, or someone close to the perpetrator, or a person performing his or her duties. Minor assaults on spouses, partners, parents or grandparents were subject to public prosecution. A pretrial investigation and trial could be launched even without the victim's formal request.
7. Finland had passed the legislative amendments needed for ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual

Abuse. The Criminal Code would be amended to criminalize child grooming, and tougher penalties would be imposed in cases of sexual offences against children. It should also be noted that the European Union (EU) was preparing a new directive on the sexual abuse and exploitation of children and child pornography that would place more stringent obligations on member States to protect children. In March 2011, Parliament had passed legislation obliging social and health-care workers and persons working in similar professions to report suspected cases of sexual abuse to the police.

8. The number of prisoners in the State party had decreased considerably in 2010 and stood at 3,291, one of the lowest in Europe. Legislation amendments, including the introduction of probationary liberty under supervision and restrictions on the practice of converting unpaid fines into prison sentences, had helped to bring down prison numbers. Conversely, the number of remand, female and foreign prisoners had risen. Some prisons for men, due to the uneven distribution of prison facilities across different regions, were overcrowded. Furthermore, 222 cells in 3 different prisons were without toilets, although prisoners had permanent access to other toilets.

9. Amendments to regulations on the care and placement of children whose parents were serving a prison sentence had greatly improved the rights of those children, and a family ward had been established in Vanaja prison. Parents in pretrial detention or serving a prison sentence had the right to keep children under the age of 2 with them. In any event, children could be entrusted to their parents' care in the family ward if it was judged to be in their best interest.

10. The number of prisoners aged under 18 — there being four in March 2011 — remained very low. The Parliamentary Ombudsman had carried out a survey on the placement and detention conditions of juvenile prisoners and requested the prisons administration to report by June 2011 on the measures taken to improve the situation. One option, possible under the Imprisonment Act, would be to hold more juveniles serving prison sentences in non-prison facilities. A study had been carried out in autumn 2010 on prisoners who feared other inmates, and long-term measures would be put in place to address the issue.

11. Roma prisoners were not generally housed apart from other inmates, except in six prisons where they were quartered in closed wards.

12. In November 2010, a working group of the Ministry of Justice had submitted a report on the treatment of remand prisoners, which contained a proposed legislative amendment to facilitate their more rapid transfer from police stations to prisons.

13. A new category of punishment, known as a monitoring sentence, would be introduced in November 2011. A compromise between community service and unconditional imprisonment, it could be imposed instead of up to 6 months' unconditional imprisonment when it was judged compatible with the offender's character and community service deemed inappropriate.

14. A programme for the prevention of violence against women had been adopted on 11 June 2010 and focused particularly on immigrant women, who were considered a vulnerable group. Training for officials and other parties working with immigrants and ethnic minorities played an important role in their efforts to reduce violence directed against vulnerable groups by helping them to identify the instances of violence faced by migrant women and to build up their capacity to intervene. Measures to promote integration could help to prevent and combat intimate partner and domestic violence, including that suffered by immigrant women. A new Act on the promotion of integration would enter into force on 1 September 2011. Finland had also joined the 12 initial signatories to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

15. Lastly, Finland had signed the Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2007. It also welcomed the Committee's efforts to improve its working methods and, in particular, the new optional reporting procedure, which was based on a list of issues submitted prior to reporting and contributed to a more focused dialogue.

16. **Mr. Mariño Menéndez** (Country Rapporteur) said that he welcomed the State party's decision to follow the new reporting procedure, which facilitated focused discussion on concrete, fundamental issues. He also welcomed the latest ambitious measures, some of which apparently had yet to be implemented, taken by the State party on several areas covered by the Convention, as well as its timely follow-up since the presentation of its previous periodic report. The involvement of representatives of NGOs in the drafting of the periodic report was also positive.

17. Noting that a provision containing a definition of torture based on article 1 of the Convention had been added to Chapter 11 of the Criminal Code, concerning war crimes and crimes against humanity, he would like clarification on whether torture was inextricably linked with those international crimes under Finnish law, or whether it constituted an offence in itself.

18. With regard to articles 2 and 4 of the Convention, the State party's detailed responses of and new measures had been noted. Certain points, however, required clarification and might require recommendations by the Committee. The delegation might provide more details on how police questioning was conducted, and whether audio or video recordings were made. The Committee had noted the measures taken by the Government with regard to pretrial detention, the average duration of which appeared to be 6 months. It seemed, however, that immigrants in an irregular situation could be held in detention for up to 18 months. Could the delegation provide any figures on the matter? According to paragraph 88 of the report, when an asylum request was turned down under the normal procedures, a deportation order could not be executed before a definitive ruling had been handed down. Lodging an appeal appeared to have a suspensive effect, but not in all cases. What was the exact situation? The report indicated that, under article 193.1.3 of the Aliens Act, it was possible to appeal a deportation order issued in the course of the asylum procedure within 30 days of notification of the decision. He would be interested to learn what the situation was for irregular non-asylum-seeking foreigners. Migrants were also apparently detained at the border for protracted periods. Could the delegation provide data on the average duration of such detention? Information on the conditions in detention centres for foreigners would also be welcome. Table 2 (Asylum decisions appealed to the Administrative Court in 2009) showed that eight requests for asylum had been granted on compassionate grounds. The Committee would like to know more about that ground for granting refugee status. Moreover, it was unfortunate that the table did not indicate how often the principle of non-refoulement had been applied.

19. With regard to protection of the Samis, he wondered whether the State party intended to ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and whether, despite the mostly unfavourable stance of other European Union member countries on the subject, Finland had entertained the possibility of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

20. As to efforts to combat discrimination against minorities, he wished to know whether the relevant legislation in the State party had been invoked before the administrative authorities or the courts. He noted with satisfaction information contained in the State party's periodic report on the Roma and would like to hear whether there had been further noteworthy developments since the report had been issued.

21. On the subject of the prevention of female genital mutilation, he requested more detailed information on the legal classification of the practice. In some countries, not only were the perpetrators punished, but the principle of non-refoulement was applied to victims. He would also like detailed statistics on cases of forced prostitution and the exploitation of migrant women in the State party.

22. Concerning the Rwandan citizen convicted in Finland on charges of genocide, it would be useful to have more details of the legal basis for the proceedings in the case. Had the principle of universal jurisdiction been applied in accordance with the Statute of the International Criminal Tribunal for Rwanda? Or did legislation in Finland allow direct exercise of extraterritorial jurisdiction?

23. With regard to the State party's antiterrorism strategy, it would be interesting to know whether Finland had ever had to transfer terrorism suspects to third countries and, if so, whether such procedures had been carried out in the framework of European Union extradition regulations, and whether the third countries concerned had been asked for diplomatic guarantees regarding the treatment of suspects, in particular with a view to preventing their torture. Did the State party systematically request diplomatic guarantees in extradition cases not linked to terrorism?

24. **Mr. Wang Xuexian** noted with satisfaction that, as in the period covered by the previous report, no cases of torture had been reported in Finland. He pointed out that, according to its periodic report (CAT/C/FIN/5-6, para. 106), police training was assessed and certified by the National Police Board, which might give rise to conflicts of interest. He would like to have clarification on that matter.

25. With regard to the situation in prisons and in reference to paragraph 115 of the periodic report, he wished to know whether there had been any follow-up to the Deputy Parliamentary Ombudsman's suggestion that the rules concerning behaviour at work should be displayed in prisons in order to prevent cases of sexual harassment where work was simultaneously performed by male and female prisoners. He would also like more detailed information on why, in the wake of implementation of the ethnic equality plan mentioned in paragraph 128, prison conditions of members of ethnic minorities had not only not improved in all prisons, but had even deteriorated in some of them. He noted with interest the bill, mentioned in paragraph 136, to introduce a new type of sentence that would be served outside prison and requested that the Committee should be kept abreast of developments. With regard to the family wards established in some prisons in order to help children whose parents were serving prison sentences, he asked whether parents were consulted in the decision-making process concerning the placement of children in such wards.

26. Turning to the subject of the manhandling by police officers of a foreigner suspected of crime, referred to in paragraph 144 of the report, he requested information on the outcome of the case and any compensation the victim might have received. More information on the number of cases of unjustified deprivation of liberty, which seemed high for a country like Finland, would also be welcome. He wondered whether the lack of provisions in Finnish criminal law prohibiting the use of certain types of evidence, including statements obtained under torture (para. 163), was contrary to the provisions of the Convention, although he was aware that, in practice, such statements would not be used in court cases in Finland.

27. **Mr. Gallegos Chiriboga** said that if, as appeared to be its intention, Finland ratified the Convention on the Rights of Persons with Disabilities, the Committee against Torture would recommend that it should apply its provisions by abandoning the use of all methods of restraint, such as immobilization, physical force, solitary confinement, behavioural control, drugs and other forms of forcibly administered medication, psychiatric measures

like electroshock or mind-altering medication that could be used on persons with disabilities in psychiatric, medico-social and other similar facilities in the country. When a person with disabilities was arrested on whatever grounds, the Committee recommended that they should be provided with reasonable accommodation, in accordance with international law, and receive the same treatment as other prisoners.

28. **Mr. Bruni** asked whether the definition of the crime of torture included in the Criminal Code of Finland, which provided for prison sentences of 2 to 12 years, covered all eventualities, including cases in which torture led to permanent incapacity, or whether there were separate provisions for such a situation. Referring to information provided in paragraph 55 of the periodic report on the prison inspection activities of the Parliamentary Ombudsman, in which the use of chains as a protective measure was mentioned, he wished to know in what situations that measure was used in prisons and for how long. With regard to the case of François Bazaramba, the Rwandan citizen sentenced to life imprisonment in Finland in June 2010 for the crime of genocide and who had appealed against the sentence, he wished to know when a final judgement was expected.

29. He also requested more detailed information on the training of Criminal Sanctions Agency staff, particularly on whether the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), which contained instructions on how to detect evidence of psychological or physical torture, was used in such training. He also wished to know if there were provisions for victims of torture or ill-treatment similar to those in the Act on Compensation from State Funds for the Arrest or Detention of an Innocent Person. In that respect and given that the crime of torture had been added to the Criminal Code, it was surprising to read in paragraph 49 of the periodic report that “under the Finnish legal system, the possibilities to get compensation for non-pecuniary damage caused by a human rights violation are limited”. In addition, he would like more information on the penalties provided for and applied to perpetrators of female genital mutilation.

30. **Ms. Belmir** asked whether the excessively slow pace of Finland’s justice system, remarked upon in numerous documents, was caused by a shortage of judges and courts or to the waiting times established under the rules of criminal and civil procedure; whether judges were truly independent and whether members of ethnic minorities could become judges or embark on a career in the justice system.

31. She asked why the State party had decided to establish a fast-track procedure to study requests for asylum that clearly left applicants insufficient time to prepare an appeal should they wish to.

32. Lastly, given that the State party had noted that only a limited number of young convicts were held in prisons for adults, she asked whether it had set up a juvenile justice system solely for children and adolescents, and whether it had established prison facilities for young people in conflict with the law.

33. **Mr. Gaye** asked what place the Convention occupied in Finland’s legal order and whether international treaties became an integral part of domestic legislation upon ratification. With regard to paragraph 33 of the report under consideration, he wished to know who drew up the list of private, official medical practitioners whom prisoners with the ability to pay could consult. The Finnish delegation might also indicate what specific measures the State party planned to take to improve prison conditions for members of ethnic minorities, which the ethnic equality plan had clearly failed to change, and whether it envisaged setting up an independent mechanism to receive and investigate complaints against law enforcement officials. He wished to underline that the use of statements obtained under torture was contrary to article 15 of the Convention. The State party should take very seriously acts of domestic violence against women, which sometimes led to the

victim's death, and should consider the creation of a rapid response mechanism for such cases.

34. **Ms. Sveaass**, referring to paragraph 165 of the report, according to which "violence against women constitutes a form of discrimination" that "does not as such fall within the scope of application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and does not [...] meet the elements of torture within the meaning of the Convention unless committed by public officials", said that such violence was indeed addressed in article 1 of the Convention, which stipulated in particular that "the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person" and therefore well within the scope of application of the Convention. She also cited the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, according to which "both men and women and boys and girls may be subject to violations of the Convention on the basis of their actual or perceived non-conformity with socially determined gender roles". In fact, in Section 9a (4) on torture, recently added to Finland's Criminal Code, the State party itself had included "sex" among the possible motives for torture.

35. On the issue of violence against women, she would like the delegation to indicate whether the State party planned to build new shelters, of which there was a shortage, for women and children who were victims of domestic abuse, and whether it was considering setting up a special procedure for immediate identification of the most vulnerable asylum-seekers, in other words those who had been tortured, in order to provide them with rehabilitation services.

36. Turning to paragraph 153 of the report, she regretted that the classification of complaints and examinations carried out on the Parliamentary Ombudsman's own initiative and the creation of statistics related thereto were based on the type of activity of the authority, instead of the type of violation of rights. Data disaggregated by type of rights violated would be particularly interesting and useful.

37. Lastly, would the office of the Parliamentary Ombudsman be placed under the authority of the independent human rights centre due to be established in 2012?

38. **Ms. Kleopas** said that paragraph 18 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties clearly set out why States parties were obliged to submit information in their reports to the Committee concerning violence against women and welcomed the fact that the State party had presented an overview of the situation in that regard, despite its view that the matter did not fall within the Committee's jurisdiction. She would like to know more about the conditions in which foreign citizens, including asylum-seekers, were held in detention in border facilities or in police custody, and whether the State party planned to establish a new reception centre for such people. Given the ill-treatment apparently meted out to such vulnerable persons by police officers and border guards, she would like to know whether it was mandatory for law enforcement officials to receive training on human rights standards and whether they were made aware of the principles enshrined in the 1951 Convention and the 1967 Protocol relating to the Status of Refugees.

39. **Ms. Gaer** asked whether the State party had implemented any plan to assist in the reintegration of prisoners, regardless of their ethnic origins, level of education, customs or native language, allowing them to attend professional training courses, or even literacy classes where necessary, in prison. Additional information on how Roma were treated in such facilities would also be welcome.

40. Noting that 153 convictions for rape had been handed down in 2009 in the State party, she reiterated that violence against women indeed fell within the jurisdiction of the Committee. She failed to understand why the State party, which played a key role in efforts

in international forums to have the issue included in international human rights law, considered that it did not fall within the scope of application of the Convention. She joined other Committee members in encouraging the delegation of Finland to consult general comment No. 2, in particular paragraphs 18 to 22, which dealt with the duty of States to exercise due diligence to prevent acts of torture and ill-treatment for which they could be held responsible. The fact that the Committee on the Elimination of All Forms of Discrimination against Women had responsibility for the issue did not exclude it from falling within the jurisdiction of the Committee against Torture.

41. She invited the delegation of Finland to comment on remarks by Allan Rosas, a Finnish judge sitting on the Court of Justice of the European Union, who had said on 5 February 2011 that sentences for rape in Finland were “light” compared with those handed down in other European countries. Lastly, surprised by the high rate — close to 25 per cent — of domestic violence against men in the State party, she wondered whether the delegation possessed statistics on the matter disaggregated by age, national origin or level of income.

42. **The Chairperson**, speaking as a member of the Committee, said that he awaited with interest the results of Finland’s survey among prisoners and prison staff with a view to gauging the situation in prisons. He welcomed the new provision making torture a criminal offence and would like to know whether lawmakers had followed the definition of torture provided in article 1 of the Convention to the letter or applied a narrower interpretation. With regard to the quartering of Roma prisoners in closed wards, mentioned by the head of the delegation in his opening statement, the Committee would like to know how long such measures lasted and in what situations they were applied. He also wished to know whether persons awaiting trial were held in the same cells as convicts.

43. Surprised to learn in paragraph 36 of the report that lawyers could refuse to meet their clients, he asked the delegation to explain. He would also like more information on progress made with a project to translate a document detailing all the rights of detained persons from the time of their arrest into languages other than English and Russian. Noting that, according to paragraph 56 of the report, prisoners could generally request confidential discussions with inspecting officials, he wished to know why such discussions were not routine. Underlining that no one could be returned or deported to a country where they risked the death penalty, torture, persecution or any other treatment violating human dignity (paragraph 83 of the report), he requested examples of cases in which prisoners had not been deported for fear that they might be subjected to such treatment. He also wished to know if there were other grounds on the basis of which a person could not be returned or deported to another country. Lastly, he noted that, according to paragraph 92, the Administrative Court of Helsinki could suspend the enforcement of a deportation order as long as a ruling had not been made on an appeal, and asked whether, in practice, the Court often applied suspensive measures.

44. *The delegation of Finland withdrew.*

The public part of the meeting rose at 12.30 p.m.