



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

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**Committee against Torture
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Summary record of the first part (public)* of the 1061st meeting

Held at the Palais Wilson, Geneva, on Tuesday, 8 May 2012, at 3 p.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.1061/Add.1.

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

Organizational and other matters

Annual report of the Subcommittee on Prevention of Torture (CAT/C/48/3)

1. **The Chairperson** said that the preventive work carried out by the Subcommittee towards the common goal of full compliance with obligations related to the prohibition of torture and other cruel, inhuman or degrading treatment was of prime importance and that relations between the Committee and the Subcommittee had that year, once again, been highly effective in the fulfilment of that mandate.
2. **Mr. Evans** (Chairperson of the Subcommittee on Prevention of Torture), presenting the Subcommittee's fifth annual report, corresponding to the period January–December 2011, said that the report was the first account of the Subcommittee's activities since its membership had expanded to 25. As far as participation in the Optional Protocol system was concerned, two other countries, Hungary and the Philippines, had ratified the Protocol since the publication of the report, bringing the total number of States parties to 63. One third of the countries that made up the international community were therefore party to the instrument.
3. As to changes in the Subcommittee's working methods, the enlargement of its membership to 25 had entailed the enlargement of its Bureau as well, which since then had consisted of a Chairperson and four Vice-Chairpersons. Each Vice-Chairperson was responsible for one of the four areas of activity included in the mandate set forth in article 11 of the Optional Protocol, namely, visits, national preventive mechanisms, relations with international organizations and the development of jurisprudence. The new distribution of tasks facilitated exchanges between members on the different subjects, as well as decision-making.
4. Another innovation had been the creation of four regional task forces on national preventive mechanisms, one each for Africa, Asia-Pacific, Europe and Latin America. The members of the task forces were responsible for particular countries, and each task force was headed by a regional focal point. The new, clearer structure allowed the Subcommittee to better focus its review of the information it received on national preventive mechanisms, to advise those mechanisms better and to have an overall picture of developments in that aspect of its mandate.
5. The Subcommittee had also set up several working groups: a working group on medical issues, which was responsible for establishing how visits, such as visits to persons suffering mental health problems, should be handled from a medical viewpoint; a working group on security matters, which had drawn up a protocol on security measures with the Field Safety and Security Section of the Office of the United Nations High Commissioner for Human Rights (OHCHR); and other working groups to address issues such as the reprisals that could occur following Subcommittee visits and the review of the Standard Minimum Rules for the Treatment of Prisoners.
6. As in previous years, the Subcommittee had expressed its views on a number of substantive issues in the report (section V) and set out preliminary thoughts on others (section IV). Its statements on the concept of prevention had aroused such interest that the Subcommittee was looking into ways of involving more stakeholders in the reflection process, which until then had been an internal one only.
7. The Subcommittee had carried out three country visits in 2011, to Ukraine, Brazil and Mali. Six others were scheduled for 2012: three "full" visits, during which members of the delegation would visit places of detention, and three shorter visits, of three or four days each, when members of the delegation would not necessarily visit places of detention

themselves, but would meet with authorities and national preventive mechanisms to offer them support and advice on how they should conduct their own visits to places of detention. The first mission of that kind had just been completed in Honduras and had been a resounding success. The practice would continue in 2013.

8. Another change introduced to the Subcommittee's working methods concerned the announcement of the list of countries that the Subcommittee would visit the following year. Until then, the list had always been announced during the November session, which did not leave sufficient time for the initial planning of the visits. The Subcommittee had therefore decided to bring the announcement of the list forward to the June session. In 2012, it would continue its previous practice and would announce the list of countries to be visited in 2013 in November 2012. The change would then come into effect as of the June session of 2013.

9. The Subcommittee had also decided that it would in future announce the exact dates of its visits two or three months in advance in order to allow its civil society partners and the State party to contribute more to the visits.

10. As far as work with the national preventive mechanisms was concerned, the mechanisms were increasing in number, and the Subcommittee received ever larger volumes of queries from them regarding their responsibilities. States parties also asked numerous questions about how best to establish and organize a preventive mechanism. Responding to all those requests was a major challenge, and special teams had been set up to consider how best to meet them. The Subcommittee was also invited to participate in seminars and strove to contribute to them in innovative ways. Above all, however, it was essential, in his view, to strike up a dialogue as soon as possible with the new States parties that had ratified the Optional Protocol in order to inform them about their obligations.

11. Finally, regarding the Special Fund set up under article 26 of the Optional Protocol to help finance the implementation of Subcommittee recommendations as well as education programmes of the national preventive mechanisms, a considerable number of contributions had been received, so that the resources in the Fund had risen to slightly over US\$ 1.1 million. The Subcommittee had launched the call for grant applications in November 2011 after defining four thematic priorities for the current round. A total of 69 applications had been received, of which 25 met the eligibility requirements. Four were currently being examined by the Grants Committee of OHCHR, and US\$ 75,000 would be disbursed for projects to improve record-keeping by the police in Paraguay, upgrade youth detention facilities in Benin, inform persons in pretrial detention of their rights in Maldives and provide training in Mexico on the implementation of the Istanbul Protocol. Six other applications were due to be examined prior to the next session of the Subcommittee, and a new call for applications would be launched towards the end of 2012. The Fund was therefore fully operational and was one of the most successful achievements for the year.

12. **Mr. Bruni** noted that in its report (para. 20) the Subcommittee stated that 25 countries, in other words, around 40 per cent of the 61 States parties, had not complied with their obligation under article 17 to establish a national preventive mechanism. Given that in some cases, the situation had lasted for several years, he wondered whether the Committee could in some way help the Subcommittee ensure that the States parties in question fulfilled their obligations in that regard. He also wished to know what the Subcommittee intended to do if the situation continued. Kazakhstan, for example, had made a reservation to article 24 when it had ratified the Option Protocol in October 2008, stating that it would need three years to establish a national preventive mechanism. But that deadline had passed. Recalling the content of the second part of article 24 of the Optional Protocol, he asked whether the Subcommittee considered it to be applicable in that case.

13. **Ms. Gaer**, referring to the visit made by the Subcommittee to Brazil, recalled that in 2005, the Committee had conducted a confidential inquiry in that country under article 20

of the Convention and concluded that torture was systematically practised there. She wished to know what the Subcommittee's position was vis-à-vis those findings. Did it intend to build on them by looking into the State party's follow-up to the Committee's recommendations or to disregard them?

14. Given that 25 States had still not fulfilled their obligations under article 17 of the Optional Protocol, she asked at what point the Subcommittee would consider a State party to be refusing to cooperate and would then ask the Committee to make a public statement on the matter under article 16, paragraph 4, of the Optional Protocol.

15. **Mr. Mariño Menéndez**, noting that the annual report did not contain an appraisal of the national preventive mechanisms' effectiveness, asked whether the Subcommittee planned to include an assessment of their activities in its next annual report. He wished to know whether the Subcommittee's papers on the three issues briefly outlined in section C, paragraphs 48–63, of the annual report (mental health and detention, preventing torture in prisons through the application of judicial procedural control and due process standards, and the right to development and the prevention of torture) could be published since they were of great interest to the Committee. Finally, he asked whether the Subcommittee planned to continue increasing the size of the delegations it sent to States parties.

16. **Ms. Sveaass** said that there was no account in the Subcommittee's annual report of its visit to Cambodia, which according to its website had taken place in December 2009. She would like to know whether the Subcommittee might consider visiting countries that still did not have a national preventive mechanism to encourage them to take steps in that direction and guide them as they made the preparations. She also wished to know whether the training activities financed by the Special Fund set up under article 26 of the Optional Protocol were carried out in close cooperation with the national preventive mechanisms. More information on the Subcommittee's visits to psychiatric establishments would be appreciated.

17. **Mr. Domah** asked whether the Subcommittee had statistics on the States in which habeas corpus procedures were still in force and on the ones in which they had been abolished. He wished to know whether habeas corpus procedures were widely used in the States that the Subcommittee had visited to date.

18. **Ms. Belmir** requested details of the criteria applied by the Subcommittee to determine which countries would be visited. She did not properly understand why some countries in which the situation was alarming had still not been selected.

19. **Mr. Evans** (Chairperson of the Subcommittee on Prevention of Torture) said that, since the Subcommittee had 25 members but only one team of interpreters, it had decided to divide up the experts into several small working groups according to their language skills, on the understanding that each group would report regularly on its activities to the Committee members as a whole.

20. It was certainly a matter of concern that several States had not set up a national preventive mechanism within the established deadlines, but it should be noted that the figures presented in the report did not wholly reflect the facts, which were far more complex. States sometimes set up a national preventive mechanism but failed to officially notify the Subcommittee. For the Subcommittee, it was the will to establish such a body that mattered most, and he suggested that the Subcommittee and the Committee work together to find ways to encourage States to do so.

21. The reason why Kazakhstan had been able to make a declaration under article 24 of the Optional Protocol at such a late stage and thus postpone the implementation of its obligations until 2011, had been an error in the Russian version of the Optional Protocol, which had stated that States parties could make such a declaration "after" ratification of the

Protocol not “upon” ratification, as stated in the other versions. The error had been rectified and the situation should not arise again.

22. When the Subcommittee visited a country in which the Committee had conducted a confidential inquiry under article 20 of the Convention, it read the corresponding report and took its content into account. It could not, however, follow up on the Committee’s recommendations to the State in question since that was not within its mandate. A discussion on possible ways for the Committee and the Subcommittee to work together in such situations would be useful.

23. As to article 16, paragraph 4, of the Optional Protocol, which authorized the Subcommittee to ask the Committee against Torture to make a public statement when a State party refused to cooperate with it, the Subcommittee would certainly resort to that measure if its dialogue with a recalcitrant State proved fruitless and there seemed to be no other means of convincing it to cooperate.

24. The Subcommittee was not keen on the idea of making overall appraisals of the effectiveness of national preventive mechanisms or of establishing criteria for evaluating them. It preferred to proceed on a case-by-case basis and to assess whether a mechanism had achieved the results that could have been reasonably expected given its circumstances. An analytical self-assessment tool for national preventive mechanisms had been made available on the Subcommittee website.

25. The reason why the annual report had not mentioned Cambodia as one of the countries visited by the Subcommittee was that the delegation of experts dispatched to Cambodia had not met with representatives of the Cambodian authorities. The delegation had, however, participated in a meeting organized by the United National Development Programme (UNDP), which had proved highly useful.

26. In the Subcommittee’s view, it was crucial that public-sector representatives should form part of the teams carrying out the follow-up activities financed by the Special Fund because, if they comprised solely representatives of special preventive mechanisms and non-governmental organizations, the teams would not be fully effective. As to confidentiality, the Committee was to be assured that the Subcommittee wished to publicize its activities widely and made every effort to ensure that as many of its documents as possible were available to the public. Selecting which countries to visit was a delicate and complicated task. The Subcommittee did not necessarily focus on the countries where the situation was most alarming; it chose those where there was a chance of establishing a constructive dialogue with the competent authorities and where its actions were likely to achieve results.

The first (public) part of the meeting rose at 4.05 p.m.