



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

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**Committee against Torture  
Forty-eighth session**

**Summary record of the 1081st meeting**

Held at the Palais Wilson, Geneva, on Wednesday, 23 May 2012, at 3 p.m.

*Chairperson:* Mr. Grossman

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(*continued*)

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**Please recycle** A recycling symbol consisting of three chasing arrows forming a triangle.

*The meeting was called to order at 3 p.m.*

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

*Second periodic report of Cuba (continued)* (CAT/C/CUB/2; CAT/C/CUB/Q/2 and Add.1; HRI/CORE/1/Add.84)

1. *At the invitation of the Chairperson, the delegation of Cuba took places at the Committee table.*
2. **Mr. Silvera Martínez** (Cuba) said that, as noted in the report (paras. 52 and 53), the Criminal Code punished a dozen offences that constituted torture, but did not yet contain a definition of torture as set out in article 1 of the Convention. There were plans to address that shortcoming as part of future legislative reform.
3. The concept of social dangerousness (*peligrosidad social*) should be interpreted in the light of articles 72 et seq. of the Criminal Code, which defined “dangerousness” as a form of conduct that infringed the rules of community life and threatened law and order. Dangerousness was declared with regard to the principle of due process. It did not result in criminal sanctions but in rehabilitation or therapeutic measures aimed at promoting the reintegration of the person concerned. Those measures were undertaken for no other reasons than those provided in the Criminal Code and no person could be subjected to them because of their political opinions.
4. With regard to the death penalty and the summary procedure described in the report (para. 260), he confirmed that the death penalty was still in force in Cuba, but stressed that it was imposed only in exceptional circumstances, in the event of a serious violation of the fundamental human rights or a threat to national security. Given the numerous external attacks of which Cuba and the considerable number of casualties caused by those attacks had been the target, the death penalty could not yet be abolished, but there was hope that the conditions would eventually be met for the relevant provisions to be repealed. At the same time, no judicial executions had been carried out in the country since 2003 and no prisoner was currently awaiting execution in Cuba. The individuals executed in 2003 had been tried under the summary procedure set out in articles 479 and 480 of the Criminal Procedure Act, which differed from an ordinary procedure only in terms of its shorter duration. Their trial had been public and they had been assisted by renowned lawyers.
5. Noting that the principle of separation of powers was not unanimously recognized, he emphasized that the Committee was not empowered to decide on States parties’ internal organization, which was an essential element of national sovereignty. The Constitution provided that the country’s highest judicial authority, the Supreme People’s Court, operated under the aegis of the National Assembly of People’s Power, the highest State body. The Council of State did not play the role of an executive body. In any event, the existence of a hierarchical relationship did not imply that the executive interfered with the activities of the judicial bodies. For further information on the Cuban judicial structure and the basic principles that ensured its independence, the Committee was referred to paragraphs 127 et seq. of the report.
6. If the international instruments ratified by Cuba were to become an integral part of the domestic legal system, they must be incorporated into domestic law by legislative means. Decree-Law No. 191/99 provided that the international instruments to which Cuba was planning to accede were to be examined and measures taken, if necessary, to bring national legislation into line with those instruments in order to eliminate discrepancies. Accordingly, judges applied domestic legislation, which had been harmonized with the international instruments Cuba had ratified.

7. **Mr. Álvarez Valle** (Cuba) said that the allegations concerning the arrest and pretrial detention of members of political parties were unfounded and referred the Committee to the information provided in paragraphs 70 to 76 of the report and in the replies to the list of issues for further details on the applicable laws and regulations. While only the police had powers of arrest, the law provided that, in some circumstances, an individual could arrest an offender, particularly if caught in flagrante delicto or was about to commit an offence. In that case, the suspect must be immediately handed over to the police.
8. Cuba did not have a criminal investigation unit and the intelligence services did not make arrests. The police could keep a suspect in custody for a maximum of 24 hours, following which it could be extended by 72 hours on the instruction of the investigating judge, and by a further 72 hours by order of the Attorney General. Suspects were registered on arrival at the police station. They were allowed to contact relatives and to apply for a writ of habeas corpus. There were no administrative detention centres or secret detention facilities in Cuba.
9. As part of their training, police officials were made aware of the need to respect physical and moral integrity and existing international human rights standards. Forensic examinations, including autopsies, were performed by forensic doctors from the Ministry of Health, at the request of the Public Prosecution Service, the courts, the Ministry of the Interior, or the defence. They were never carried out in police stations. In the context of forensic investigations, defence counsel could request that the suspect undergo a specific medical examination which, like any other medical procedure, was free of charge.
10. Care and monitoring of offenders with mental health problems was a crucial aspect of the work of forensic experts. In 2008, the Ministry of Public Health had issued an order requiring that all suspects, witnesses and victims with apparent disorders should undergo a psychiatric evaluation, thus contributing to the effectiveness and impartiality of investigations.
11. **Mr. Pino Bécquer** (Cuba) said that 46 law enforcement officials had been found guilty and sentenced to 1–8 years' imprisonment in connection with the 263 complaints of ill-treatment in detention facilities lodged between 2007 and 2011. They had all been assisted by counsel and had exercised their right to appeal. The victims had been compensated on terms dictated by the court.
12. The police could not keep a suspect in custody for more than 24 hours without informing the investigating judge or the Attorney General. If either ordered preventive measures, the suspect's counsel could submit evidence in support of the client and request that the measures be lifted or modified. The investigation must not exceed 60 days and could be extended by only six months, and by reasoned instruction of the investigating magistrate. In exceptional cases, for instance in particularly complex investigations, the Attorney General could extend that period further.
13. Military courts had jurisdiction for criminal cases involving army personnel, even when the victim was a civilian. They were also competent to hear cases concerning acts perpetrated in a military zone, whether the parties were civilians or army personnel. Military courts could refer cases before them to the civil courts, which they frequently did.
14. As mentioned in the section of the report on implementation of article 14 of the Convention (paras. 236 to 246), any victim of an injury inflicted by a State official had the right to seek redress before the civil and criminal courts.
15. Causes of prison deaths were varied (suicide, myocardial infarction and fights among inmates, inter alia). No deaths due to the actions or neglect of law enforcement officials had been reported. All deaths in detention were investigated by commissions comprising forensic doctors and other experts, and a report was prepared in each case. In

2010 there had been 44 deaths in prison and 69 in hospitals. In 2011 those figures had been 29 and 60 respectively.

16. No complaints of torture or ill-treatment to extract a confession from a suspect had yet been lodged in Cuba. Under the Constitution, any statement obtained through coercion was inadmissible and the perpetrators of such offences were punishable by law.

17. **Ms. Bonachea Rodríguez** (Cuba) said that the Office of the Attorney General was authorized to carry out inspections in detention facilities, pursuant to article 127 of the Constitution and article 28 of Act No. 83 of the Office of the Attorney General. So it was that checks were conducted by a body independent of the prison authorities. Visits were made on a regular monthly basis, without prior notice. During the visits, the Office of the Attorney General was authorized to talk to all the prisoners. The Office then drafted a report containing observations and recommendations, which was transmitted to the competent authority. If offences were discovered, the Attorney General issued an order that was binding on prison staff, who must then report on any action taken to address any such irregularities. Civil society organizations could also conduct prison visits and talk to detainees. Officials could never invoke the duty of obedience to justify torture or ill-treatment. Such acts could be reported to the senior official or to the Office of the Attorney General.

18. An investment plan had been set up to modernize the country's prison infrastructure by 2017. The graduated sentence enforcement system, which provided for sentence reductions of up to 2 months per year for good conduct and the enforcement of less and less stringent regimes until their release on parole, sought to encourage positive behaviour and to promote alternatives to detention. That system allowed more than two thirds of prisoners to be released before serving their full sentence. The health and nutrition conditions and access to safe drinking water in detention facilities were consistent with the Standard Minimum Rules for the Treatment of Prisoners. Confinement in a punishment cell was an exceptional measure for serious breaches of discipline. Persons deprived of liberty had free access to medical and dental care, and medical teams composed of various specialists regularly visited detention centres. Prisoners could remain in contact with the outside world, correspond with their relatives and friends and receive visits and were allowed outside for short periods. No disciplinary measure could affect those rights.

19. There was no prison overcrowding in Cuba. There were currently 57,337 prisoners, including 31,494 in closed prisons. Prison policy promoted the development of open prisons. In both types of institution, detainees could engage in socially useful work, pursue a course of study or vocational training, and enrol in social, sports or cultural programmes. There were currently 27,095 prisoners attending classes from primary to university level; 24,531 were in vocational training, and 10,251 were enrolled in the Educate Your Child programme. All persons deprived of their liberty also received religious assistance. Prisoners were entitled to integration into the world of work and 23,113 individuals were currently employed; they were remunerated in compliance with the labour legislation in force, and were entitled to retirement and social security benefits.

20. **Mr. Fernández del Cossio** (Cuba) said that Alan Gross, whose case the Committee had mentioned, was a United States citizen who had been arrested, tried and imprisoned for endangering the security of the State and the Cuban constitutional order. He was in good health and was regularly visited by his country's consular authorities and public figures. He was also in contact with his wife, who had visited him, and his family. The Cuban Government had proposed to the United States talks to find a solution to the case and was awaiting a reply.

21. All persons who left Cuba did so voluntarily. No member of the group of detainees released in 2010 had been forced to go to Spain. In fact, 12 of them had opted to remain in

Cuba after their release on parole. All Cuban citizens were entitled to assistance from the State consular services outside the national territory, in accordance with the legislation of the country of residence and the Vienna Convention on Consular Relations. No one in Cuba was ever exiled, either inside or outside the country. Everyone enjoyed freedom of movement on Cuban soil and there were no displaced persons. Migration standards and regulations were currently being reviewed. Haitian migrants who had arrived in Cuba by accident on their way to the United States were being returned to Haiti through a tripartite agreement among Cuba, Haiti and the International Organization for Migration. Each return was conducted according to the migrant's wishes and with the support of the International Committee of the Red Cross (ICRC).

22. No person in Cuban territory had ever committed torture in another country. Asylum seekers whose applications were rejected were returned to the country through which they had entered Cuba, rather than to their country of origin. Cuba cooperated closely with the Office of the United Nations High Commissioner for Refugees (UNHCR) in that regard. Pursuant to article 6 of the Criminal Code, Cuban citizens were not extradited, but rather tried in the Cuban courts, for offences punishable under the Convention against Torture. The deaths that had occurred in the Havana Psychiatric Hospital had been a totally isolated incident, and the offending staff had been severely punished, as noted in Cuba's written replies to the Committee.

23. **Mr. Quintanilla Román** (Cuba) said that the ratification of the international covenants on human rights, the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons was a protracted process because Cuba wished to ensure that its international obligations under those instruments were consistent with the domestic legal and political system. With regard to the possible ratification of the Optional Protocol to the Convention against Torture, he reiterated that torture and other cruel, inhuman or degrading treatment did not exist in the country and that individual complaints were dealt with by the national courts.

24. The Ministry of Foreign Affairs had coordinated the work of the national group established to draft the report to the Committee. Representatives of Parliament, NGOs, research centres, polling agencies and other Cuban civil society organizations had contributed to the process with written contributions and participation in regular consultations on the different versions of the report. Several participating organizations had consultative status with the Economic and Social Council. The Government planned to organize a similar participatory consultation on implementation of the Committee's recommendations.

25. **Mr. Reyes Rodríguez** (Cuba) said that freedom of movement was restricted in only one area of Cuba, Guantánamo Bay, which was occupied by the United States and was currently an international torture centre whose activities contravened the Convention. Cuba was not part of the Inter-American human rights protection system and therefore had no relations with the Inter-American Commission on Human Rights, the apparent "main source" of the Committee's information. Accordingly, his Government rejected any assessment based on the Commission's allegations or moral judgements.

26. Cuba had not recognized the Committee's competence to consider communications from individuals who claimed to be victims of violations of the provisions of the Convention. His delegation could nonetheless confirm that all the allegations contained in the list of issues submitted to the Committee regarding cases of torture or cruel, inhuman or degrading treatment were fallacious and unfounded. The same applied to the issues raised at the present session.

27. As an illustration of Cuba's commitment to collaborate with the Human Rights Council special procedures and with the Special Rapporteur on torture, Cuba would

transmit to the Committee a file containing the information it had provided in response to certain allegations of human rights violations. In any event, the accusations of harassment, threat, beatings, denial of medical assistance, retaliation against family members, and arbitrary deprivation of liberty were false. Activities referred to as “acts of repudiation” were peaceful demonstrations by citizens exercising their fundamental freedoms, in which the authorities intervened only to ensure the physical safety and dignity of all citizens. No person had ever been deprived of his or her liberty for exercising their human rights, and there were no restrictions on human rights defenders’ activities. Persons or groups involved in activities to destroy the established constitutional order at the behest of a foreign power, however, could not qualify as human rights defenders.

28. Cuba was one of the countries that had accepted most (more than two thirds) of the universal periodic review recommendations. His Government denied the allegation of increased incarceration. As to the national human rights institutions, the institutions in compliance with the Paris Principles were not the model par excellence and did not necessarily have the best human rights promotion and protection record. Hence, Cuba did not feel the need to change its current national system. As to freedom of association, Cuban legislation defined the criteria for the creation and functioning of NGOs, of which there were more than 2,200 in Cuba, operating in many fields.

29. **Mr. Mariño Menéndez** (Country Rapporteur) assured the delegation that it was standard practice of the Committee — composed of independent experts speaking in that capacity and not as representatives of their country — to request States parties introducing their reports to provide information on specific cases; it was therefore not a one-off approach reserved for Cuba alone.

30. He requested further information on the concept of “social dangerousness” and on the type of acts to which it pertained; whether it had ever served as a ground for conviction; and what so-called “re-educational”, therapeutic and monitoring measures had been imposed on the offenders. While independence of the judiciary did not explicitly fall within the Committee’s remit, its mandate, which was to ensure that States parties provided the safeguards required to prohibit torture, included ensuring that the members of the judiciary were entirely independent of the executive. It thus begged the question of existing shortcomings in the Cuban justice system; the irrevocability or otherwise of judges; and whether, as in many countries of the world, some were corrupt or subject to political pressure, or even committed offences.

31. Although the State party had clearly denied the information provided by the Inter-American Court of Human Rights and by equally reliable NGOs, clarification of the Cuban authorities’ practice in relation to pretrial detention would be welcome. The delegation might in particular confirm that temporary pretrial detention (between 24 and 48 hours) was not used and whether a record of such detention was kept.

32. Since ill-treatment was not punishable under the Criminal Code, he wished to know the nature of the acts reported in the 263 detainee complaints filed with the Office of the Attorney General between 2007 and 2011, and the charges brought against their perpetrators. The delegation might, in particular, indicate the charges on which the 46 State officials imprisoned in the aforementioned cases had been convicted.

33. Given that the duration of an investigation must not exceed 60 days and could be extended by 6 months only, upon a substantiated request by the examining magistrate, he would appreciate additional information on the Attorney General’s role in preliminary investigations. It would be of particular interest to the Committee to learn whether the Attorney General’s decisions could be appealed and, if so, could the delegation provide examples of cases in which any had been lodged? The delegation might also specify

whether the investigating magistrate was bound by the Attorney General's instructions or was fully independent.

34. Referring to paragraph 69 of the report and its footnote, he failed to understand why the habeas corpus procedure could not apply where the deprivation of liberty arose out of a sentence or pretrial commitment order pronounced in criminal proceedings. Explanations on the matter would be appreciated. The delegation might also indicate whether the findings of the investigations into the deaths of several prisoners had been transmitted to their families and how their version of events, which seemed to contradict those findings, had been followed up.

35. Regretting that he had not had a reply to a question he had asked at the previous meeting, he reiterated his request for information on the whereabouts of José Daniel Ferrer and the other dissidents detained in April 2012 for "undermining public order", who had reportedly been recently released. According to information in his possession, Mr. Ferrer had remained on Cuban soil and was still accused of the foregoing. The delegation was urged to confirm or deny whether that information was correct and to clarify the fate of the other dissidents concerned. It would also be useful to have information on the so-called "acts of repudiation" reported by certain sources. Regarding migration legislation, the delegation could perhaps explain why obtaining an exit visa was such a lengthy and difficult process and describe the major characteristics of the ongoing reform in that area.

36. Noting the State party's comment that it took ratification of international instruments very seriously but that it required time, he wondered how much longer the State needed to be in a position to ratify the Geneva Convention relating to the Status of Refugees, which dated back to 1951.

37. **Ms. Sveaass** emphasized that it was customary for the Committee, in its commitment to the principles of transparency, independence and dialogue, to adopt a constant questioning attitude to particular specific issues and that the practice should not be perceived as an accusation against the State party, but merely to establish compliance with the provisions of the Convention. She would welcome clarification of the role of the Attorney General and wondered, more specifically, whether that Office could visit prisons unannounced, interview prisoners or even ask a doctor to examine injured inmates so as to determine the cause of their injuries. She also wished to know how complaints filed with the Attorney General were followed up, who was responsible for ensuring compliance with the comments and recommendations that he submitted to the competent authority. In that respect, such a mission would be perfectly consistent with the functions of a national human rights commission or an Ombudsman, which, unfortunately did not exist in the State party.

38. She would appreciate details of the awards made to the victims of the 46 criminally convicted State officials. Regarding the deaths of 26 residents of a psychiatric institution in Havana in January 2010, the question she had asked at the previous meeting was concerned not with sentences imposed on the persons responsible, but with any measures and other legal safeguards the State party had put in place to ensure that such a tragedy never happened again, and the compensation paid to the survivors and the families of the deceased.

39. On the basis of the statistics provided by the delegation, which showed that approximately 2,200 women were currently detained in the State party, she asked whether they were systematically separated from male detainees, whether any complaints of violence towards them had been lodged, and the proportion of female prison wardens. She also wished to know the exact number of persons temporarily detained during the Pope's visit to Cuba and wondered how many harassment proceedings had been initiated, how

many sentences had been handed down in that connection and what exactly the maximum security regime imposed on some detainees entailed.

40. Lastly, since Cuba systematically challenged the information provided by other NGOs and international organizations, the delegation might say whether the State party envisaged cooperating in future with independent international organizations in the interests of transparency.

41. **Mr. Bruni** asked how many people had been arrested and were currently detained under article 243 of the Code of the Criminal Procedure on the ground of threats to State security, what sentences had been imposed on them and whether they were in solitary confinement or even subject to a special detention regime. In that regard, it would be useful to know whether the State party had drawn up a list of official detention centres, which would remove any doubt regarding the possibility of individuals being held in secret detention facilities.

42. **Mr. Gaye** said that he was surprised at the information provided in paragraph 119 of the report that Cuban criminal law provided for the detention of any person who had committed an “act constituting torture” as defined under the Convention, while torture per se was not classified as an offence. Accordingly, he wished to know on what grounds the perpetrators of such acts were arrested and what the “safety” measures mentioned in that paragraph involved. He would welcome additional information on the specific role of the victims’ Compensation Fund referred to in paragraph 288 of the report.

43. **Ms. Gaer** deeply regretted not having obtained a more precise reply about the cases she had mentioned at the previous meeting, particularly on the conduct of ICRC visits in the State party and whether the organization had been able to interview the prisoners. The Committee was generally concerned when a State party claimed that no offence covered by the Convention was committed in its territory, which suggested that the regime in power considered that the number of such offences was negligible, or even tolerated them. The Committee therefore wished to have more detail and invited the delegation to comment on the information in its possession. In a March 2012 report, Amnesty International had accused the State party of embarking on a campaign to harass and intimidate political dissidents, who were thus detained arbitrarily and criminally prosecuted as a deterrent from promoting respect for civil and political rights. Any comment on that point and on the fate of the members of the “Damas en Blanco” (Ladies in White) would be appreciated.

44. **The Chairperson** said that the definition, contained in the Criminal Code, of conduct that could pose a “social danger” was very broad and asked whether there were plans to review that provision so as to rule out the risk of its abuse. It further appeared that the persons arrested on that ground were being tried under a summary procedure, which was hardly consistent with the guarantees of due process. It would be useful to hear the delegation’s position on the matter.

45. The delegation had said that the proceedings that had resulted in the sentencing to death and execution of three men in 2003 had been public. According to some sources, however, neither the press nor the relatives of the persons concerned had been able to attend the proceedings. Moreover, the written judgement did not include any arguments put forward by the defence lawyers. He wondered, therefore, whether the guarantees of due process had been respected and, in particular, whether the lawyers had been allowed sufficient time to prepare their defence. Clarification from the delegation would be useful. The delegation could probably explain whether a person brought before a military court could challenge the jurisdiction of that court and whether the party’s invitation in 2009 to the Special Rapporteur on the question of torture remained open.

46. **Mr. Silvera Martínez** (Cuba) said that the Constitution expressly established the principle whereby judges acted solely on the basis of the law. The 1997 Organic Act on the



Judiciary established the tenure of judges and defined their conditions of appointment and removal, as well as the disciplinary sanctions for any breach of duty. There was also a Code of Judicial Ethics, which was an integral part of judges' training and laid down as its overriding principle the obligation to render justice with total impartiality.

47. The proceedings that had resulted in the sentencing to death and execution of three men in 2003 had been public and the family members of the accused had been able to attend. Public access could be restricted only in specific circumstances expressly provided for by law, for instance when the nature of the offences being tried might pose a threat to public morals. Persons judged by a military court enjoyed the same safeguards as in an ordinary criminal court and could raise any issue they deemed necessary to assert their rights.

48. **Mr. Pino Bécquer** (Cuba) said that the absence of a definition of torture in the Criminal Code did not encourage impunity insofar as the range of criminal offences covered included the offences punishable under the Convention. That fact was demonstrated by the sentencing, between 2007 and 2011, of 46 State officials to 8 years in prison as a result of complaints of ill-treatment. When a State official was guilty of misconduct that did not constitute a criminal offence, the appropriate administrative penalties were applied.

49. The role of the Attorney General was defined in article 109 of the Code of Criminal Procedure, which provided, *inter alia*, that he verified the legality of the measures undertaken within the preliminary investigation. The Attorney General could order the temporary detention of a suspect for a period not exceeding 72 hours. It should be noted, however, that that was an exceptional measure, since preference was generally given to non-custodial measures such as house arrest, and that in those rare cases in which it was ordered, temporary pretrial detention rarely extended to 72 hours. Throughout the proceedings, detainees were assisted by a lawyer of their choice or, failing that, a court-appointed lawyer, who could at any time challenge the detention measure. It was noteworthy that in Cuba, only 12 per cent of prisoners were awaiting trial, as against 30 to 60 per cent of such prisoners in other countries. Habeas corpus was specifically provided for by law. It was, however, justified only in the event of illegal detention.

50. The Attorney General was also responsible for monitoring detention conditions' compliance with the law and ensuring respect for detainees' rights. To that end, he visited detention facilities, talked to prisoners and examined detention registers. The Attorney General's authority in that area was nonetheless greater than that of an Ombudsman to the extent that any remedial measures he recommended, when violations had been detected, were binding on the authorities concerned.

51. The Compensation Fund was the mechanism through which the State compensated victims of an injury when the perpetrator was not in a position to pay compensation or was delaying payment.

52. **Ms. Bonachea Rodríguez** (Cuba) said that women sentenced to a term of imprisonment were detained in institutions reserved for women, with exclusively female staff. The graduated system used in prisons, which allowed more flexibility in the enforcement of sentences based on detainees' attitude and degree of rehabilitation, contributed to the successful social reintegration of former prisoners. The maximum security regime was imposed only on persons whose death sentence had been commuted or who had been sentenced to life imprisonment. Effective sentence enforcement monitoring mechanisms had been established.

53. **Mr. Pino Bécquer** (Cuba), referring to the persons mentioned by the Committee who had died in detention, said that a forensic examination had been carried out in each case to determine the causes of death and that the autopsy report had been transmitted to the

families of the deceased. Some had subsequently challenged the findings of the report but the delegation had evidence confirming that they had approved the forensic expert's findings.

54. Hospital infrastructure, particularly in the field of psychiatric care, was well developed. Considerable investments had recently been made in that field, through the economic recovery initiated in 2009, to upgrade existing health-care facilities and build new ones. The country took great pride in the high level of qualification of its health-care professionals, and measures were continuously taken to improve health-care services.

55. **Mr. Álvarez Valle** (Cuba) said that the law authorized the police to remand a person in custody for 24 hours. Those detentions were duly recorded and the detainees enjoyed all fundamental legal safeguards.

56. **Mr. Reyes Rodríguez** (Cuba) said that the views expressed by the Inter-American Commission on Human Rights on Cuba were solely its own and that Cuba refused to exchange any information with that body. Efforts had been made in 2009 to enable the then Special Rapporteur on the question of torture, Mr. Manfred Nowak, to visit Cuba, but had not materialized owing to the inability to find dates suitable to both parties. The current Special Rapporteur, Mr. Juan Mendes, had informed the Cuban Government of his wish to visit the country, which was currently under consideration. The allegations that members of the Ladies in White were harassed and attacked were entirely false. The fact that Cuba had not acceded to the 1951 Convention relating to the Status of Refugees did not prevent it from using that instrument as a reference in the context of its cooperation with UNHCR. The Cuban authorities did not interfere in the activities of UNHCR and respected its decisions on the determination of refugee status.

57. Regarding the possibility for Cubans to go abroad, generally, it was fairly easy for Cubans to travel within Latin America. It was more difficult, however, for them to travel to developed countries, for instance in Europe, particularly in view of the cost of obtaining the required visas. The United States encouraged illegal immigration from Cuba through legislation that granted preferential treatment to Cuban immigrants, and was known as the "Cuban Adjustment Act", pursuant to which all Cuban citizens who landed on United States territory — including illegally — were granted refugee status, regardless of their criminal record, even if they had committed the worst atrocities.

58. It was perfectly legitimate for the Committee to raise questions, since its role was to question States parties on any issue that appeared to pose problems under the Convention. The delegation was in fact challenging the credibility of the information on which the Committee relied. The Amnesty International report cited by Ms. Gaer was not reliable, not having been based on direct sources of information, but on false information disseminated by persons manipulated by the United States Government.

59. **Mr. Fernández de Cossío** (Cuba) said that, there being no secret detention facilities, there was no need to draw up a list of official ones, which might even turn out not to be exhaustive. According to the international instruments from which it derived its mandate, ICRC must be able to provide protection and assistance to victims of armed conflict and other situations of violence. Cuba, however, was neither at war nor in the throes of internal conflict. The Government was therefore under no obligation to authorize ICRC to visit the country's prisons. It had nevertheless already called on ICRC in the past and would do so again if it so deemed useful or necessary.

60. **The Chairperson** thanked the Cuban delegation for its replies. The Committee would take them duly into account in its concluding observations, together with any other information made available to it in connection with the consideration of the second periodic report of Cuba.

*The meeting rose at 6 p.m.*