



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

Distr.
GENERAL

CAT/C/SR.791
3 December 2007

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Thirty-ninth session

SUMMARY RECORD (PARTIAL)* OF THE 791st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 12 November 2007, at 10 a.m.

Chairperson: Mr. MAVROMMATIS

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Fifth periodic report of Norway (CAT/C/81/Add.4; CAT/C/NOR/Q/5 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Norway took places at the Committee table.
2. The CHAIRPERSON announced that Ms. Sveaass would not be taking part in the dialogue with the delegation because she was a Norwegian national.
3. Mr. WILLE (Norway), introducing the fifth periodic report of Norway (CAT/C/81/Add.4), said that new measures aimed at further improving follow-up to the Committee's concluding observations on his country's periodic reports included translation of the observations into Norwegian, posting them on the website of the Ministry of Foreign Affairs, and consultation with relevant authorities and representatives of civil society on follow-up action.
4. Torture and ill-treatment were among the most abhorrent violations of human rights and could not be justified by special circumstances or interests. Norway strongly supported the Human Rights Council's Special Rapporteur on the question of torture and contributed to the United Nations Voluntary Fund for Victims of Torture. It expected to ratify the Optional Protocol to the Convention in 2008 and to sign the International Convention for the Protection of All Persons from Enforced Disappearance by early 2008 with a view to incorporating its provisions into national legislation as part of the general revision of the Penal Code scheduled for 2008.
5. With regard to questions 6 (d) and (e) of the list of issues (CAT/C/NOR/Q/5), statistical information disaggregated by age and sex was unfortunately not available on the number of deportations or forcible returns or on the countries to which the persons concerned had been expelled. Moreover, the Immigration Service had only been established in 2004 and data from before that date were limited. However, information disaggregated by nationality had been provided.
6. Information on Norway's amendments to the Immigration Act on the basis of Security Council resolution 1373 (2001) had been provided both in the report and in the written replies to the list of issues (CAT/C/NOR/Q/5/Add.1). No information was yet available on relevant case law.
7. A new immigration and asylum bill submitted in June 2007 would be considered by parliament in the first half of 2008 and would enter into force, if adopted, on 1 January 2010. The concept of a refugee would be extended under the new act to cover all applicants for asylum who came under the non-refoulement provisions of any international treaty to which Norway was a party, such as the Convention against Torture and the European Convention on Human Rights. Applicants who failed to meet the criteria of the 1951 Convention relating to the Status

of Refugees were currently eligible “only” for subsidiary protection and were unable to exercise the right to family reunification unless they could support their family economically. That would no longer be the case when the new refugee concept came into force.

8. Under the Immigration Act, all asylum-seekers arriving in Norway were accommodated in reception centres while their applications were being processed. Two transit centres for rejected asylum-seekers had also been opened, the first in March 2006. Unaccompanied minors, families with children, persons who were ill and rejected applicants who agreed to cooperate with the Government on voluntary return could continue to stay at the regular reception centres. Since 1 September 2007 adult asylum-seekers were again being offered Norwegian-language courses, after a three-and-a-half-year suspension.

9. Under a new provision of the immigration regulations that had come into force on 1 June 2007, the authorities were required to give particular weight to a child’s connection to Norway when considering whether to grant a residence permit on strong humanitarian grounds. They must take into account the child’s age, the duration of his or her stay in Norway, and whether he or she had been attending a Norwegian kindergarten or school. Many children and their families who had been in the country for more than three and a half years had so far been granted residence permits by the Immigration Appeals Board.

10. From 1 December 2007, custody for unaccompanied single minors under the age of 15 would be transferred from the immigration authorities to the State child-welfare authorities. New child-welfare institutions were being established for the children concerned. They would conform to the same standards as institutions catering for Norwegian children.

11. Female genital mutilation was prohibited under legislation dating from 1995, which was also applicable to acts committed abroad by Norwegian nationals or persons domiciled in Norway. The Government was preparing a new plan of action which would include initiatives to prevent female genital mutilation, inter alia through information and attitudinal adjustment. In addition, measures were taken to assist girls who had already been mutilated.

12. Mr. MARIÑO MENÉNDEZ, Country Rapporteur, commended Norway for its high standard of compliance with the Convention. He welcomed new measures taken by the Government, such as the inclusion of a provision prohibiting torture in the Penal Code in 2004, amendments to the Immigration Act, ratification of the Statute of the International Criminal Court, amendments to the Code of Criminal Procedure and the planned ratification of the Optional Protocol and the International Convention for the Protection of All Persons from Enforced Disappearance. He welcomed the involvement of NGOs and other representatives of civil society in the drafting of periodic reports and in the follow-up to the Committee’s concluding observations.

13. Norway had amended its Penal Code in order to align its definition of torture with that contained in article 1 of the Convention. The definition contained a very extensive list of possible motivations for inflicting torture based on discrimination: creed, race, skin colour, sex, homosexual inclination, lifestyle or orientation, and national or ethnic origin. He wondered, however, why it did not include the phrase “discrimination of any kind” used in the Convention.

14. Some NGOs had suggested amending section 2 of the Human Rights Act, which listed a series of internationally binding treaties that had legal force in Norway but did not include the Convention. As the inclusion of a new treaty in the list apparently required a parliamentary decision, he asked whether the Government had considered tabling an amendment to that effect, since Norway had a dualist legal system under which treaties were not directly applicable by the courts but must be translated into domestic law.

15. He enquired about the regulations governing pretrial detention and, in particular, solitary confinement. Could a detainee be subjected to repeated periods of solitary confinement?

16. The Parliamentary Ombudsman and a number of NGOs had expressed concern about the Trandum holding centre for foreign nationals awaiting expulsion, which was not supervised by the courts or the prosecuting authorities but was under direct police control. The rules applicable to the centre reportedly afforded the police considerable leeway so that, for instance, frequent use was made of solitary confinement. Children could apparently also be held there. He asked what body was responsible for monitoring the centre and whether the media had access to it. Was there a maximum period of detention for foreign nationals awaiting expulsion?

17. Noting that Norway had not yet enacted legislation regarding the manufacture and export of equipment or instruments that could be used in torture or other ill-treatment, he asked whether the Government was taking any measures in that regard.

18. All asylum-seekers or illegal immigrants from Uzbekistan seemed to have been automatically returned to their country during the past year without any consideration of their applications. He wondered whether a policy guideline had been issued to that effect and whether the implications of returning individual applicants to Uzbekistan had been taken into account. The procedure for returning asylum-seekers to their country of origin or to some other country should also be in keeping with the Dublin II Regulation, to which Norway was a party. For instance, some provision should be made for monitoring the treatment of returnees to Uzbekistan by the law enforcement authorities.

19. Although the Norwegian peacekeeping forces in Afghanistan were not on Norwegian territory, they exercised de facto legal authority. When Afghan or other detainees were handed over to the Afghan authorities, what guarantees were sought to ensure that they were treated in accordance with international standards?

20. He asked whether any foreign civilian aircraft used for extraordinary renditions in the context of counter-terrorist action had entered Norwegian airspace or landed in Norway, in view of the risk that certain passengers might have been detained under circumstances that breached internationally accepted norms. He was aware of an exchange of views between the Norwegian Government and the Council of Europe, which had urged member States to ensure that human rights were respected in all civilian and military aircraft transiting their airspace. Was the Government monitoring the situation and did it accept assurances from third parties or require other guarantees that nothing irregular was occurring on board such aircraft?

21. With regard to Security Council resolution 1373 (2001), sections 147 (a) and (b) of the Penal Code seemed to reflect an unduly broad definition of terrorism. A very large number of so-called terrorist acts were now punishable by prison sentences of up to 21 years. He noted that the United Nations Human Rights Committee had made a similar comment.
22. In its reply to question 9 of the list of issues regarding universal jurisdiction, the State party had indicated that Norwegian criminal law was applicable under section 6 of the new Penal Code to acts that Norway was permitted or obliged to prosecute pursuant to international law or an agreement with a foreign State. However, prosecution would not be initiated unless it was deemed to be necessary in the public interest. He asked whether the public interest, as defined by the Government, could prevent Norway from prosecuting or extraditing a foreign national present in its territory who had allegedly committed acts of torture.
23. He enquired about the type of national preventive mechanism that Norway was establishing pursuant to the Optional Protocol to the Convention. Was an existing body such as the Office of the Parliamentary Ombudsman being reshaped or was an entirely new mechanism being developed?
24. The Committee's position regarding interim measures was that where a State party was requested to refrain from returning a foreign national who had submitted an individual complaint to the Committee alleging a violation of article 3 in the event of refoulement, the State party was required to comply with the request. He wished to hear the delegation's views on the subject.
25. It had been alleged that certain business firms subject to Norwegian law had assisted in the building or equipment of facilities in Guantánamo, Cuba. He asked whether Norwegian courts had jurisdiction to prosecute companies or Norwegian citizens who were involved in the equipment of a facility in which torture might take place.
26. Mr. WANG Xuexian, Alternate Country Rapporteur, asked whether the use of methods of constraint such as neck holds was consistent with the assertion that human rights training for police officers emphasized that only the mildest form of physical coercion should be used. It would be interesting to learn whether there was a system for monitoring and evaluating the impact of human rights training.
27. He requested data to illustrate whether the amendment to the Criminal Procedure Act limiting to three days the period within which an arrested person should be brought before a judge had been implemented in practice. The delegation should also comment on the allegations by several defence lawyers that detainees were seldom transferred to ordinary prisons before being brought before a judge. That would appear to contravene the new regulation on pretrial detention in police cells, which provided that an arrested person should have regular prison accommodation available within 48 hours.
28. He would welcome the reporting State's response to the criticism by the Parliamentary Ombudsman that the Trandum detention centre was a prison-like institution without the regulatory framework of a prison. The delegation should also comment on the veracity of the

allegation that detainees were regularly woken at night in order to prevent suicides. Updated information should be provided on the number of asylum-seekers in the centre, how many detainees had been granted asylum status or refugee status, and how many had been returned to their countries of origin. He asked whether the State party had monitored the plight of the 21 Uzbeks who had been sent back to their country.

29. In the light of reports of two cases in which methods of restraint used on two detainees had apparently resulted in their deaths in custody, he asked whether the use of such methods was appropriate. Further information should be provided on the independence and objectivity of the investigations into 10 of the 16 deaths that had occurred in connection with police operations, arrests and detentions between January 2005 and June 2007, particularly as they had all recommended that no criminal proceedings were necessary. The delegation should also comment on the allegation that racial discrimination had been a factor in those cases.

30. He asked whether the conditions attached to the right to compensation might limit that right for victims of torture. He would welcome the delegation's response to the criticism that medical services for trauma victims were inadequate.

31. It was unclear whether there was a time limit for the use of coercive measures such as electroshock therapy and confinement in health-care institutions. The Committee had received several allegations of the apparently excessive use of means of restraint.

32. Mr. GROSSMAN asked why the Convention against Torture had not been incorporated into domestic legislation, particularly since other United Nations and European human rights instruments had been so incorporated. Given that the general principle applied in the reporting State was that national law should be interpreted as far as possible to conform to the State's obligations under international law, he requested examples of cases illustrating the content and scope of that jurisprudential principle with regard to the Convention.

33. He asked whether the Convention had ever been invoked before the Supreme Court. It would be useful to know which instrument prevailed when there was a contradiction between the Immigration Act and the Convention. He asked whether anyone had been expelled from the State party under sections 29 or 30 of the Immigration Act, and what legal test was applied to find an asylum application manifestly unfounded, particularly given that the number of people granted asylum in the first instance had decreased significantly in recent years. Had the State party ever sought diplomatic assurances in extradition cases, and if so, how had it held the receiving State accountable if the latter did not honour those assurances?

34. It would be interesting to learn whether attempted torture was a crime under the Penal Code. Had any complaints been filed under the new provision on torture?

35. He asked whether human rights training was mandatory for all law enforcement officials. It would be useful to know whether the Immigration Appeals Board checklist to assess the credibility of asylum-seekers' testimony included explicit references to the Convention against Torture or other international treaties ratified by the State party.

36. He enquired whether all arrested persons had been brought before a judge within three days since the entry into force of the amendment to the Criminal Procedure Act and whether any complaints had been lodged under that provision. Additional information should be provided on the authority responsible for investigating allegations of torture or cruel treatment in prisons, and the number of investigations into allegations of such treatment. Since solitary confinement had been abolished, he wished to know what punishments were currently imposed on prisoners who breached prison regulations.

37. The reporting State should indicate whether there had been an investigation into the death of a female Norwegian prisoner on 8 September 2005, two days after her transfer to St. Olav's hospital, as reported by the European Committee for the Prevention of Torture. If so, it would be interesting to learn about the outcome of that investigation. That Committee had also reported that a person had died at a police station on 4 October 2005. He requested details of the results of the inquiry into that death.

38. He commended the dialogue forum and strategy plan established by the Oslo police regarding police interaction with ethnic minorities.

39. Further details should be provided of the amendments to regulations relating to the supervision of children in child-welfare institutions. The delegation should confirm whether any asylum-seekers had been detained for over two years. If that was true, the State party should explain the reasons for such prolonged detention and the measures being taken to remedy the situation. He asked what steps had been taken to ensure that detainees in police stations were given blankets and food during the first eight hours of their detention.

40. It would be useful to learn what conclusions had been drawn in the investigation conducted by hospital authorities into the case of a psychiatric patient who had been restrained for 30 days out of 40, as reported by the European Committee for the Prevention of Torture in 2005.

41. He asked what measures were being taken to assist the growing number of women victims of domestic violence, particularly migrant women, as reported by the United Nations Committee on the Elimination of Discrimination against Women. The delegation should indicate how many complaints of rape had been filed each year since 2000 and how many prosecutions there had been in rape cases during the same period.

42. Ms. GAER requested additional information on the impediments to providing statistical information on inter-prisoner violence, including sexual violence and intimidation. Details of any relevant exemplary studies or other illustrations of ways of addressing that issue would be useful.

43. She asked whether the State party had considered adding the phrase "or other status" to the description of discrimination in article 117 (a) of the Penal Code, in order to bring it into line with the language of the Convention. It would be useful to know about the accuracy of reports of a significant increase in attacks against Norwegian Jews and members of other ethnic minorities, and a general atmosphere of mounting intolerance. The delegation should indicate what preventive measures were being considered or undertaken to enhance policing.

44. She requested the State party to explain its views on interim measures and its understanding of its obligations. It would be interesting to learn how the decision had been reached to take the unusual yet commendable step of seeking to repair the Government's breach in relation to interim measures.

45. Mr. GALLEGOS CHIRIBOGA asked what measures the State party intended to take in order to curb the increasingly negative treatment received by migrants in Europe.

46. The CHAIRPERSON, speaking in a personal capacity, commended the State party for its contribution to human rights and fundamental freedoms, and to conflict resolution. Nonetheless, he failed to understand why torture was not mentioned in the Constitution, and why the State party did not broaden the scope of its definition of torture to include issues such as domestic violence.

The discussion covered in the summary record ended at 11.40 a.m.