



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

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Summary record (partial)* of the 992nd meeting

Held at the Palais Wilson, Geneva, on Monday, 16 May 2011, at 10 a.m.

Chairperson: Mr. Grossman

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* No summary record of the second part (closed) of the meeting appears as document CAT/C/SR.992/Add.1.

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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)*

Initial periodic report of Ghana (CAT/C/GHA/1)

1. *At the invitation of the Chairperson, the delegation of Ghana took places at the Committee table.*
2. **Mr. Barton-Odro** (Ghana) said that the Republic of Ghana was a culturally very diverse country, with 56 vernacular languages coexisting. Since independence, successive Governments had focused on the country's unity, rather than its cultural diversity, even by encouraging inter-ethnic marriages.
3. The Constitution prohibited any discrimination on the grounds of place of origin or birth, ethnicity, gender, religion, creed or other beliefs, and no one ethnic group dominated the armed forces, the police and the prisons service, and anyone could be appointed to positions of responsibility in the civil service, provided they had the appropriate skills. The Commission on Human Rights and Administrative Justice — an independent body established under the Constitution — was competent to receive complaints from individuals regarding any disparities in access to public service employment, including in the armed forces, the police and the prisons service.
4. Ethnic tension, encountered mainly in northern regions in the past, had not been such as to endanger the country's stability or unity; the Government had accordingly never had to declare a state of emergency or been faced with a civil war that would have caused the curtailment of human rights or fundamental freedoms. Members of the security forces and other officials in a position to violate the rights of others were strongly encouraged to operate within the rule of law.
5. In 1975, the then Government had passed the Evidence Decree to regulate the collection of evidence before and during proceedings to facilitate the administration of justice. Under that decree, statements made by persons in custody or other forms of detention were considered inadmissible unless made in the presence of an independent witness who had been approved by the person being held and was not a member of the police or law-enforcement agencies. That witness must be able to understand the detainee's language; read and understand the language of the statement; and, in the case of a written statement, certify that it has been made in the detainee's presence, with their full approval, and that the detainee had fully understood its contents. Should the accused allege in court that his confession had been obtained under duress, the court must verify the veracity of that claim in a "mini-trial".
6. Since reverting to constitutional rule in January 1993, Ghana had undertaken to promote and respect the rights of all persons. Human rights provisions had been firmly enshrined in the Constitution to ensure that they could not be amended too easily. Any person purporting to be a victim of the violation of their right to life, liberty, property or fair trial, inter alia, could institute proceedings against the State in the High Court. The Constitution recognized the fundamental rights of all citizens, irrespective of race, place of origin, political opinions, colour, religion, creed or gender, provided those rights were exercised with due regard for the rights of others and for the public interest. The Constitution further guaranteed all persons the right to enjoy and profess their language and religion and to live according to their cultural and traditional values. Ghana had become something of a haven of peace and stability in Africa. Those rights and freedoms had already been enshrined in the Constitution before Ghana had become party to international human rights treaties; confessions obtained under torture or other forms of ill-treatment were thus a rarity in the country.

7. Ghana strove to enforce constitutional and other legal provisions designed to protect the rights of individuals against State agents in a position to violate those rights. For example, in the case of Issah Mohammed, alias Molbila, which was still fresh in the minds of all Ghanaians, the post-mortem examination had concluded that he had been beaten to death by the three soldiers who had taken him into military custody. They had accordingly been charged with murder, a capital offence in Ghana. The case was currently before the High Court.

8. Ghana had always undertaken to enforce international law and abide by its treaty obligations. In December 2010, upon acceding to the Protocol to the African Charter on Human and Peoples' Rights, it had made a declaration recognizing the competence of the African Court on Human and Peoples' Rights to receive direct communications from individuals and NGOs and individuals alleging human rights violations.

9. Further, although the Optional Protocol to the Convention against Torture, approved by the Council of Ministers, had yet to be ratified by the parliament, the Commission on Human Rights and Administrative Justice was already competent, pursuant to its mandate, to pay visits to places of detention for the purpose of preventing torture and other cruel, inhuman or degrading treatment or punishment.

10. **The Chairperson**, speaking in his capacity as Country Rapporteur and referring to paragraphs 41 and 101 of the report under consideration, asked whether the State party intended to incorporate into its Criminal Code a definition of torture with appropriate penalties; also, how torture was currently defined in Ghana; whether the Convention could be directly invoked before the national courts, and, if so, whether any of its provisions had already been invoked as part of the judicial process. The delegation might also indicate whether persons serving sentences were in practice lodged separately in prisons from those awaiting trial. He also wished to know whether Ghanaian courts continued to pronounce the death penalty and whether that penalty was still applied; if so, whether the State party had plans to repeal it. Since the State party had made provision for derogation from certain constitutional rights in a state of emergency — including the right not to be subjected to torture — he wished to recall that under the Convention, that right was absolute and not subject to any restriction. The delegation might also say whether the State party planned to follow up on the request made in 2010 by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Ghana. He would welcome details on how the State party intended to inform the public of the legal aid offices established in all regional capitals under the Legal Aid Scheme for the indigent society and of the community mediation centres set up in various communities to ensure that poor people had access to legal representation, especially in the light of the fact that the country had 56 different linguistic communities. It would also be of interest to know precisely how many lawyers were involved in the legal aid scheme; whether they had to undergo training on the provisions of the Convention; whether prison overcrowding and the paucity of lawyers might be linked; and, lastly, whether the State party had taken any steps to establish a centralized computer system for registering all detentions in order to ensure that an accurate portrayal of the country's prison situation was always available. The delegation should also provide more detailed information on the institutional system for juvenile delinquents and indicate whether the State party planned to raise the age of criminal responsibility to 18 years and whether it ensured that the time it took to grant access to a doctor in response to a detainee's request for medical care was reduced to a minimum. The Committee also wished to know whether the State party did, in practice, allow NGOs to visit detention centres and meet with the detainees of their choice; whether it planned to increase the budgetary resources allocated to Ghana's Commission on Human Rights and the Administrative Justice so that the Commission might acquire staff qualified to make such visits; and whether the Commission had already received complaints of torture or found evidence of ill-treatment in detention facilities. The delegation might also indicate whether the State

party had established a mechanism to ensure that women suspected of witchcraft were not persecuted or subjected to serious acts of violence – which had already led to some deaths; also, whether civil society received support for raising public awareness of the problem and counter false charges against such women.

11. He wished to know the powers of the new Refugee Board established in January 2011; whether refugees had ever been returned to their country of origin despite arguing that they were at risk of torture or cruel, inhuman or degrading treatment; and, if so, whether the State party had first sought diplomatic assurances from the destination State that the person in question would not be subjected to torture. Noting that the 14,000 or so refugees living in camps had some access to education, health care and housing and received work permits, he would be interested to learn the resource allocation for refugee support — with 1,300 arrivals in Ghana each week — and what the State party was doing to combat violence against women and children in those camps.

12. It would be useful to know the length of sentences handed down for infringement of the Prisons Service Decree (para. 81) proscribing torture and ill-treatment; also, whether an independent mechanism existed to monitor application of the decree which covered law-enforcement agencies and prison staff; whether the practice of caning — prohibited by the Convention — was common in Ghana; and whether the above-mentioned decree and the provisions of the Criminal Code clearly specified that orders from a superior could not be invoked to justify torture.

13. He asked how Ghana was meeting its obligations under article 5 of the Convention and whether it had, in particular, taken the measures necessary to establish its jurisdiction in the event that an offender was not extradited, consistent with article 5, paragraph 2. Under article 8 of the Convention, he wished to know whether Ghana had concluded any bilateral or multilateral extradition treaties and had already received requests for the extradition of individuals suspected of torture. Lastly, he would like to know whether the State party had concluded any mutual assistance treaties with other countries, including with respect to proceedings on torture offences and, if so, how many mutual assistance requests it had received.

14. **Ms. Sveaass** (Country Rapporteur) requested detailed information on the activities and financial situation of the Commission on Human Rights and Administrative Justice established in 1992. She noted that the Commission was to have submitted a report distinct from that of the State party and that its representatives should not form part of the Ghanaian delegation. She also wished to know whether any investigation had been launched into the death in Bawku in 2009 of the district director of the Commission. She echoed the concerns about the scale of the violence against women and children in Ghana that Ms. Ertürk, Special Rapporteur on violence against women, its causes and consequences, had raised following her 2007 mission to the country. Although officially criminalized, female genital mutilation was still practised, as were other customs that amounted to a modern form of slavery of young girls. She would like to know what steps had been taken to end such practices and punish the perpetrators; what complaint mechanisms and welfare services were available to victims; and whether the State was conducting any campaigns to raise awareness of women's rights, and to combat sexual harassment in schools.

15. Referring to article 10 of the Convention, she noted with concern that police training on human rights fell short. She would appreciate details of information programmes regarding the prohibition against torture and on the training provided to law-enforcement agencies on how to identify acts of torture, in particular using the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). The delegation should also provide information on training programmes for Domestic Violence and Victim Support Unit staff.

16. With regard to article 11 of the Convention, places of detention were overcrowded, several not having originally been designed to hold inmates. In paragraph 92 of its report, the State party had recognized with frankness that the likelihood of torture occurring in the detention centres was very high, prompting the State to establish interrogation rooms on a pilot basis in some detention centres. She wondered whether interrogations were videotaped and, if so, whether it had actually reduced the risk of torture. She would also appreciate further information on steps taken to improve prison conditions as a whole. Moreover, according to some sources, such as Amnesty International, prison visits were still not authorized and prison conditions were not monitored. She invited the delegation to react to that information. She also drew attention to the many detainees still awaiting trial and the fact that some had allegedly even been forgotten by the judicial system. In that connection, she would be interested to learn if all individuals were registered immediately upon placement in detention. She would also appreciate more information on the dozens of irregular immigrants allegedly held in detention centres for extensive periods.

17. She asked whether there was any mechanism for tracking and monitoring individuals placed in health facilities, including psychiatric hospitals, whether consensually or not. She raised cases of persons with mental disabilities allegedly being mistreated, including in the Accra Psychiatric Hospital where conditions were reportedly dreadful. She would appreciate information on recourse to electroconvulsive treatment, forced medication and various means used to restrain individuals consigned to health facilities. She wondered what budget was allocated to health overall and mental health care in particular.

18. She asked whether the Police Intelligence and Professional Standards Bureau, mandated to look into incidents due to police professional misconduct, had in fact processed 882 complaints during the first nine months of 2009. She requested information on the follow-up given to complaints of harassment, arbitrary arrest and detention involving violations of human rights and on procedures in place for launching independent inquiries into allegations of torture in which law-enforcement officers were implicated.

19. Noting that the report under consideration contained little information on complaint mechanisms, she asked how many complaints were officially recorded in prisons, police premises and psychiatric institutions. She would also appreciate specific information on the witness protection programmes and measures that provided redress and compensation to victims. With regard to article 15, she wished to know whether there had been any instances to date of the courts dismissing testimony and statements established to have been made as a result of torture. With regard to human trafficking, she wished to know whether Ghana planned to ratify the United Nations Convention against Transnational Organized Crime and whether the Human Trafficking Act, adopted in 2005, had helped to further combat that scourge. She asked how many individuals had been investigated, prosecuted or sentenced in human trafficking cases and what facilities (shelters, medical assistance, legal aid, inter alia) were available to victims. Lastly, she cited repeated instances since 2006 of independent gold-washers being beaten — and in some cases shot — by security personnel attached to large gold-mining companies. Had those responsible been identified and prosecuted by the public authorities?

20. **Mr. Gallegos Chiriboga**, requesting detailed information on the living conditions of individuals placed in health facilities, in particular the Accra Psychiatric Hospital, asked whether a mechanism allowing individuals to lodge complaints of mistreatment against staff was available. He urged the State party to combat impunity and violence in health facilities.

21. **Ms. Belmir**, noting that paragraph 10 of the report under consideration stated that no organ of the President or Parliament had or was given “final judicial power”, asked what was meant by “final judicial power”. She was also surprised to read in paragraph 24 that a court of law could curtail a person’s freedom or human rights; she stressed that the concept of curtailment was confusing, since a person’s fundamental rights could not be curtailed. She was concerned by the insalubrity and dilapidation of Ghanaian prisons and wondered

how far the rights of persons detained in such places were protected. She would like to hear the delegation's point of view on the loopholes and failures within the judicial and prison systems which resulted in months — even years — of detention of persons awaiting trial. Lastly, what measures had been taken to remedy problems of access to justice resulting from multiple factors such as high fees, geographical remoteness from law courts and traditional religious leaders' tendency to usurp judicial power?

22. **Mr. Gaye** asked what the State party meant, in paragraph 3 of its report, by “adult suffrage”. Paragraph 26 stated that a person could be arrested upon reasonable suspicion of having committed or being about to commit a criminal offence. It would be useful to know with what authority that power of arrest lay; the delegation might also indicate whether the exercise of that power was subject to oversight and, if so, describe the process involved. In its report, the State party stressed the need for justice to be dispensed expeditiously to arrested persons; the question remained how that objective was achieved, given the delays in the Ghanaian judicial system.

23. The report stated that a court was not required to admit evidence that had been obtained as a result of the use of torture. It would surely be more consistent with the Convention to stipulate that a court was required to disregard such evidence. The report also mentioned incommunicado detention without providing further details. Clarifications in that regard would be welcome, especially on the rules governing such detention. It appeared, also, that in exceptional circumstances, an arrested person could be detained for 10 days before being brought before a judge. Could the delegation comment? The Committee would appreciate further details on the guarantees of independence and the powers of investigation of the Police Intelligence and Professional Standards Bureau. Was that the only body competent to receive complaints of alleged acts of torture or ill-treatment on the part of the police? Did victims also have recourse to the regular courts? Lastly, regarding prison overcrowding, it would be useful to know whether the courts applied alternative sentences.

24. **Mr. Mariño Menéndez** noted that Ghana had ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, as well as the Rome Statute of the International Criminal Court. Those instruments had not yet been incorporated into domestic law; prompt measures should thus be taken to accelerate legislative procedures to that end. NGOs had drawn the Committee's attention to alleged cases of corruption in the administration of justice that could in part be explained by the delays within the system. Given that paragraph 12 of the report stated that no magistrate was liable to any action or suit for any act or omission by him in the exercise of his office, the delegation might indicate whether all alleged cases of corruption in that connection were automatically investigated.

25. The delegation had mentioned the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention); it would be useful to have more details of the protection provided under that instrument, particularly the duration of such protection. Had the Convention recently been invoked for Ivorian nationals? The 1975 Evidence Decree required that an independent witness should be present during interrogations. Clarifications on the role of such a witness would be appreciated, as would details of the interrogation methods in use. Moreover, was the presence of legal counsel mandatory for persons in custody? The delegation should also clarify to what extent customary law was still applied in the State party, especially those provisions that discriminated against women in matters of property and inheritance.

26. **Mr. Bruni** asked why measures for incorporating the provisions of the Convention into domestic law had not yet been adopted. Paragraph 101 of the report stated that the lack of specific legislation regarding the domestication of the Convention in Ghana would be addressed. The Committee wished to know what progress had been made on that front since publication of the report nearly one year previously. Clarifications would also be welcome as to whether the Commission on Human Rights and Administrative Justice was competent

to hear cases of torture or ill-treatment allegedly committed by the police. What recourse was available to detainees who were victims of acts of torture or ill-treatment inflicted by one or more officers? The State party indicated in its report that in order to prevent torture, senior officials were present during interrogations in certain detention facilities. The delegation could perhaps provide details of the role of such officials, as well as information on interrogation methods used.

27. The Committee wished to know whether there existed within the army a mechanism allowing a subordinate to contest or refuse an order from a superior officer to commit an act of torture. Could penalties provided for in the Criminal Code equally be applied to police officers found guilty of committing or inciting to commit such acts? According to paragraph 98 of the report, under the “Justice for All” system, judges visited detention facilities to hear remand prisoners’ cases and dispense justice expeditiously. What was meant by “expeditiously”? It would seem that the State did not bear responsibility for acts of torture or ill-treatment inflicted by its officials and that the latter were only personally accountable; clarification of the matter would be welcome. He also drew the delegation’s attention to article 32 of the Constitution which provided that the name of a detainee should be published in the Official Gazette and the media within 10 days of the commencement of the detention – a measure that could constitute humiliating treatment. Lastly, the Committee wished to know what progress had been made with regard to construction of a new penitentiary at Ankaful.

28. **Ms. Kleopas** said that in order to gain time, she would limit herself to a few specific questions and comments. Recalling the principle of absolute prohibition of torture, she asked whether torture was subject to the statute of limitations in Ghanaian law and whether any perpetrators in Ghana had ever been granted amnesty. She drew the delegation’s attention to the fact that investigations into complaints of acts of torture involving police officers should be entrusted to fully independent mechanisms. The Police Intelligence and Professional Standards Bureau, mandated to investigate misconduct of law-enforcement personnel, did not provide all necessary guarantees in that connection. In addition, it would be useful to know whether any amendments had been introduced to the mental health bill in order to bring it into line with the Convention on the Rights of Persons with Disabilities. The country apparently had 42 juvenile detention facilities, a considerable number. Given that detention should always be a last resort in juvenile justice, the delegation should clarify the age of criminal responsibility in Ghana.

29. **Ms. Gaer**, noting that Ghana had ratified the Rome Statute of the International Criminal Court, asked what measures the authorities intended to take if individuals arriving at the country’s borders were wanted for prosecution by the Court, including for acts of torture. She also wondered how the right to medical assistance of persons deprived of their liberty was effectively guaranteed and if such persons had access to a physician of their choice. Paragraph 46 of the report stated that due precaution should be taken to avoid the risk of a detainee escaping while under medical examination or on the way to or from examination. What was meant by “due precaution” and had the authorities ever received complaints of ill-treatment allegedly inflicted in that context?

30. It seemed incongruous to state, on the one hand, that the use of torture to obtain confessions was rare in Ghana, while, on the other, acknowledging that the likelihood that torture occurred in the detention centres was very high. Nevertheless, she wished to know whether the interrogation rooms established by the Government did effectively help prevent torture. Concerning the 37 Military Hospital Mortuary Case, the report stated that the alleged perpetrators had all been disciplined — military personnel stripped of their rank and civilians dismissed from their posts — but there was no indication of whether the persons in question had also been prosecuted and received prison sentences. What exactly was the situation? According to some sources, moreover, women were allegedly being detained at the Koforidua Regional Hospital since they lacked the means to pay the medical costs incurred. What measures had the Government taken to remedy the situation? She also

wished to know if there were mechanisms in place to monitor sexual violence in prisons, if victims were encouraged to file complaints and if sentences had been handed down for acts of sexual violence.

31. **Mr. Wang** Xuexian said that, according to the opening statement delivered by the head of the Ghanaian delegation, any person claiming that their rights had been violated could sue the State in the High Court. He would appreciate specific examples from the delegation of that recourse being utilized. According to the same statement, members of the security forces and other State officials who might use their position to violate the rights of individuals were strongly encouraged to respect the rule of law. In his view, the State party should take more resolute action in that regard and ensure that all law-enforcement officers without exception were not only encouraged to respect the rule of law, but were informed of their binding obligation to do so. Lastly, although there was no rule covering the inclusion of a representative of the national preventive mechanism in a State party's delegation during dialogue with the Committee, and although the independence of the national preventive mechanism was not in question, such inclusion might possibly be perceived as indicating a lack of independence, since the members of a delegation represented the Government of their country.

32. *The delegation of Ghana withdrew.*

The first part (public) of the meeting rose at 12.20 p.m.