



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

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COMMITTEE AGAINST TORTURE

Forty-first session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 859th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 18 November 2008, at 4.40 p.m.

Chairperson: Mr. GROSSMAN

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* The summary record of the first part (closed) of the meeting appears as document CAT/C/SR.859.

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The public part of the meeting was called to order at 4.40 p.m.

ORGANIZATIONAL AND OTHER MATTERS

Meeting with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1. At the invitation of the Chairperson, the members of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment took places at the Committee table.
2. The CHAIRPERSON, welcoming the members of the Subcommittee, stressed that cooperation between the Subcommittee and the Committee would greatly enhance progress towards achieving their common objectives. He invited the Chairperson of the Subcommittee to introduce its first annual report (CAT/C/40/2).
3. Ms. CASALE (Chairperson, Subcommittee on Prevention of Torture), introducing the report, highlighted the synergies between the Subcommittee and the Committee and agreed on the importance of formal and informal cooperation between the two bodies. Their combined efforts, in particular the Committee's active promotion of ratification of the Optional Protocol in its dialogue with States parties, had facilitated broad acceptance of the instrument. To date, 37 States had ratified it and 32 States had signed and commenced ratification procedures.
4. Drawing attention to pertinent articles of the Optional Protocol, she briefly outlined the mandate of the Subcommittee and highlighted the need for cooperation with other United Nations bodies and mechanisms and relevant international, regional and national institutions. The exchange of information with other competent bodies was also crucial to enhancing preventive efforts. National preventive mechanisms were important allies in strengthening the objectives of the Convention and its Optional Protocol on the ground. Sadly, although no State had thus far invoked the provisions of article 24 of the Optional Protocol, which provided for postponement of implementation of States parties' obligations under part III or part IV of the Protocol, in some States the establishment of national preventive mechanisms had been very slow.
5. In order to improve cooperation, the Subcommittee would submit its second report in good time to facilitate in-depth consideration of its contents by the Committee. The two bodies should also discuss procedures for maintaining regular contact.
6. Mr. GALLEGOS CHIRIBOGA said that the Committee followed the work of the Subcommittee closely and would use information made available by it in its dialogue with States parties.
7. Mr. CORIOLANO (Subcommittee) said that information sharing was crucial to avoid duplication of efforts and to enhance the effectiveness of the work of the two bodies. The current efforts of the Subcommittee focused on the development of a preventive system of regular visits to places of detention, with the participation of State actors and civil society, as essential allies in the planning and implementation of preventive activities on the ground. Emphasis was also placed on avoiding duplication with the work of other United Nations treaty bodies and regional

mechanisms. The Optional Protocol Contact Group briefed the Subcommittee regularly on the latest developments relating to the establishment of national preventive mechanisms. All relevant activities were undertaken in close cooperation with regional entities, including the Inter-American Commission on Human Rights.

8. Some of the 37 States parties to the Optional Protocol had already established national preventive mechanisms, while others lagged behind. Systematic efforts must be made to facilitate the process, as those mechanisms would, inter alia, be useful in monitoring follow-up to recommendations by the Committee against Torture and other relevant United Nations mechanisms. In turn, the information available to the Committee in the form of individual communications and State party reports relating to torture could contribute to the work of the Subcommittee and regional preventive mechanisms. Such information sharing would enhance the standing of national preventive mechanisms and, consequently, the implementation of the Optional Protocol on the ground. The same was true of information obtained by the Special Rapporteur on the question of torture and other United Nations mechanisms. The Subcommittee would gladly share with the Committee information on progress made in the establishment of preventive mechanisms in individual States. Cooperation between the Committee and Subcommittee secretariats would also be highly beneficial.

9. Mr. KOVALEV requested information on the selection criteria for country visits.

10. Mr. MARIÑO MENENDEZ asked how the Subcommittee monitored the compliance of national preventive mechanisms with Optional Protocol provisions governing their operation, and whether it was competent to give advice and make recommendations in cases of non-compliance. The Subcommittee should describe the procedures for cooperation with national mechanisms. He wished to know whether the Subcommittee used statistics and indicators to assess the effectiveness of the work of those mechanisms. If so, such statistics and indicators might also be useful for the Committee's work, so long as sharing such information did not violate the principles of confidentiality enunciated in the Optional Protocol. He enquired whether the Subcommittee monitored training programmes for staff in places of detention, and asked how it assessed States parties' compliance with recommendations made by the Special Rapporteur on the question of torture or the Committee against Torture.

11. Ms. GAER commended the adoption of preliminary guidelines for the ongoing development of national preventive mechanisms, as reflected in paragraph 28 of the report.

12. She wished to know whether national preventive mechanisms were established by law and, if so, whether that process might be partly responsible for the reported delays. Unless the establishment of such mechanisms by executive authority alone was in violation of the Optional Protocol, it might be useful to consider that route in the hope of expediting the process. The Subcommittee should describe, on the basis of its experience to date, the difference between preventive and reactive mechanisms and their respective effectiveness in achieving the objectives of the Optional Protocol. She asked whether some States parties had set up multiple national mechanisms specializing in different issues, such as gender-based violence or violence in psychiatric institutions. She further enquired whether national mechanisms issued public reports in their own countries and, if so, whether such reporting had a preventive effect on torture and inhuman or degrading treatment.

13. Mr. LASOCIK (Subcommittee) said that the Subcommittee, in cooperation with the Association for the Prevention of Torture and the Optional Protocol Contact Group, had compiled substantial information on national preventive mechanisms. However, owing to the shortage of resources, no database had been created yet. According to the information available to the Subcommittee, there was no single model for national preventive mechanisms. Most frequently, the relevant responsibilities were assumed by the local ombudsman, with the support of State institutions or local NGOs. The OSCE Office for Democratic Institutions and Human Rights in Warsaw, in cooperation with the Subcommittee, had launched a study of national preventive mechanisms in OSCE countries. Given the important role of national preventive mechanisms in the implementation of the Optional Protocol, resources should be made available for their operation through OHCHR.

14. Ms. SVEAASS encouraged all members to explore the possibility of participating in the meetings or country visits conducted by the other body. Also, the Committee should discuss ways of including issues pertaining to national preventive mechanisms in its follow-up procedure. She commended the Subcommittee for its extensive cooperation with regional institutions and drew attention to the growing international awareness of the opportunities for torture prevention deriving from the Optional Protocol.

15. The CHAIRPERSON suggested that information sharing between the Committee and the Subcommittee should be a topic on the agenda of their next joint meeting. It would be useful to explore ways of sharing that respected the integrity and principles of the two bodies, particularly so far as confidentiality was concerned. He wondered, for example, whether the Subcommittee might be willing to share with the Committee all or part of its country briefs, which the Subcommittee prepared prior to visiting States parties. Those would greatly assist the Committee in its work.

16. A second topic to place on the joint agenda would be the concept of the prevention of torture. The Subcommittee had more expertise in that area than the Committee, and the Committee's interaction with States parties during the examination of periodic reports could be much enhanced by a discussion of the Subcommittee's experiences and observations. Noting the importance of combating impunity, he pointed out that the imprisonment of a person found guilty of torture served as a powerful deterrent. The discussion of prevention should therefore also include the related issue of impunity.

17. Ms. CASALE (Chairperson, Subcommittee) said the Subcommittee had already agreed that, although its country briefs were internal documents, it would be pleased to share them with the Committee.

18. The CHAIRPERSON welcomed that decision, particularly since he had heard about the excellent quality of the briefs. It was all the more welcome since the Committee did not itself have the capacity to produce a document to assist it in examining specific States parties.

19. Mr. RODRIGUEZ RESCIA (Vice-Chairperson, Subcommittee) said that attempts to understand the respective roles of the Committee and the Subcommittee had given rise to some questions relating to practice. The most perplexing of those was that, in the course of the

Subcommittee's visits to States parties, people often reported first-hand experiences of torture, not realizing that the Subcommittee had no channel for transmitting such information to the Committee. While the Optional Protocol required the Subcommittee to share information with the Committee against Torture, it was unclear what type of information could be shared and what could not. The question to be explored was whether the transmittal of such information to the Committee would betray the principle of confidentiality the Subcommittee was expected to uphold. Experience had, in fact, revealed the duality of that principle as it related to the work of the Subcommittee: on the one hand, respect for confidentiality encouraged some States parties to receive a visit from the Subcommittee, while, on the other, it limited the scope of the Subcommittee's action.

20. Even though one aspect of the Subcommittee's mandate was to cooperate with national preventive mechanisms, it had no budgetary resources to support States parties in establishing or strengthening such mechanisms. The question arose as to whether and to what extent the Subcommittee should share information with the national preventive mechanisms. Despite the fact that the efforts of those mechanisms might well be aided by the Subcommittee's reports, recommendations and comments, those were currently considered by States parties to be confidential.

21. It should also be recognized that one of the main obstacles to the ratification of the Optional Protocol by States parties was the requirement to set up a national preventive mechanism in accordance with the criteria laid down in the Optional Protocol and the Paris Principles. Of those that had been established to date, most were not new bodies but had merely been a new unit or division attached to the Ombudsman's Office. That led to the question whether the Subcommittee should evaluate national preventive mechanisms on the basis of those criteria and whether it should include its recommendations concerning them in its reports. One of the most important functions of the national mechanisms was that of publicizing their reports. Yet, once again, that raised the issue of confidentiality. Ultimately, what was needed was not so much to build trust as to define genuinely objective criteria concerning the sharing of information between all stakeholders. In doing so, the Committee and the Subcommittee would have to be creative, while at the same time respecting the Convention and the Optional Protocol.

22. An important tool to strengthen the work of both the Committee and the Subcommittee was the development of indicators. To date, the statistics and indicators used by the Subcommittee comprised both quantitative and qualitative data gathered from various human rights treaty bodies and relevant civil-society organizations. It would be interesting to explore the idea of developing indicators that specifically measured the progress made by States parties in preventing torture.

23. The Subcommittee had focused much attention on the topic of training in the prevention of torture and ill-treatment. Such training was aimed at law enforcement officials and others responsible for persons who had been deprived of their liberty. The Subcommittee was currently in a position to establish some type of mechanism that would monitor the follow-up of recommendations, including those concerning training, that were contained in its initial reports, most of which were confidential. It was important to request feedback from States parties in determining the structure of such mechanisms. After mapping its agenda for the future, the

Subcommittee should make sure that it did not duplicate the work of other United Nations human rights treaty bodies or regional mechanisms, such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Emphasis should instead be placed on areas of complementarity between those bodies.

24. Mr. CORIOLANO (Subcommittee) agreed with the suggestion that the Committee and the Subcommittee explore the relationship between impunity and prevention. The general lack of independent mechanisms for investigation of allegations of torture remained a problem. Given the poor track record of past efforts, both the Committee and the Subcommittee should intensify their efforts to find an innovative methodology for reducing the high incidence of impunity. Another issue that should be explored jointly in order to find a solution was that of the general increase in the rate of imprisonment in many parts of the world.

25. Ms. OLIVIER (Association for the Prevention of Torture), speaking on behalf of the Rehabilitation and Research Centre for Torture Victims and the International Federation of Action by Christians for the Abolition of Torture, said she hoped that dialogue between the Committee and the Subcommittee would continue on issues relating to national preventive mechanisms, including their legal status, functioning, resources and membership. Her organization would be willing to transmit its reports on particular States parties to the Committee.

26. Ms. CASALE (Chairperson, Subcommittee) said that during each session the Subcommittee met with the Optional Protocol (OPCAT) contact group, which was a grouping of civil-society organizations that worked in the field of prevention of torture. Such meetings provided the opportunity for a valuable exchange of ideas and information. The excellence of the country briefs, to which the Chairperson of the Committee had alluded, was attributable in part to the contributions of members of the OPCAT contact group and national civil-society organizations in the countries concerned. Despite the considerable amount of work still to be done and the relative scarcity of resources for combating and preventing torture, progress was nevertheless possible through the combined efforts of the Committee, the Subcommittee and the civil-society organizations, all of which shared common objectives.

27. Ms. BELMIR said that, even in some countries that had ratified the Optional Protocol, NGOs did not have easy access to places of detention where foreigners were held prior to deportation. She asked whether the Subcommittee had taken any action to deal with that problem.

28. Ms. CASALE (Chairperson, Subcommittee) said that the Subcommittee had not yet had an opportunity to visit many detention centres, but such visits were definitely within its mandate. It considered the conditions of detention of persons who faced expulsion to be an integral component of its work.

29. The CHAIRPERSON thanked all those present for their participation.

The meeting rose at 5.55 p.m.