



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

Distr.
GENERAL

CAT/C/SR.829
16 May 2008

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 829th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 13 May 2008, at 3 p.m.

Chairperson: Mr. GROSSMAN

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* The summary record of the closed part of the meeting appears as document CAT/C/SR.829/Add.1.

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

ORGANIZATIONAL AND OTHER MATTERS

Annual report of the Subcommittee on Prevention of Torture (CAT/C/40/2)

1. Ms. CASALE (Chairperson, Subcommittee on Prevention of Torture), introducing the first annual report of the Subcommittee on Prevention, covering the period from February 2007 to March 2008, said that the Subcommittee's work in the field was important, as it complemented the work of the Committee. She referred to the mandate set forth in article 11 of the Optional Protocol to the Convention, which included visiting the places where persons were deprived of their liberty, advising and assisting States parties in the establishment of national preventive mechanisms and cooperating with relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations for the prevention of torture and other cruel, inhuman or degrading treatment or punishment. Prevention required monitoring on the ground, which was best accomplished through domestic bodies such as national preventive mechanisms. Under the Optional Protocol, each State party was obliged to grant the Subcommittee unrestricted access to all information concerning persons deprived of their liberty.
2. The first visits by the Subcommittee - to Mauritius in October 2007, the Maldives in December 2007 and Sweden in March 2008 - had been chosen by lot. The Subcommittee planned to visit Benin, Mexico and Paraguay in 2008. The Subcommittee was guided by the principles of confidentiality and cooperative relations with States parties in order to enter into frank discussions about its concerns regarding bad practices and to put forward recommendations where necessary. The Committee had the power to lift the confidentiality clause if States parties failed to cooperate with the Subcommittee or to act on its recommendations. She expressed the hope that the Subcommittee would not have to rely on or use that power.
3. Concerning administrative and budgetary matters, there was no specific provision within the regular budget for the Subcommittee to work directly with the national preventive mechanisms. Unless adequate resources were found, such mechanisms would be developed without the Subcommittee's input. The current budget therefore did not adequately provide the resources necessary for the Subcommittee to fulfil its mandate.
4. Ms. BELMIR said that, although the choice of country visits by lot was a defensible practice, it was unclear how genuine cohesion between the work of the Committee and the Subcommittee could thereby be ensured and the problems of States parties with alarming human rights situations be addressed on a priority basis. Although the visit to Sweden, for example, was very important, there were other States parties with urgent problems, such as overcrowding of prisons. She enquired whether the Subcommittee would have the opportunity to visit any territory under the jurisdiction of a State party, including outside its national borders, in accordance with article 2 of the Convention.
5. Mr. MARIÑO MENÉNDEZ enquired how bad practices and good practices were defined by the Subcommittee. It was not clear how the principle of confidentiality could be maintained if

the Subcommittee transmitted information to the Committee. Further details of the formal relationship between the Optional Protocol Contact Group mentioned in the report and the Subcommittee were needed.

6. Ms. GAER, noting that only 5 of the 34 States parties had submitted reports, enquired whether any consideration had been given to finding ways of eliciting such information. She suggested that the Subcommittee might wish to attend relevant meetings between the Committee and non-governmental organizations. She enquired whether the Subcommittee had come across any national preventive mechanisms which had not met such criteria as transparency and inclusiveness, gender balance and ethnic and minority representation.

7. Ms. SVEAASS enquired about the criteria for choosing Benin, Mexico and Paraguay for visits in 2008 and whether previous visits had been conducted with the relevant national preventive mechanisms. It would be useful to have information on the follow-up by those mechanisms after the Subcommittee had departed from the countries in question.

8. The CHAIRPERSON said that the complementary nature of the two committees was extremely important. If preventive measures were successful there would no longer be any need for the Committee against Torture. The first line of prevention was national preventive mechanisms, whose establishment and effectiveness was a priority. The Committee had therefore called on States parties which had not done so to sign or ratify the Optional Protocol. The Contact Group was therefore essential for the promotion of cooperation and exchange of information between them. He encouraged members of the Subcommittee to participate, when appropriate, in the Committee meetings. The Subcommittee could also draw on the rich experience with on-site visits of regional groups such as the Inter-American Commission on Human Rights.

9. Mr. WANG Xuexian enquired whether the Subcommittee had established a time frame for the publication of its preliminary observations and responses from States parties. He would appreciate hearing the views of the members of the Subcommittee on what they expected from the Committee. Further details were needed of how the Subcommittee intended to cooperate with the Committee while maintaining the principle of confidentiality.

10. Mr. KOVALEV, noting that the number of signatories to the Optional Protocol was insufficient, enquired about what the Subcommittee was doing to encourage States to sign or ratify it.

11. Mr. GALLEGOS CHIRIBOGA, noting the importance of the common objective of the two committees of enhancing ways of eliminating torture and cruel treatment, said that prevention and verification measures were equally important. Finding the appropriate procedures for cooperation and information exchange would be crucial for the achievement of the mandates of the committees.

12. Mr. PETERSEN (Subcommittee on Prevention of Torture) said that the first three countries had been chosen by lot. Thereafter, the criteria applied to the choice of country visit included the requirement that at least 12 months should have lapsed since the ratification of the

Optional Protocol by the State party. Such a requirement gave the State party the time necessary to establish its national preventive mechanism or bring it into line with the Optional Protocol. The Subcommittee visited only States parties with national preventive mechanisms or at least those which had undertaken to establish one. The Subcommittee had also selected the subsequent countries to be visited on a geographical basis. It would be visiting a State party from Asia, Africa and Europe. It would not visit large and complex countries such as Brazil, as it did not currently have the human resources to do so.

13. Ms. CASALE (Chairperson, Subcommittee on Prevention of Torture) said that the Subcommittee had visited Sweden because it had been chosen by lot. The new selection procedure would help it to conduct visits according to a list of priorities. The introduction of the universal periodic review had taken the Subcommittee by surprise. It would in fact be conducting its visit to Benin after the State party had undergone such a review. She hoped that in time the Subcommittee would have a more coordinated approach with other bodies. Referring to the question raised about places outside the territory of a State party under consideration, she said it would seek to visit sites such as military bases which fell within the State party's jurisdiction or control. The Subcommittee could benefit from the advice of the Committee on such issues. The Subcommittee drew on the good practices from within the United Nations system and the academic world. For the time being, it was taking a practical rather than theoretical approach, as it had only begun to gather information on the ground.

14. The issue of confidentiality was a delicate one. The Subcommittee would lift the veil of confidentiality only if the State party in question gave its consent. A State party could permit the publication of the report and responses. It could also allow the Subcommittee to share confidential information with the Committee.

15. Mr. PETERSEN (Subcommittee on the Prevention of Torture) said that there was good reason to accord priority to the national preventive mechanisms. Their role in conducting visits to national institutions was far more important than that of the Subcommittee since they operated on a permanent basis, whereas the Subcommittee was only in a position to visit a limited number of institutions during its periodic country missions. He was of the impression that in countries where the offices of the ombudsman and national human rights bodies were appointed as national preventive mechanisms, there was often a different approach to prevention. It was clear that some challenges remained and that all necessary resources should be harnessed in support of the work of the national mechanisms in their focus on prevention.

16. Ms. CASALE (Chairperson, Subcommittee on Prevention of Torture), referring to the sharing of information, said that the exchanges between the Subcommittee and the Committee had yielded useful information. She believed the maintenance of fluid communications and constant dialogue between the two bodies would enhance the process of planning and the setting of priorities, and would be particularly helpful in avoiding the use of limited resources to duplicate tasks.

17. With regard to the query on the formalized relationship with the Optional Protocol Contact Group, she said that the meeting held during each session of the plenary with NGOs and academic institutions of the Contact Group had proved useful for exchanging information and

planning. She agreed with the view expressed by Ms. Gaer that contact with the national human rights institutions in the field was crucial, and, in that regard, she welcomed further information on future meetings. Turning to the question concerning the confidentiality of preliminary observations and the timing of their release, she believed that after an initial period of reluctance on the part of States parties, in the long run it would become the norm for those observations to be publicized.

18. In closing, she said that the Subcommittee was grateful that the Committee consistently took up the issue of ratification of the Optional Protocol with States parties, and stressed that continued reference to the importance of national preventive mechanisms would be much appreciated.

The public part of the meeting rose at 4.10 p.m.