



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

Distr.
GENERAL

CAT/C/SR.593
7 May 2004

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Thirty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 593rd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 3 May 2004, at 3.30 p.m.

Temporary Chairperson: Ms. CONNORS
(Representative of the Secretary-General)

Chairperson: Mr. MARIÑO MENÉNDEZ

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.593/Add.1.

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GE.04-41267 (E) 050504 070504

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The meeting was called to order at 3.30 p.m.

ELECTION OF THE OFFICERS OF THE COMMITTEE (item 3 of the provisional agenda)

1. Ms. CONNORS (Representative of the Secretary-General, Temporary Chairperson) invited nominations for the office of Chairperson.
2. Mr. GROSSMAN nominated Mr. Mariño Menéndez.
3. Mr. MAVROMMATIS supported the proposal.
4. Mr. Menéndez was elected Chairperson by acclamation and took the Chair.
5. The CHAIRPERSON invited nominations for the three offices of Vice-Chairperson and the office of Rapporteur.
6. Mr. MAVROMMATIS, supported by Mr. RASMUSSEN, nominated Mr. Yu Mengjia for the office of Vice-Chairperson.
7. Mr. PRADO VALLEJO, supported by Mr. MAVROMMATIS and Ms. GAER, nominated Mr. Grossman for the office of Vice-Chairperson.
8. Mr. RASMUSSEN, supported by Mr. YAKOVLEV and Mr. MAVROMMATIS, nominated Ms. Gaer for the office of Vice-Chairperson.
9. Mr. RASMUSSEN suggested that Mr. El-Masry should be re-elected to the office of Rapporteur.
10. Mr. Yu Mengjia, Mr. Grossman and Ms. Gaer were elected Vice-Chairpersons and Mr. El-Masry was elected Rapporteur by acclamation.

ADOPTION OF THE AGENDA (item 4 of the provisional agenda) (CAT/C/82)

11. THE CHAIRPERSON announced that, due to an oversight, agenda item 10, entitled “Annual report of the Committee on its activities”, had been omitted from the provisional agenda (CAT/C/82).
12. The provisional agenda, as orally amended, was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (CAT/C/XXXII/Misc.3 and Misc.4)

13. The CHAIRPERSON drew attention to two documents prepared by the Secretariat, an overview of the Committee’s current working methods (CAT/C/XXXII/Misc.3) and a discussion paper on issues relating to the working methods that had been raised by Committee members, States parties or non-governmental organizations (NGOs) (CAT/C/XXXII/Misc.4).

14. Ms. RUEDA-CASTAÑÓN (Secretary of the Committee) said that the Secretariat had prepared the two documents in response to recommendations by the inter-Committee meeting and the meeting of chairpersons of human rights treaty bodies held the previous year. It was important for States parties, new Committee members and the general public to have access to a document setting forth the Committee's working methods. Other treaty bodies incorporated a regularly updated version of their working methods in their annual report or published them in a separate document. The discussion paper reflected proposals made by Committee members at previous sessions on questions such as the preparation and adoption of lists of issues pertaining to State party reports.
15. Mr. GROSSMAN pointed out that the documents failed to address the Committee's working methods under article 22 of the Convention concerning communications from or on behalf of individuals.
16. He expressed support for the recommendations following paragraph 4 of the discussion paper to the effect that lists of issues should be prepared for both initial and periodic reports, and that a list of issues should be transmitted to States parties whose compliance with the Convention was to be examined in the absence of a report.
17. Mr. MAVROMMATIS said that the Committee needed to clarify the role and responsibilities of country rapporteurs. For example, where a country rapporteur had done in-depth research on the situation in a State party, was it permissible for other Committee members to amend the resulting list of issues during a pre-session meeting that the rapporteur was unable to attend? He suggested that time should be allotted during the session for a discussion of the final form and content of lists of issues in the presence of the country rapporteur. It was also necessary to clarify the country rapporteur's responsibility with respect to the drafting of concluding observations.
18. The CHAIRPERSON said that, before deciding on its methodology for the formulation of lists of issues, the Committee first needed to decide whether it wished to establish lists of issues only in relation to periodic reports, or also in relation to initial reports and to States in respect of which the Committee had decided to examine the situation in the absence of a report.
19. Mr. RASMUSSEN said that the suggestions made in the discussion paper prepared by the Secretariat were helpful, as the Committee had no experience in using lists of issues. He felt that lists of issues should not be employed in relation to initial reports, as the process of dialogue between the Committee and the State party did not begin until an initial report was submitted. The revised guidelines regarding the form and contents of initial reports to be submitted by States parties under article 19, paragraph 1, of the Convention (CAT/C/4/Rev.2) already provided States parties with ample guidance as to the kind of information that should be included in initial reports. He shared the concerns expressed by Mr. Mavrommatis about the role of country rapporteurs in drawing up lists of issues. He requested clarification of how States parties would reply to the questions posed in lists of issues; if given orally, replies must not be allowed to eat into the time available for the Committee's discussions with the State party.
20. Mr. GROSSMAN said that the guidelines comprised only general questions, whereas the list of issues helped to apply pressure by asking specific questions with regard to the situation in

a particular country; lists of issues might then encourage States parties who had not yet submitted reports to do so. He therefore proposed that, in addition to the general guidelines on how to compile initial reports, the Committee should send States parties who had not yet submitted a report a list of issues compiled on the basis of information received.

21. Mr. RASMUSSEN said that the question of whether to send a list of issues when the Committee had decided to consider the situation in a country in the absence of a report was separate from the question of whether to use a list of issues when an initial report had already been submitted. It was important to address the matter of how replies would be received, particularly if States parties chose to reply orally. He requested clarification of the methodology of other committees in that respect.

22. The CHAIRPERSON said that in other treaty monitoring bodies lists of issues were transmitted to States who submitted initial reports. States generally liked to receive lists of issues, which could help to motivate all States to make additional efforts.

23. Mr. MAVROMMATIS said that it seemed rather late to be discussing the circumstances in which the Committee should send out lists of issues, since the first State party to have received a list of issues from the Committee would be presenting its report the following day. The Committee should therefore clarify as a matter of some urgency how it would proceed in its discussions with States parties under the new system.

24. The CHAIRPERSON said that the list of issues served to highlight in advance the main problems perceived by the Committee, which did not prevent country rapporteurs or members of the Committee from asking additional questions when a report came to be considered.

25. Mr. YAKOVLEV said that it was only logical that the kinds of questions that might be included in lists of issues in relation to periodic reports were just as likely to arise in relation to initial reports. However, lists of issues should be compiled only once an initial report had been submitted; until then, the areas about which the State party should report were determined by the Convention. Lists of issues should therefore be compiled only in relation to periodic reports. The introduction of lists of issues would not prevent members of the Committee from asking additional questions when necessary.

26. Ms. GAER wished to know how many States parties had reported at least once, how many had never submitted a report, and how many States were not party to the Convention. She did not think it advisable to use lists of issues in relation to initial reports, not least because the Committee's decision to give priority to consideration of initial reports meant that there would be less time between an initial report being submitted and its consideration by the Committee, leaving little time for lists of issues to be drawn up. In that connection, it was important to decide when lists of issues were to be drawn up and by whom, since the extra burden that would be entailed if lists of issues were to be discussed by the whole Committee would necessitate a reduction in the number of reports considered at each session. She did not see why the Committee should go to the effort of compiling lists of issues for States that had not made the effort to submit a report. With regard to the format of States parties' replies to the questions raised in lists of issues, it would be important to inform States parties that they had a limited time frame in which to respond.

27. Mr. EL-MASRY said that in the case of the State party that would be reporting the following day, the Committee had received detailed written answers to the questions raised in the list of issues; those answers had helped him to modify his statement as country rapporteur and to shorten it and the Committee should therefore encourage States to submit written replies. Since lists of issues were intended to be a complementary instrument, he agreed with Ms. Gaer that the Committee should not for the time being compile lists of issues with respect to initial reports or in the absence of any report.

28. Mr. RASMUSSEN agreed with previous speakers that, given the time constraints, the Committee should compile lists of issues only in relation to periodic reports.

29. Mr. MAVROMMATIS said that he agreed with Ms. Gaer on the lists of issues. The Committee was still experimenting in its approach to lists of issues, and should limit itself to preparing them for periodic reports.

30. Regarding the following day's session, he would like to know if special rapporteurs and other members were to ask questions after the introduction of the report but before the replies to the list of issues, or at another stage. As there would be two sets of replies - one to the list of issues and one to Committee members' questions - could they also ask questions after the second set of replies? He would welcome clarification of that issue. It was important to remember that special rapporteurs did not simply ask questions, but also made general comments and recommendations.

31. Mr. GROSSMAN said that it was important to understand the purpose of sending a list of issues: it did not simply ask general questions, but targeted them to the specific country and its particular problems. The Committee should evaluate the experience of other committees in that respect before rejecting the secretariat's proposal. Perhaps it was not necessary to prepare a list of issues for initial reports, but it would certainly be helpful in the case of non-reporting States parties, as it would allow the Committee to comment on that country's situation in the absence of a report. As the Committee had been unable to elicit cooperation from many States, perhaps sending a list of issues could encourage them to fulfil their reporting duties. He would be interested to hear whether the list of issues had been successful in that regard for other United Nations or regional bodies.

32. Mr. YU Mengjia said that he would welcome clarification from the secretariat as to whether the Committee had not, in fact, decided not to prepare a list of issues for initial reports at the last session. He was more concerned to know how the Committee would proceed during the session on the following day with the Czech Republic. As the State party had already received a list of issues, perhaps it would respond to them in its presentation. The Committee could then ask additional questions if the answers were not satisfactory, or if new issues had arisen in the intervening time. On the following day, the Committee could receive the answers to the questions posed during the initial meeting and follow the usual procedure for dealing with them.

33. Mr. PRADO-VALLEJO said that the list of issues was clearly an important instrument for all States parties, as it was intended to help them prepare for their meeting with the Committee. If the Committee did not receive satisfactory replies to the list of issues, it could always ask additional questions. The list of issues was of equal importance for all human rights committees and in all cases.

34. The CHAIRPERSON said that the majority view seemed to be that initial reports did not require a list of issues. A list of issues might, however, prove beneficial in encouraging dialogue with non-reporting States parties. It was clear that the Committee was still at an experimental stage in developing the procedure, and it could discuss the issue further and draft a definite position later.

35. Regarding the meeting with the Czech Republic, the rapporteur and co-rapporteur had already met with the delegation and therefore should have formed some idea as to how they planned to deal with the list of issues. The Committee should remain flexible in organizing the debate, and not repeat questions excessively, unless they had not received satisfactory answers. The delegation could be reminded to be as brief as possible in answering, as it had already been given an indication of the key issues to be dealt with. It was not possible to make a rule about whether Committee members could ask questions from the list of issues again during the session - it would depend on each individual case and how the questions had been answered. The States parties would not object if the Committee insisted on certain points, as they would already be aware that an answer was expected to specific questions, but the Committee could clearly not force a delegation to answer. The meeting with the Czech Republic would be the first test in the new phase of experimentation, and the Committee would extract conclusions from the experience. He did not foresee any major problems arising, given the experience already acquired by Committee members.

36. Ms. CONNORS (Secretariat) said that the Committee on the Elimination of Discrimination against Women (CEDAW) did not send out lists of issues either to non-reporting States parties or to those submitting initial reports. It did, however, prepare lists of issues for periodic reports, which were translated and sent to the States parties three to four months in advance of the session at which the reports would be considered. That allowed States parties to return their written replies in time for translation and gave the committee members the opportunity to read them in advance of the session so as to avoid repetitive questions. Rounds of questions were led by the rapporteur, and the delegation was expected to answer on the spot, as it was assumed that it had had sufficient time to prepare.

37. The Committee on the Rights of the Child (CRC) sent out lists of issues, drawn up at the previous session, to countries preparing both initial and periodic reports. The lists were drafted during a pre-session meeting, at which all members of the Committee were present. The drafting process was an elaborate one, involving presentations by NGOs and specialized agencies. States parties welcomed receiving the list of issues, as it allowed them to prepare for their presentation before the Committee.

38. Mr. SCHMIDT (Secretariat) said that the Human Rights Committee (HRC) used to have a special working group on article 40, governing the reporting procedure under the International Covenant on Civil and Political Rights (ICCPR). When the system of country rapporteurs had been introduced in the early 1990s, the Secretariat had had to ensure that when the working group was established, all the country rapporteurs responsible for drafting lists of issues for upcoming reports were included in the working group. Therefore the situation arising for the Committee against Torture (CAT), where a country rapporteur might not be a member of the

working group, would not have occurred for the HRC, given the larger pool of members. As the adoption of the list of issues in such a working group had proved too time-consuming, in 2002, the HRC had amended the system and established country report task forces, consisting of four to six committee members, including the country rapporteur. The task forces met during the plenary, for a maximum of an hour and a half per list of issues. It had taken two or three sessions for the task forces to become fully operational. The new system upgraded the role of the country rapporteur and the level of expertise, as members were chosen on the basis of their expertise in subjects most relevant to a particular country report. The country rapporteur led the examination of the report and was assisted by the other members, which allowed more margin of manoeuvre for the country rapporteur and avoided repetitive questioning during the session.

39. From the beginning, the HRC had found it useful to prepare lists of issues for both initial and periodic reports. Under the ICCPR, initial reports tended to be very long, and therefore the list of issues was useful in helping the States parties to focus on what the Committee would be interested in, thus making the dialogue more constructive. The HRC had four or five initial reports pending, and all would give rise to a list of issues.

40. Since 2001, the HRC examined country situations in the absence of a report, as some States parties were 15 or 20 years overdue in submitting their reports, despite numerous reminders. If notified sufficiently in advance of the session that their country situation was to be examined without a report, many States parties reacted and submitted a report. When examining a country situation without a report, a list of issues was also prepared, with the use of external sources of information, such as NGOs and academic institutions. Although it had started slowly, the system appeared to be functioning well, and the Committee usually examined one non-reporting State party per session.

41. Once the list of issues had been adopted by the task force, it was circulated to the other Committee members and, if unchallenged, adopted and sent to the State party. States parties were invited, but not required, to provide written replies. Given the limited time between sessions, States parties often simply brought the written replies along to the session as a tool for interpreters and conference services. The replies to the list of issues were usually divided into two parts. Once the delegation had replied to the first part, members, particularly of the task force, asked additional questions, which the delegation answered immediately. The meetings were scheduled in such a way that if a delegation needed to consult with its government before answering a question raised in the afternoon, it could do so, and reply the following morning. The delegation would then reply to the second set of issues. The country rapporteur or the chairperson made concluding remarks, highlighting both concerns and positive developments. Although other committee members could also make comments, draft concluding observations were generally prepared by the country rapporteur and the task force.

42. The CHAIRPERSON said that it was evident that practice varied from committee to committee. Regarding the formulation of lists of issues, for example, a task force would not be possible for a committee as small as theirs. Regarding the duplication of replies, it seemed that, in general, States parties did not provide written replies to the list of issues, as that would also involve logistical problems, such as allowing time for translation.

The meeting was suspended at 5.15 p.m. and resumed at 5.25 p.m.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 6)

43. The CHAIRPERSON said that they would be given details by the Secretariat on the situation regarding reports received.

44. Ms. RUEDA-CASTAÑÓN (Secretary of the Committee) said that, in addition to the 7 reports scheduled for the session, the Committee had received 13 reports, 5 of which were scheduled for examination at the November session: the initial report of Albania, the second periodic report of Sri Lanka, the third periodic reports of Ecuador, Austria, France and Georgia, and the fourth periodic reports of Greece, Argentina, Canada, Finland, Switzerland, the United Kingdom and Guatemala. Although Albania's report was scheduled for examination at the November session, that State party had asked for a postponement to the following year. Initial reports from over 40 countries were overdue, with due dates ranging from 1988 to 2003. Despite the efforts of the rapporteurs in charge of overdue reports, no initial reports had been received since the last session.

45. Mr. EL-MASRY said that during the intersessional working group meeting a representative of Serbia and Montenegro had requested clarification regarding the country's reporting position. Since the United Nations had asked all States of the former Yugoslavia to apply for new membership of the Organization, it should be decided whether Serbia and Montenegro should produce an initial report, as a new State party, or a second periodic report, as a continuation of the reporting procedure begun by Yugoslavia. He wished to know how other treaty bodies had dealt with such cases.

46. Ms. RUEDA-CASTAÑÓN (Secretary of the Committee) said that she would endeavour to find out what the situation was in other treaty bodies.

47. Ms. GAER wished to know whether a report had been submitted by Uganda. During its previous session, the Committee had discussed the examination of States parties that had failed to report. Although Uganda was the State party whose report was the longest overdue, the Committee had been informed that a report was being prepared and it had therefore decided to examine the Republic of Togo during its session in November 2004. If Uganda had not submitted its report, the Committee should review its plan, and examine Uganda, rather than the Republic of Togo, during its forthcoming session.

48. Mr. RASMUSSEN said that he had taken part in a consultative visit to Uganda in January 2004 with the Association for the Prevention of Torture and the International Commission of Jurists. Consultations had been held with NGOs and the Government had drafted a report according to the guidelines set by the Committee. The report had not yet been submitted to the Committee as the Government of Uganda wished to add some improvements. The Republic of Togo had failed to respond to the Committee's request for a report, and a dialogue should therefore be opened with the State party. The matter of which State party to examine first could be discussed further when planning the programme of work for the thirty-fourth session to be held in 2005.

49. The CHAIRPERSON said that, since work was in progress in respect of the examination of the Republic of Togo, it would not be possible to change the Committee's programme of work for its forthcoming session. Since Uganda seemed likely to present a report, it would be advisable to examine the Republic of Togo first, and examine Uganda in 2005, should it fail to report before that time. Measures should be taken to ensure that such a situation did not arise again in future.

50. Further discussion was required to determine the reporting position of Serbia and Montenegro, since a new State party should not be expected to shoulder the responsibilities of a former one. The State party should be asked to give an opinion on the issue, following which the Committee would table a resolution.

51. Mr. MAVROMMATIS said that following the break-up of the Soviet Union, the Human Rights Committee had requested that the new States should report as a direct continuation of the obligations of the Soviet Union. It was important to note that the Convention against Torture contained a denunciation clause. Since Serbia and Montenegro had sent a notification of succession, it should continue from the obligations of Yugoslavia.

The public part of the meeting rose at 5.40 p.m.